

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION
PIKEVILLE**

CRIMINAL ACTION NO. 15-CR-18-S-DCR

ELECTRONICALLY FILED

UNITED STATES OF AMERICA

PLAINTIFF

V.

**UNITED STATES' NOTICE OF FILING
ATTACHMENT TO RESPONSE TO MOTION**

GARY "ROOSTER" RISNER

DEFENDANT

* * * * *

The United States gives notice of filing the attachment referenced in its Response To Defendant Gary Risner's Motion to Exclude Evidence Offered Pursuant to FRE 404(b) [R. 109]. The attachment was inadvertently not attached to the motion.

Respectfully submitted,

KERRY B. HARVEY
UNITED STATES ATTORNEY

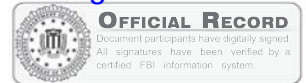
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CERTIFICATE OF SERVICE

On April 29, 2016, I electronically filed this motion through the ECF sytem, which will send the notice of electronic fling to all parties of record.

s/ Kenneth R. Taylor
Assistant United States Attorney



FEDERAL BUREAU OF INVESTIGATION

Date of entry 01/15/2016

Scottie McCarty, date of birth [REDACTED], [REDACTED], [REDACTED], Kentucky, was interviewed at the United States Attorney's Office, 260 West Vine Street, Lexington, Kentucky. Prior to the interview, McCarty and his attorney Mike Fox were verbally provided an agreement with regards to a Proffer given in the United States Attorney's Office by Scottie McCarty to Special Agent (SA) Ken Kirk, Attorney General Greg Motley, Assistant United States Attorney (AUSA) Ken Taylor, AUSA Andy Boone, and Paralegal Rebecca Woolums. McCarty and Fox were advised that McCarty is to make an off-the-record discussion that will be subject to direct use immunity, but derivative use may be made of the information provided in the discussion.

No statements made by McCarty during the off-the-record Proffer or discussion will be used against McCarty by the United States Government, if McCarty stands trial. The United States may make derivative use of and pursue leads suggested by any statements made by McCarty. In the event McCarty is a witness at trial, at a hearing, or before a Grand Jury, and offers testimony different from any statements made during the off-the-record Proffer, the attorney for the government may cross examine your client concerning the statements made during the "off-the-record Proffer to impeach him.

McCarty was advised that he will be making statement before a Federal Agent and providing false statements to a Federal Agent is a Federal crime in violation of Title 18, United States Code (USC), Section 1001. McCarty and Fox were advised that the off-the-record immunity does not apply to the acts of violence.

McCarty and Fox agreed to the off-the-record status. McCarty and Fox provided the following information: McCarty was significantly involved with individuals buying votes during the 2010 and 2014 elections. McCarty considered himself "in the fold" with Gary "Rooster" Risner, Charles "Doc" Hardin, and Larry Shepherd. In January 2014, Gary Risner visited McCarty at his home, prior to the 2014 Primary Election. McCarty asked Gary Risner how everything was looking regarding the election. Risner advised that they have enough gravel to bury the county with the gravel being stored at Johnny Green's residence. The gravel was intended for private driveways.

Investigation on 01/06/2016 at Lexington, Kentucky, United States (In Person)File # 56E-LS-5427912Date drafted 01/10/2016by Kenneth F. Kirk II

56E-LS-5427912

Continuation of FD-302 of Scottie McCarty, On 01/06/2016, Page 2 of 6

Rooster told McCarty that he would gravel McCarty's personal driveway; however, it never occurred.

McCarty was secretly supporting HB Arnett for Judge Executive in the 2014 Primary Election because he did not like Charles Doc Hardin anymore. HB Arnett was the Democratic challenger to Charles Hardin. All of the followers of Doc Hardin knew that HB Arnett was not going to spend any money on the election.

McCarty assisted Angel Foltz and Mitchell Shepherd to vote during the 2014 Primary Election because he wanted them to vote for HB Arnett. McCarty knew that if he didn't assist them, Larry Shepherd would be able to change their vote, because he has in the past elections. During the 2010 election, Charles "Doc" Hardin, Mike Prater, Jerry Helton, Larry Shepherd, and Gary "Rooster" Risner plotted on where to put the voting machines at the Bloomington Precinct so they could control the situation. They would look for the young and very old to work the poles. Individuals they hand-picked and supported their candidates.

McCarty was involved with buying votes in the 2010 elections. McCarty purchased at least 2 or 3 votes. Charles Hardin was at a meeting with Randy Salvers, George Risner and McCarty. Gary Risner told McCarty that he received the money to buy votes from Charles Hardin. Randy told McCarty that they purchased 200 to 300 votes during the absentee ballot process.

A meeting before the 2010 elections, Gary Risner, Larry Shepherd, Jerry Helton, and McCarty met at Randy Salyers' home. Larry Shepherd had a list of potential election board members that had supported Charles Hardin and Renee Shepherd (Magoffin County Clerk) on the ballot. Larry Shepherd also wanted them to support Carson Montgomery for Sheriff. Randy opened up his gun safe and revealed a tall stack of \$50 bills. McCarty estimated that it was \$50 to \$60,000.00. McCarty was told that Gary Risner put in \$2000.00, Charles Hardin put in \$30,000, and Larry and Renee Shepherd put in \$10,000.

After the 2010 elections, McCarty and his brother Robbie McCarty were told by Jerry Helton and Gary Risner that they should have received a shotgun for their help during the election. Jerry Helton said that Larry Shepherd and Randy Salyer received a Browning A5 shotgun from Jerry Swinney for their help during the election. Jerry Swinney works for PVA.

Prior to the 2010 Election, Charles Hardin picked up McCarty and traveled to a barn at Mark Green's residence. Charles and McCarty spoke to Evan Green when Evan was alone. Charles asked Evan to gravel private driveways. Charles told Evan to pick up the gravel at the Eagle Stone quarry. Charles Hardin had an open account in this name at the quarry. Evan was told to tell the quarry that the gravel was for Charles Hardin. Evan

56E-LS-5427912

Continuation of FD-302 of Scottie McCarty, On 01/06/2016, Page 3 of 6

was able to take his truck up at the Elk Creek BP for free gas. Evan was also able to eat for free at the BP. McCarty rode in the truck with Evan.

Evan hauled 8 to 10 loads of gravel that day. The following homeowners received gravel: James Blanton, Glen Arnett, Doug Patrick, Timmy Patrick, Floyd Rowe, Phyllis Arnett, Vickie Barnett, and Scott Paddock. Gary Risner and/or Charles Hardin told Evan the addresses to delivery gravel. McCarty told some of the homeowners the gravel was from Charles Hardin and to vote for him. Evan Green works at the Ashland refinery with McCarty. Mark Green is Evans' father.

In 2010, McCarty asked Charles Hardin to give Tammy Prater (McCarty's cousin) a job at the Community Center and he agreed. After the election, Charles Hardin and Gary Risner said they gave the job to Susie Salyer, because Charles Hardin owed Randy Salyer his life (Randy went to prison for vote buying in 2010).

In May 2010, Stetson Stevens called McCarty and asked where to get money for votes. Stevens had 8 voters. Randy Salyer and Larry Shepherd told McCarty to bring them to the courthouse to vote. McCarty and Larry assisted them to vote. They were required to vote for Larry Swinney, Charles Hardin, and Renee Shepherd. No assistance forms were filled out for the voters, even though they were assisted. Randy Salyer gave McCarty \$400 to be given to the 8 voters.

During the 2010 elections at the Carty Branch Precinct, Chester Howard, member of the fire department, along with Charles Hardin, Gary Risner, Larry Shepherd, and Randy Salyer, had a plan to pull a fire truck in front of the voting machines. It was mostly Randy Salyer and Gary Risner's idea. Rodney Patrick and McCarty were judges at Carty Branch precinct. Evan Green was the precinct Sheriff. Blue and red tickets were used to identify voters getting paid. A voter would arrive with a blue ticket, if they were going to be paid for their vote. If they voted as instructed, they were given a red ticket. The voter would take the red ticket back to whoever gave them the blue ticket to receive their \$50.

Charles Hardin told McCarty in 2010, if anyone came to talk to McCarty about vote buying, to tell them to talk to his lawyer.

In late 2013 or January 2014, McCarty was with Larry Shepherd and Gary Risner, when they discussed how to be more careful and not leaving a paper trail when buying votes. They agreed to use throw away cellular telephones to communicate. This meeting occurred at the County Clerk's Office. The phones were used by Larry Shepherd to confirm with Gary Risner, that the person voted the correct way, so Gary could pay them for their vote.

56E-LS-5427912

Continuation of FD-302 of Scottie McCarty, On 01/06/2016, Page 4 of 6

In late 2013, Jaime Gibson was registered to vote by Scott McCarty and Gary Risner. In April or May 2014, prior to the election, Gibson sent a text message to McCarty. The message stated that if Rooster didn't pay him \$50.00, he was going to the FBI. A day later, Gary asked McCarty to pay Gibson \$50. McCarty refused. Gary knew through Larry Shepherd that Gibson had not voted.

Prior to the 2014 election Larry Shepherd knew that McCarty was upset with him over Larry Shepherd not giving Robbie McCarty the ability to submit 4 names for precinct officers for Carty Branch. Shepherd told McCarty that he had to do what's best for him. Renea Shepherd was always at the Clerk's Office when McCarty was in the office voting people.

In 2010, Dougy Allen, Millow Dean McCarty, and McCarty were at a restaurant. They received a call from Gary Risner. Gary Risner told them there were two males that needed to be picked up to vote. McCarty did not know them. Millow Dean McCarty told them they needed to vote for Bob Jordan, Charles Hardin, Renee Shepherd, and Larry Swinney, both got paid by Millow Dean McCarty. Millow Dean McCarty also gave money to the two renters that live behind Millow Dean McCarty's home.

Recently, Kurt McDaniel called Scott McCarty and advised that Charles Hardin asked Kurt McDaniels, if he had spoken to McCarty. Kurt said yes by text message. Charles said to tell McCarty, he is a piece of shit and Gary Risner is going to kill him, if McCarty doesn't give the land back to Gary. McCarty and Gary Risner are in a land dispute regarding land McCarty purchase from Gary Risner. McCarty currently owns the land that Gary Riner lives on. Charles Hardin also threatened to beat McCarty up.

In early 2013, McCarty and Gary Risner were at the garage on McCarty's property when Charles Hardin and Randall Hardin arrived. Charles Hardin spoke of building a Community Center for the county, but Gary Risner disagreed. Gary Risner believed that black-topping some side roads would garner more votes.

Charles Hardin, Johnny Green, and McCarty spoke with Winford Ray about paving his road to the "Y" in the road.

Mike Prater is a supporter of Charles Hardin and Mike Prater and Jerry Helton are brother-in-laws.

In 2010, McCarty asked Charles Hardin to get gravel for Scott Patrick's private driveway. Charles Hardin told McCarty that Tex Holbrook took Scott Patrick some gravel and gave Scott McCarty \$400 to give to Tex

56E-LS-5427912

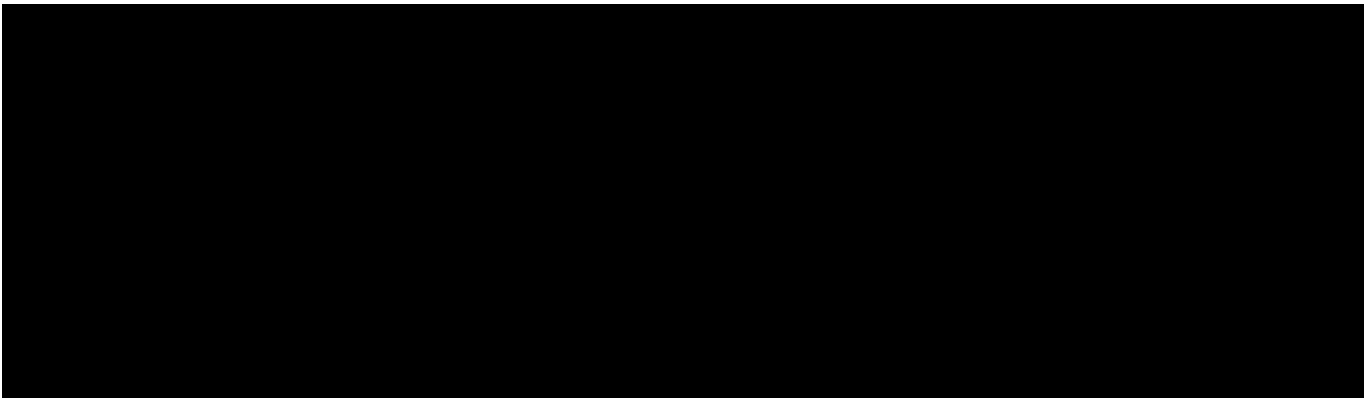
Continuation of FD-302 of Scottie McCarty, On 01/06/2016, Page 5 of 6

Holbrook who lives in Dixie.

On July 24, 2014, Doc sent a text message to McCarty that said, "changing", to boast about winning the election; however, McCarty deleted the message.

Tommy Jenkins lives in town and received a load of gravel from Evan Green that was arranged by Gary Risner.

Joe Issac heard from Evan Green about where the county's missing black Mac truck is located.



Robbie McCarty lost his job at the county jail because he did not support Charles Hardin.

Tami Risner would do anything for Gary Risner.

John Sizemore hauled a lot of gravel for Charles Hardin in 2014. and works for Tomahawk Trucking.

Lorraine Holbrook is an evil person. She approached Lisa and Rickie Romaine on a Monday about voting for Charles Hardin and letting Larry Shepherd vote for them. Lisa called McCarty and McCarty said he would help her vote next Friday. Lorraine Holbrook recontacted Lisa and demanded her to vote immediately. Lisa told Holbrook, that they had already voted even though they had not voted. Lorraine Holbrook must have contacted Larry Shepherd and found out they had not voted. Lorraine Holbrook became very angry which caused the Romaine's to move from the trailer park. Lorraine Holbrook managed the trailer park.

Before the 2014 Primary, Gary Risner gave McCarty \$300 for buying votes. McCarty assisted Sabrina Gibson to vote, and she asked what is in it for her, gas money, or something. McCarty was surprised by the request. McCarty gave her \$25.00. McCarty assisted Zach Carty to vote and gave him \$25. McCarty did not know Zach would ask for money. McCarty assisted Rhonda

56E-LS-5427912

Continuation of FD-302 of Scottie McCarty, On 01/06/2016, Page 6 of 6

Bayes, a school teacher, to vote. Then 3 to 4 days later, she asked him for some gas money. McCarty gave her \$50.

McCarty owns a building in Salyersville that he was leasing to Home Health Services. The lease was going to expire in June 2014. In late March/early April 2014, Jerry Helton called McCarty and said that Charles Harding wanted to talk. McCarty met with Charles Hardin, Randell Hardin, Brandon Appier, and Kala Cantrell. Charles Hardin asked McCarty what happened between them and wanted to take care of McCarty. Charles offered to put the county water district in McCarty's building at a rate of \$1,000 per month if McCarty put a Charles Hardin political sign on his property. McCarty did not put the sign up and therefor Charles Hardin did not put the water district in McCarty's building.

McCarty assisted Sabrina Reynolds in registering to vote for the 2014 election. Sabrina went to vote and found out that her name was not on the voter's role.

Millow Dean McCarty told Scott McCarty that Gary Risner was upset about a male who asked him for money. Gary Risner put the male in one of Gary's barn stalls. Gary started a chainsaw and made the male strip his close off to prove he did not have a recording device on him.

Gary Risner told McCarty that he is not going to the penitentiary by himself.