

WMG

FILED IN OPEN COURT
ON 11/3/15 JH
Julie Richards Johnston, Clerk
US District Court
Eastern District of NC

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:15-CR-324-IF (4)

UNITED STATES OF AMERICA)
)
v.)
)
ARNOLD OGDEN JONES, II)
_____)

I N D I C T M E N T

The Grand Jury charges that:

INTRODUCTION

1. During times material to this Indictment ARNOLD OGDEN JONES, II was an elected North Carolina Superior Court Judge with chambers in North Carolina's Judicial District 8-B, which covered Wayne, Lenoir, and Greene counties.

2. During times material to this Indictment an individual, referred to herein as the "FBI Officer", was a Federal Bureau of Investigation (FBI) Task Force Officer (TFO) who had been duly sworn as a Special Deputy United States Marshal. The FBI Officer was authorized to support FBI investigations into allegations of federal criminal violations.

3. On or about October 10, 2015, JONES sent a text message to the FBI Officer. In the text message, JONES requested that the FBI Officer "get access to text[] messages

exchanged between 2 numbers and get copies of those messages." JONES specified the phone numbers associated with the text messages he desired. JONES offered to pay the FBI Officer for copies of the text messages.

4. Except in limited circumstances, telephone carriers do not disclose text messages to members of law enforcement unless the law enforcement officer produced to the carrier a search warrant that was signed by a neutral and detached judicial officer. Law enforcement officers are unable to obtain a search warrant for the content of text messages except upon a magistrate judge's finding that there was probable cause to believe that the records associated with the phone number (including text messages) contained evidence of a crime. Search warrants for text messages are issued upon a sworn affidavit from a law enforcement officer that demonstrates why there is probable cause to believe that the phone records contain evidence of a crime.

5. The FBI Officer did not have any evidence to support that either of the phone numbers provided by JONES were involved in any criminal activity. Instead, JONES indicated that the text messages were "just for [him]," and that they "involve[d] family."

6. The FBI Officer was prohibited by the United States Constitution and federal law, as well as FBI policy and United States Department of Justice policy, from obtaining a search warrant without first conducting an investigation to confirm that the search warrant to acquire the text messages was supported by probable cause.

7. The FBI Officer was also prohibited by the United States Department of Justice, FBI policy, and the Privacy Act of 1974, from disclosing to JONES the text messages requested by JONES, either as a favor to JONES, or in exchange for payment from JONES.

8. On or about October 19, 2015, the FBI Officer informed JONES that the FBI Officer lacked probable cause to get the text messages requested by JONES, but would continue to try to get the messages if JONES desired. JONES told the FBI Officer, "I want down low - see what you can do without drawing attention." JONES further informed the FBI Officer that "This involves family so I don't want anyone to know."

9. On or about October 27, 2015, JONES met with the FBI Officer inside of a vehicle. The FBI Officer stated that before he went to see a federal magistrate, he wanted to confirm with JONES the phone numbers for which JONES desired to receive text messages. JONES promised the FBI Officer that the FBI Officer's

involvement in obtaining the text messages would "never come out." JONES further stated that the FBI Officer could "trust [JONES] one million percent."

10. During the meeting on October 27, 2015, the FBI Officer and JONES discussed the FBI Officer's fee for accessing and delivering the text messages to JONES. JONES asked the FBI Officer what he thought was a fair number, stating, "You tell me, I'm serious." JONES confirmed that he did not want the FBI Officer to only obtain and deliver the text messages as a favor by stating, "No, no, no, You've had to take time, and I'm glad to do something. Do you follow me?" JONES and the FBI Officer initially agreed upon "a couple of cases of beer" as the amount of the payment from JONES to the FBI Officer.

11. On or about October 28, 2015, the FBI Officer informed JONES that he had obtained a federal search warrant for the text messages requested by JONES. The FBI Officer informed JONES that he would get back in touch with JONES after receiving the text messages from the phone carriers.

12. On or about November 2, 2015, the FBI Officer informed JONES that the FBI Officer had received the text messages requested by JONES. JONES agreed to shred the FBI disk containing the text messages as soon as possible because the disk was acquired from the FBI Officer's FBI computer.

13. On or about November 3, 2015, JONES informed the FBI Officer that he had his "paycheck" in the back seat of his vehicle. JONES and the FBI Officer then coordinated a meeting in which the FBI Officer would deliver the FBI disk containing text messages requested by JONES, and the FBI Officer would deliver the FBI Officer's "paycheck." During these discussions on the same date, JONES agreed, in lieu of cases of beer, to pay the FBI Officer \$100 in cash for providing JONES the text messages.

14. On November 3, 2015, JONES and the FBI Officer met in person in Goldsboro, North Carolina. JONES delivered to the FBI Officer \$100 in cash. In return, the FBI Officer delivered to JONES an FBI disk that was represented to contain the text messages requested by JONES.

COUNT ONE
PROMISE / PAYMENT OF BRIBE TO A PUBLIC OFFICIAL
18 U.S.C. § 201(b)(1)

15. Introductory paragraphs 1 through 14 are incorporated herein as though fully set forth in this count.

16. Beginning on or about October 10, 2015, and continuing to November 3, 2015, in the Eastern District of North Carolina, ARNOLD OGDEN JONES, II, defendant herein, did directly and indirectly, corruptly give, offer, and promise a thing of value to a public official with intent to influence an official act,

that is, JONES promised to give cases of beer and \$100.00 in currency, and did in fact give, \$100 in currency, in exchange for the FBI Officer's act of acquiring and disclosing certain text messages requested by JONES; all in violation of Title 18, United States Code, Section 201(b)(1).

COUNT TWO
PROMISE / PAYMENT OF GRATUITY TO A PUBLIC OFFICIAL
18 U.S.C. § 201(c)(1)(A)

17. Introductory paragraphs 1 through 14 are incorporated herein as though fully set forth in this count.

18. Beginning on or about October 10, 2015, and continuing to November 3, 2015, in the Eastern District of North Carolina, ARNOLD OGDEN JONES, II, defendant herein, did directly and indirectly, corruptly give, offer, and promise a thing of value to a public official otherwise than as provided by law for the proper discharge of official duties, for and because of an official act performed and to be performed by such official, that is, acquiring and disclosing certain text messages requested by JONES; all in violation of Title 18, United States Code, Section 201(c)(1)(A).

COUNT THREE
ATTEMPTED CORRUPT INFLUENCE OF OFFICIAL PROCEEDING
18 U.S.C. § 1512(C)(2)

19. Introductory paragraphs 1 through 14 are incorporated herein as though fully set forth in this count.

20. Beginning on or about October 10, 2015, and continuing to November 3, 2015, in the Eastern District of North Carolina, ARNOLD OGDEN JONES, II, defendant herein, did corruptly attempt to influence an official proceeding, in violation of Title 18, United States Code, Section 1512(c)(2).

A TRUE BILL

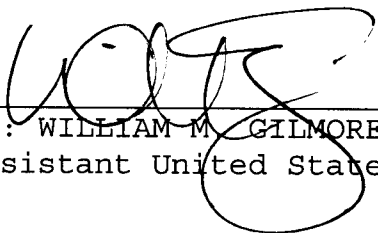
REDACTED VERSION

Pursuant to the E-Government Act and the federal rules, the unredacted version of this document has been filed under seal.

FOREPERSON

DATE: 11-3-2015

THOMAS G. WALKER
United States Attorney


BY: WILLIAM M. GILMORE
Assistant United States Attorney