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July 16, 2014

Office of the Clerk
United States Court of Appeals
For the Seventh Circuit
219 S. Dearborn Street
Chicago, IL 60604-1874

Re: U.S. v. Blagojevich; No. 11-3853
Citation of Supplemental Authority under Fed. R. App. P. 28(j).

To: Hon. Frank H. Easterbrook
Hon. Michael S. Kanne
Hon. Ilana Diamond Rovner

In *McCutcheon v. Federal Election Com'n*, 134 S. Ct. 1434 (2014), the Court struck down a law restricting aggregate limits on political (campaign) contributions. First, the Court noted that political contributions are protected speech under the First Amendment. *McCutcheon*, 134 S. Ct. at 1444, 1448. To restrict protected speech, the government must have a compelling interest. *Id.*, at 1444. The government does have a compelling interest in “preventing *quid pro quo* corruption or its appearance” *Id.*, at 1445 (citation omitted).

The *McCutcheon* Court further explained that the government’s interest “in preventing the appearance of corruption is equally confined to the appearance of *quid pro quo* corruption, the Government may not seek to limit the appearance of mere influence or access.” *Id.*, at 1451 (citation omitted). “The line between *quid pro quo* corruption and general influence may seem vague at times, but the distinction must be respected in order to safeguard basic First Amendment rights. In addition, [i]n drawing that line, the First Amendment requires us to err on the side of protecting political speech rather than suppressing it.” *Id.*, 1451 (citations and internal quotation marks omitted).

Blagojevich’s conviction is based in large part on his attempts to solicit campaign contributions. In this appeal, he argues that the lower court’s instructions to the jury on this issue “omitted the *quid pro quo* requirement that the government prove that Blagojevich’s requests for campaign contributions were made in return for an ‘explicit promise or undertaking’ to perform or not perform an official act.” Def. Brief, p.50. Instead, Blagojevich’s jury was told to convict on the lower standard that he attempted to obtain a campaign contribution “knowing or believing that it would be given to him in return for the taking, withholding, or other influencing of specific official action.” Def. Brief, at p. 51.

The *McCutcheon* decision thus supports Blagojevich's position that, where a criminal prosecution is based upon attempts to solicit campaign contributions, the government must prove a *quid pro quo* or explicit promise.

Sincerely,

/s/ Leonard Goodman

Leonard C. Goodman

Counsel for Appellant Rod Blagojevich

NO. 11-3853**IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

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| UNITED STATES OF AMERICA, |) Appeal from the United States |
| |) District Court for the |
| Plaintiff-Appellee, |) Northern District of Illinois |
| |) Eastern Division. |
| vs. |) |
| |) No. 08 CR 888 |
| ROD BLAGOJEVICH, |) |
| |) Honorable James B. Zagel |
| Defendant-Appellant. |) Judge Presiding. |

CERTIFICATE OF SERVICE

To: Debra Bonamici
United States Attorney's Office
219 South Dearborn
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Chicago, Illinois 60604

I hereby certify that on July 16, 2014, I electronically filed the attached Citation of Supplemental Authority of the Appellant Rod Blagojevich with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit, by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system

/s/ Leonard C. Goodman
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