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CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
JACQUELINE ANDERSON SMITH, CLERK

IN THE CIRCUIT COURT OF JEFFERSON COUNT

STATE OF ALABAMA	)	
	)	
PLAINTIFF,	)	**CASE NO. : CC-2019-1288**
	)	
VS.	)	
	)	
RUSSELL A. LEDBETTER	)	
	)	
DEFENDANT.	)	

MOTION TO DISMISS
OR IN THE ALTERNATIVE
MOTION FOR MORE DEFINITE STATEMENT

Comes now the Defendant, Russell A. Ledbetter, by and through his attorney of record, and respectfully moves the Court to dismiss the Indictment herein on the following grounds separately and severally or in the alternative order the State to provide a more definite statement, i.e., to submit details and facts regarding the offense charged pursuant to the Rules 13.2(e), 15.2, and 15.3 of the Alabama Rules of Criminal Procedure as to the indictment in this cause on the following grounds, separately and severally:

1. The Indictment alleges violation of Ala. Code §36-25-7(A). There is no such section.

2. Said indictment merely states that Defendant used his "official position or office to obtain personal gain, to wit: a 2005 Sunny Travel Trailer, for himself, said use and gain not otherwise authorized by law...."

3. The indictment fails to in anyway describe how it is that Defendant used his position or office in order to unlawfully obtain said travel trailer, and whether it is contended the said travel trailer was owned by the City of Trussville, and if not who?

4. Both Rule 13.2 and Ala. Code §15-8-25 provide that an indictment shall be in

such "ordinary" and "concise" language with that "degree of certainty which will enable or inform a defendant of common understanding as to know what is intended," and to entitle the Court upon conviction to provide the proper judgment.

5. While it is acknowledged that the Committee Comments to Rule 13.2 note that such motions will not be routinely made or granted, it is not unusual in cases alleging violations of the Ethics Act that the State be required to provide with greater specificity the basis of the charge made. See Hunt v. State, 642 So.2d 999, 1022-26 Ala. Criminal App 1993, aff'd 642 So.2d 1060 (Ala 1994). (State filed "a lengthy response.") Id. at 1022. And, in the recent prosecution of former Speaker of the House Mike Hubbard, who was charged with over twenty counts of violations of the Ethics Act, the State filed a response to a motion for a more definite statement which provided detailed information and exhibits which the State contended supported the charge. See State Response in Opposition to Defendant's Motion for More Definite Statement, State v. Hubbard, Case No. CC-2014-000565 (Lee County, Alabama) filed February 27, 2015).

6. If the Indictment is not dismissed the State should be required to provide:

a. How Defendant used his office position or office.

b. When did this occur?

c. From whom or what entity, and under what circumstances does the State contend he used his official position or office to obtain the alleged travel trailer.

d. The amount alleged by the State to have been paid for the alleged travel trailer by the City of Trussville or whatever entity the State contends owned the alleged travel trailer before it was allegedly obtained by

Defendant.

7. The Indictment as written is so vague, indefinite, and uncertain that it constitutes a denial of due process, the right to a clear statement of the offense with which Defendant is charged and is insufficient to protect the Defendant against double jeopardy by failing to adequately inform the Defendant of the offense with which he is charged all in violation of Article 1, Section 6 of the Constitution of Alabama of 1901, and the 6th and 14th Amendments to the Constitution of the United States of America, and likewise violates Defendant's right to due process under the 5th and 14th Amendments to the Constitution of the United States.

Dated this 5th day of May, 2020.

/s/William N. Clark
William N. Clark
Attorney for Defendant

OF COUNSEL
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CERTIFICATE OF SERVICE

I hereby certify that on May 5, 2020, I electronically filed the foregoing with the Clerk of the Court using the AlaFile system which will send notification of such filing to the following:

Amanda Lynne Butt Wineman, Esq.
Deputy District Attorney
District Attorney's Office
801 North Richard Arrington, Jr. Blvd.
Birmingham, Alabama 35203

/s/William N. Clark
OF COUNSEL