



# JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, D.C. 20544

THE CHIEF JUSTICE  
OF THE UNITED STATES  
*Presiding*

JAMES C. DUFF  
*Secretary*

June 9, 2009

Honorable Nancy Pelosi  
Speaker  
United States House of Representatives  
Washington, DC 20515

Dear Madam Speaker:

At a special session held today, the Judicial Conference of the United States, by its members present, determined unanimously to transmit to the House of Representatives, under 28 U.S.C. § 355(b)(1)-(2), the enclosed Certificate and attachments in a proceeding under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-364. One member was not present and did not participate in the Conference's deliberations on this matter.

Please be advised that the Certificate is a "determination" within the meaning of the following provision in 28 U.S.C § 355(b)(1): "Upon receipt of the determination and record of proceedings in the House of Representatives, the Clerk of the House of Representatives shall make available to the public the determination and any reasons for the determination." The Judicial Conference will make no public statement on this matter, but has transmitted the Certificate and attachments to the subject judge and to the Chief Judge of the Fifth Circuit Court of Appeals in her capacity as chair of the Judicial Council of the Fifth Circuit.

Sincerely,

James C. Duff  
Secretary

Enclosures

RECEIVED  
JUN 10 2009  
U.S. JUDICIAL CONFERENCE



# JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, D.C. 20544

THE CHIEF JUSTICE  
OF THE UNITED STATES  
*Presiding*

JAMES C. DUFF  
*Secretary*

## CERTIFICATE

TO THE SPEAKER, UNITED STATES HOUSE OF REPRESENTATIVES:

Pursuant to 28 U.S.C. § 355(b), the Judicial Conference of the United States certifies to the House of Representatives its determination that consideration of impeachment of United States District Judge Samuel B. Kent, of the Southern District of Texas, may be warranted. Having been informed that Judge Kent was convicted of a felony, and that the judgment has become final by the exhaustion or termination of all rights of direct judicial review, the Conference, under Rule 1 of its *Rules for the Processing of Certificates from Judicial Councils that a Judicial Officer Has Engaged in Conduct that Might Constitute Grounds for Impeachment*, accepts the judgment as conclusive and has determined in its discretion to issue this certificate.

The Conference's determination in this matter is based on

- (1) the court record in Case No. 4:08-cr-00596, *United States v. Samuel B. Kent*, filed in the Southern District of Texas at Houston, which reflects Judge Kent's February 23, 2009, plea of guilty to obstruction of justice in violation of 18 U.S.C. § 1512(c)(2); the resulting judgment of conviction, dated May 11, 2009, in which Judge Kent is sentenced to a term of 33 months' imprisonment; and the absence of any timely notice of appeal of that judgment; and
- (2) the certification of the Fifth Circuit Judicial Council, premised on the judgment of conviction in said case, that Judge Kent has engaged in "conduct which constitutes one or more grounds for impeachment under Article II of the Constitution."

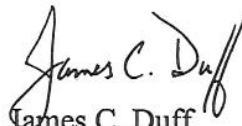
This certificate is transmitted with the certification of the Fifth Circuit Judicial Council and relevant portions of the court record.

In sum, Judge Kent has stipulated, as the basis for his plea of guilty, that

- (a) in August 2003 and March 2007, he engaged in non-consensual sexual contact with a person ("Person A") without her permission;
- (b) from 2004 through at least 2005, he engaged in non-consensual sexual contact with a person ("Person B") without her permission; and
- (c) in connection with a judicial misconduct complaint against him, he testified falsely before a Fifth Circuit special investigative committee regarding his unwanted, non-consensual sexual contact with Person B, by understating the extent of that contact and by falsely stating that it had ended after Person B told him it was unwelcome.

Judge Kent's conduct and felony conviction, as described above, have brought disrepute to the Judiciary.

Executed this 9<sup>th</sup> day of June, 2009.

  
James C. Duff  
Secretary

## THE JUDICIAL COUNCIL OF THE FIFTH CIRCUIT

Before: Edith H. Jones, Chief Judge, U. S. Court of Appeals for the Fifth Circuit; Jerry E. Smith, U. S. Circuit Judge; Carolyn Dineen King, U. S. Circuit Judge; E. Grady Jolly, U. S. Circuit Judge; W. Eugene Davis, U. S. Circuit Judge; James L. Dennis, U. S. Circuit Judge; Edith Brown Clement, U. S. Circuit Judge; Jennifer Walker Elrod, U. S. Circuit Judge; Leslie H. Southwick, U. S. Circuit Judge; Eldon E. Fallon, U. S. District Judge; James J. Brady, U. S. District Judge; Robert G. James, U. S. District Judge; Neal B. Biggers, Jr., U. S. District Judge; Louis G. Guirola, Jr., U. S. District Judge; Sam R. Cummings, U. S. District Judge; Hayden Head, U. S. District Judge; David Folsom, U.S. District Judge; Orlando L. Garcia, U. S. District Judge

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DOCKET NO. 07-05-351-0086

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IN RE: Samuel B. Kent  
United States District Judge  
Southern District of Texas

Pursuant to Title 28, Section 354 (b)(2)(A), the Judicial Council of the Fifth Circuit, based on the court record in Case No. 4:08-cr-00596, *United States of America v. Samuel B. Kent*, filed in the Southern District of Texas at Houston, and the subsequent lapse of fifteen days after sentencing without a notice of appeal or any post-judgment motion being filed, determines that Samuel B. Kent, a United States District Judge for the Southern District of Texas, has pled guilty to obstruction of justice in violation of 18 U.S.C. § 1512(c)(2) and has thus

by his own admission engaged in conduct which constitutes one or more grounds for impeachment under Article II of the Constitution, and so certifies its determination to the Judicial Conference of the United States.

The Judicial Council urges the Judicial Conference of the United States to take expeditious action on this matter pursuant to 28 U.S.C. § 355(b).

The foregoing events and certification, together with the facts that Judge Kent has voluntarily moved out of his chambers and ceased handling cases, moot this Council's reopening of the disciplinary proceeding against Judge Samuel B. Kent.\*\*

FOR THE COUNCIL

  
\_\_\_\_\_  
Chief Judge

Dated: May 27, 2009

\*United States Circuit Judge Catharina Haynes stood recused and did not participate in this Judicial Council decision.

\*\*Copies of this Council certification and resolution are being contemporaneously delivered to the complainant and to Judge Kent pursuant to 28 U.S.C. § 354(b)(3).

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES OF AMERICA	§	CRIMINAL NO. 4:08CR0596-RV
	§	
v.	§	
	§	
SAMUEL B. KENT	§	
	§	
Defendant.	§	
<hr/>		

**PLEA AGREEMENT**

The United States of America, by and through its undersigned attorneys for the Public Integrity Section, Criminal Division, United States Department of Justice, and SAMUEL B. KENT (hereinafter referred to as the "defendant") enter into the following agreement:

**Charges and Statutory Penalties**

1. The defendant agrees to plead guilty to Count Six, Obstruction of Justice, in violation of Title 18, United States Code, Section 1512(c)(2), of the Superseding Indictment. The United States agrees to seek dismissal of Counts One through Five of the Superseding Indictment after sentencing.
2. The defendant understands that Count Six has the following essential elements, each of which the United States would be required to prove beyond a reasonable doubt at trial:
  - a. First, the defendant corruptly obstructed, influenced, or impeded, or attempted to corruptly obstruct, influence, or impede an official proceeding;
  - b. Second, the defendant acted knowingly;

c. Third, the official proceeding is a proceeding before a judge or court of the United States.

3. The defendant understands that pursuant to 18 U.S.C. §1512(c)(2), Count Six carries a maximum sentence of twenty years of imprisonment, a fine of \$250,000, a \$100 special assessment, and a three-year term of supervised release, an order of restitution, and an obligation to pay any applicable interest or penalties on fines or restitution not timely made.

4. If the Court accepts the defendant's pleas of guilty and the defendant fulfills each of the terms and conditions of this agreement, the United States agrees that it will not further prosecute the defendant for any crimes described in the attached factual basis or for any conduct of the defendant now known to the Public Integrity Section and to the law enforcement agents working with the Public Integrity Section. Nothing in this agreement is intended to provide any limitation of liability arising out of any acts of violence.

**Factual Stipulations**

5. The defendant agrees that the attached "Factual Basis for Plea" fairly and accurately describes the defendant's actions and involvement in the offense to which the defendant is pleading guilty. The defendant knowingly, voluntarily and truthfully admits the facts set forth in the Factual Basis for Plea.

**Sentencing**

6. The defendant is aware that the sentence will be imposed by the court after considering the Federal Sentencing Guidelines and Policy Statements (hereinafter "Sentencing Guidelines"). The defendant acknowledges and understands that the court will compute an advisory sentence under the Sentencing Guidelines and that the applicable guidelines will be determined by

the court relying in part on the results of a Pre-Sentence Investigation by the court's probation office, which investigation will commence after the guilty plea has been entered. The defendant is also aware that, under certain circumstances, the court may depart from the advisory sentencing guideline range that it has computed, and may raise that advisory sentence up to and including the statutory maximum sentence or lower that advisory sentence. The defendant is further aware and understands that the court is required to consider the advisory guideline range determined under the Sentencing Guidelines, but is not bound to impose that sentence; the court is permitted to tailor the ultimate sentence in light of other statutory concerns, and such sentence may be either more severe or less severe than the Sentencing Guidelines' advisory sentence. Knowing these facts, the defendant understands and acknowledges that the court has the authority to impose any sentence within and up to the statutory maximum authorized by law for the offense(s) identified in paragraph 1 and that the defendant may not withdraw the plea solely as a result of the sentence imposed.

7. The United States reserves the right to inform the court and the probation office of all facts pertinent to the sentencing process, including all relevant information concerning the offenses committed, whether charged or not, as well as concerning the defendant and the defendant's background. Subject only to the express terms of any agreed-upon sentencing recommendations contained in this agreement, the United States further reserves the right to make any recommendation as to the quality and quantity of punishment.

8. The defendant is aware that any estimate of the probable sentence or the probable sentencing range relating to the defendant pursuant to the advisory Sentencing Guidelines that the defendant may have received from any source is only a prediction and not a promise, and is not



binding on the United States, the probation office, or the court, except as expressly provided in this plea agreement.

**Sentencing Guidelines Stipulations**

9. The defendant understands that the sentence in this case will be determined by the Court, pursuant to the factors set forth in 18 U.S.C. § 3553(a), including a consideration of the guidelines and policies promulgated by the United States Sentencing Commission, Guidelines Manual 2007 (hereinafter “Sentencing Guidelines” or “USSG”). Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B), and to assist the Court in determining the appropriate sentence, the parties stipulate to the following:

- a. The Base Offense Level pursuant to USSG §2J1.2(a) is 14.
- b. Acceptance of Responsibility

Provided that the defendant clearly demonstrates acceptance of responsibility, to the satisfaction of the United States, through the defendant’s allocution and subsequent conduct prior to the imposition of sentence, the United States agrees that a 2-level reduction would be appropriate, pursuant to U.S.S.G § 3E1.1(a).

The United States, however, may oppose any adjustment for acceptance of responsibility if the defendant:

- i. fails to admit a complete factual basis for the plea at the time the defendant is sentenced or at any other time;
- ii. challenges the adequacy or sufficiency of the United States’ offer of proof at any time after the plea is entered;
- iii. denies involvement in the offense;

- iv. gives conflicting statements about that involvement or is untruthful with the Court, the United States or the Probation Office;
  - v. fails to give complete and accurate information about the defendant's financial status to the Probation Office;
  - vi. obstructs or attempts to obstruct justice, prior to sentencing;
  - vii. has engaged in conduct not currently known to the United States prior to signing this Plea Agreement which reasonably could be viewed as obstruction or an attempt to obstruct justice, and has failed to fully disclose such conduct to the United States prior to signing this Plea Agreement;
  - viii. fails to appear in court as required;
  - ix. after signing this Plea Agreement, engages in additional criminal conduct; or
  - x. attempts to withdraw the plea of guilty.
- c. Agreement as to Maximum Sentencing Recommendation by the Government:

The United States agrees that the maximum term of imprisonment that it may seek at sentencing is three years, or 36 months, and it may seek a sentence less than 36 months if it is within the applicable Guidelines range.

- d. Criminal History Category

Based upon the information now available to the United States (including representations by the defense), the defendant has no criminal history points and is in Criminal History Category I.

**Agreement as to Sentencing Allocation**

10. The parties have no other agreement as to the Guidelines calculations and may argue for upward or downward adjustments or departures. The parties agree that either party may seek a sentence outside of the Guidelines Range based upon the factors to be considered in imposing a sentence pursuant to Title 18, United States Code, Section 3553(a).

11. In support of any variance argument, the parties agree to provide reports, motions, memoranda of law and documentation of any kind on which the defendant intends to rely at sentencing not later than twenty-one days before sentencing. Any basis for sentencing with respect to which all expert reports, motions, memoranda of law and documentation have not been provided to the United States at least twenty-one days before sentencing shall be deemed waived.

**Court Not Bound by the Plea Agreement**

12. It is understood that pursuant to Federal Rules of Criminal Procedure 11(c)(1)(B) and 11(c)(3)(B) the Court is not bound by the above stipulations, either as to questions of fact or as to the parties' determination of the applicable Guidelines range, or other sentencing issues. In the event that the Court considers any Guidelines adjustments, departures, or calculations different from any stipulations contained in this Agreement, or contemplates a sentence outside the Guidelines range based upon the general sentencing factors listed in Title 18, United States Code, Section 3553(a), the parties reserve the right to answer any related inquiries from the Court.

**Appeal Waiver**

13. The defendant is aware that the defendant has the right to challenge the defendant's sentence and guilty plea on direct appeal. The defendant is also aware that the defendant may, in some circumstances, be able to argue that the defendant's guilty plea should be set aside, or sentence set aside or reduced, in a collateral challenge (such as pursuant to a motion under 28 U.S.C. § 2255). Knowing that, and in consideration of the concessions made by the United States in this Agreement, the defendant knowingly and voluntarily waives his right to appeal or collaterally challenge: (a) the defendant's guilty plea and any other aspect of the defendant's conviction, including, but not limited to, any rulings on pretrial suppression motions or any other pretrial dispositions of motions and issues; and (b) the defendant's sentence or the manner in which [his/her] sentence was determined pursuant to 18 U.S.C. §3742, except to the extent that the Court sentences the defendant to a period of imprisonment longer than the statutory maximum, or the Court departs upward from the applicable Sentencing Guideline range pursuant to the provisions of U.S.S.G. §5K.2 or based on a consideration of the sentencing factors set forth in 18 U.S.C. §3553(a).

14. The defendant further understands that nothing in this agreement shall affect Public Integrity's right and/or duty to appeal as set forth in Title 18, United States Code, Section 3742(b). However, if the United States appeals the defendant's sentence pursuant to Section 3742(b), the defendant shall be released from the above waiver of appellate rights. By signing this agreement, the defendant acknowledges that the defendant has discussed the appeal waiver set forth in this agreement with the defendant's attorney. The defendant further agrees, together with the United States, to request that the district court enter a specific finding that the waiver of the defendant's right to appeal the sentence to be imposed in this case was knowing and voluntary.

15. The defendant's waiver of rights to appeal and to bring collateral challenges shall not

apply to appeals or challenges based on new legal principles in the Fifth Circuit Court of Appeals or Supreme Court cases decided after the date of this Agreement that are held by the Fifth Circuit Court of Appeals or Supreme Court to have retroactive effect.

**Release/Detention**

16. The defendant acknowledges that while the United States will not seek a change in the defendant's release conditions pending sentencing, the final decision regarding the defendant's bond status or detention will be made by the Court at the time of the defendant's plea of guilty. Should the defendant engage in further criminal conduct or violate any conditions of release prior to sentencing, however, the United States may move to change the defendant's conditions of release or move to revoke the defendant's release.

**Breach of Agreement**

17. The defendant understands and agrees that if, after entering this Plea Agreement, the defendant fails specifically to perform or to fulfill completely each and every one of the defendant's obligations under this Plea Agreement, or engages in any criminal activity prior to sentencing, the defendant will have breached this Plea Agreement. In the event of such a breach: (a) the United States will be free from its obligations under the Agreement; (b) the defendant will not have the right to withdraw the guilty plea; (c) the defendant shall be fully subject to criminal prosecution for any other crimes, including perjury and obstruction of justice; and (d) the United States will be free to use against the defendant, directly and indirectly, in any criminal or civil proceeding, all statements made by the defendant and any of the information or materials provided by the defendant, including such statements, information and materials provided pursuant to this Agreement or during the course

of any debriefings conducted in anticipation of, or after entry of this Agreement, including the defendant's statements made during proceedings before the Court pursuant to Fed. R. Crim. P. 11.

18. The defendant understands that Federal Rule of Criminal Procedure 11(f) and Federal Rule of Evidence 410 ordinarily limit the admissibility of statements made by a defendant in the course of plea discussions or plea proceedings if a guilty plea is later withdrawn. The defendant knowingly and voluntarily waives the rights which arise under these rules.

19. The defendant understands and agrees that the United States shall only be required to prove a breach of this Plea Agreement by a preponderance of the evidence. The defendant further understands and agrees that the United States need only prove a violation of federal, state, or local criminal law by probable cause in order to establish a breach of this Plea Agreement.

20. Nothing in this Agreement shall be construed to permit the defendant to commit perjury, to make false statements or declarations, to obstruct justice, or to protect the defendant from prosecution for any crimes not included within this Agreement or committed by the defendant after the execution of this Agreement. The defendant understands and agrees that the United States reserves the right to prosecute the defendant for any such offenses. The defendant further understands that any perjury, false statements or declarations, or obstruction of justice relating to the defendant's obligations under this Agreement shall constitute a breach of this Agreement. However, in the event of such a breach, the defendant will not be allowed to withdraw this guilty plea.

**Waiver of Statute of Limitations**

21. It is further agreed that should any conviction following the defendant's plea of

guilty pursuant to this Agreement be vacated for any reason, then any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement (including any counts that the United States has agreed not to prosecute or to dismiss at sentencing pursuant to this Agreement) may be commenced or reinstated against the defendant, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement or reinstatement of such prosecution. It is the intent of this Agreement to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed.

**Complete Agreement**

22. No other agreements, promises, understandings, or representations have been made by the parties or their counsel than those contained in writing herein, nor will any such agreements, promises, understandings, or representations be made unless committed to writing and signed by the defendant, defense counsel, and a prosecutor for the Public Integrity Section.

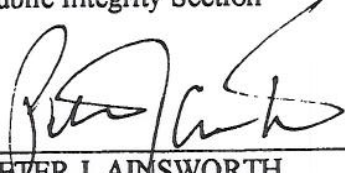
23. The defendant further understands that this Agreement is binding only upon the Public Integrity Section, Criminal Division, United States Department of Justice. This Agreement does not bind the Civil Division or any other United States Attorney's Office, nor does it bind any other state, local, or federal prosecutor. It also does not bar or compromise any civil, tax, or administrative claim pending or that may be made against the defendant.

24. If the foregoing terms and conditions are satisfactory, the defendant may so indicate by signing the Agreement in the space indicated below and returning the original to me once it has been signed by the defendant and by you or other defense counsel.

Respectfully submitted,

\_\_\_\_\_  
WILLIAM M. WELCH II  
Chief  
Public Integrity Section

By:

  
\_\_\_\_\_  
PETER J. AINSWORTH  
Senior Deputy Chief  
JOHN P. PEARSON  
ANNALOU TIROL  
Trial Attorneys  
Public Integrity Section  
1400 New York Ave. NW  
Washington, DC 20005  
(202) 514-1412




DEFENDANT'S ACCEPTANCE

I have read this agreement in its entirety and discussed it with my attorney. I hereby acknowledge that it fully sets forth my agreement with the United States. I further state that no additional promises or representations have been made to me by any official of the United States in connection with this matter. I understand the crimes to which I have agreed to plead guilty, the maximum penalties for those offenses and Sentencing Guideline penalties potentially applicable to them. I am satisfied with the legal representation provided to me by my attorney. We have had sufficient time to meet and discuss my case. We have discussed the charges against me, possible defenses I might have, the terms of this Plea Agreement and whether I should go to trial. I am entering into this Agreement freely, voluntarily, and knowingly because I am guilty of the offenses to which I am pleading guilty, and I believe this Agreement is in my best interest.

Date:

Feb 23<sup>rd</sup>, 2009

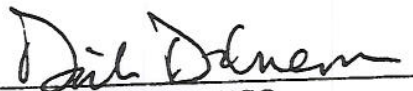
  
\_\_\_\_\_  
SAMUEL B. KENT  
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have read each of the pages constituting this Plea Agreement, reviewed them with my client, and discussed the provisions of the Agreement with my client, fully. These pages accurately and completely sets forth the entire Plea Agreement. I concur in my client's desire to plead guilty as set forth in this Agreement.

Date:

23 Feb 09

  
\_\_\_\_\_  
DICK DEGUERIN, ESQ.  
Attorney for the Defendant

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES OF AMERICA

v.

SAMUEL B. KENT

Defendant.

§  
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§  
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§  
§

CRIMINAL NO. 4:08CR0596-RV

**FACTUAL BASIS FOR PLEA**

The United States of America, by and through its undersigned attorneys within the United States Department of Justice, Criminal Division, Public Integrity Section, and the defendant, SAMUEL B. KENT, personally and through his undersigned counsel, hereby stipulate to the following facts pursuant to United States Sentencing Guideline § 6A1.1 and Rule 32(c)(1) of the Federal Rules of Criminal Procedure:

**INTRODUCTION**

At all times relevant hereto:

1. Defendant SAMUEL B. KENT was a United States District Judge in the Southern District of Texas. From 1990 to 2008, defendant KENT was assigned to the Galveston Division of the Southern District, and his chambers and courtroom were located in the United States Post Office and Courthouse in Galveston, Texas.
2. Person A was an employee of the Office of the Clerk of Court for the Southern District of Texas, and served as a Deputy Clerk in the Galveston Division assigned to defendant KENT's courtroom.
3. Person B was an employee of the United States District Court for the Southern District of Texas, and served as the secretary to defendant KENT.

4. In August 2003 and March 2007, the defendant engaged in non-consensual sexual contact with Person A without her permission.
5. From 2004 through at least 2005, the defendant engaged in non-consensual sexual contact with Person B without her permission.

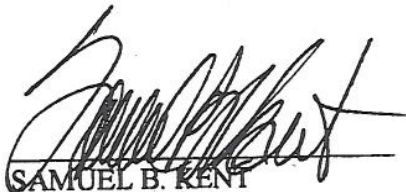
#### **OBSTRUCTION OF JUSTICE**

6. On or about May 21, 2007, Person A filed a judicial misconduct complaint with the United States Court of Appeals for the Fifth Circuit ("Fifth Circuit"). In response, the Judicial Council of the Fifth Circuit appointed a Special Investigative Committee to investigate Person A's complaint.
7. On or about June 8, 2008, at defendant KENT's request and upon notice from the Special Investigative Committee, defendant KENT appeared before the Committee.
8. As part of its investigation, the Committee and the Judicial Council sought to learn from defendant KENT and others whether defendant KENT had engaged in unwanted sexual contact with Person A and individuals other than Person A.
9. On June 8, 2007, in Houston, Texas, the defendant appeared before the Special Investigative Committee of the Fifth Circuit.
10. The defendant falsely testified regarding his unwanted sexual contact with Person B by stating to the Committee that the extent of his non-consensual contact with Person B was one kiss, when in fact and as he knew the defendant had engaged in repeated non-consensual sexual contact with Person B without her permission.
11. The defendant also falsely testified regarding his unwanted sexual contact with Person B

by stating to the Committee that when told by Person B that his advances were unwelcome, no further contact occurred, when in fact and as he knew the defendant continued his non-consensual contacts even after she asked him to stop.

All in violation of Title 18, United States Code, Section 1512(c)(2).

FOR THE DEFENDANT



SAMUEL B. KENT

*Defendant*

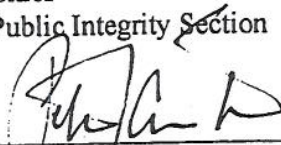


DICK DEGUERIN

*Counsel for the Defendant*

FOR THE UNITED STATES

WILLIAM M. WELCH II  
Chief  
Public Integrity Section



PETER J. AINSWORTH

JOHN P. PEARSON

ANNALOU T. TIROL

Public Integrity Section

Criminal Division

U.S. Department of Justice

1400 New York Ave., NW -- 12th Floor

Washington, DC 20530

T: 202-307-2281

F: 202-514-3003

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES OF AMERICA

-vs-

Case # 4:08cr596-001/RV

SAMUEL B. KENT

USM # 45225-079

Defendant's Attorney:  
Dick DeGuerin, Esquire (Retained)  
1018 Preston Avenue, 7<sup>th</sup> Floor  
Houston, TX 77002

---

JUDGMENT IN A CRIMINAL CASE

The defendant pled guilty to Count 6 of the Superseding Indictment on February 23, 2009. Accordingly, **IT IS ORDERED** that the defendant is adjudged guilty of such count(s) which involve(s) the following offense(s):

<u>TITLE/SECTION NUMBER</u>	<u>NATURE OF OFFENSE</u>	<u>DATE OFFENSE CONCLUDED</u>	<u>COUNT</u>
18 U.S.C. § 1512(c)(2)	Obstruction of Justice	June 8, 2007	Six

The defendant is sentenced as provided in the following pages of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984, including amendments effective subsequent to 1984, and the Sentencing Guidelines promulgated by the U.S. Sentencing Commission.

Counts 1, 2, 3, 4, and 5 are dismissed on the motion of the United States.

**IT IS FURTHER ORDERED** that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid.

Date of Imposition of Sentence:  
May 11, 2009



ROGER VINSON  
SENIOR UNITED STATES DISTRICT JUDGE

May 11, 2009

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **33 months**.

The Court recommends to the Bureau of Prisons:

While incarcerated, the defendant shall participate in the Bureau of Prisons Residential Drug Abuse program, or other such similar program for the treatment of substance abuse.

That the defendant be designated to a Bureau of Prison facility that has a medical and mental health unit as appropriate for the defendant's medical and mental health conditions.

The defendant shall surrender to either the United States Marshal for this district or to the institution designated by the Bureau of Prisons on 12 noon, June 15, 2009.

**RETURN**

I have executed this judgment as follows:

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Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By: \_\_\_\_\_  
Deputy U.S. Marshal

## **SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of **3 years**.

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime and shall not possess a firearm, destructive device, or any other dangerous weapon.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court

## **STANDARD CONDITIONS OF SUPERVISION**

The defendant shall comply with the following standard conditions that have been adopted by this court.

1. The defendant shall not leave the judicial district without the permission of the court or probation officer;
2. The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
3. The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4. The defendant shall support his or her dependents and meet other family responsibilities;
5. The defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
6. The defendant shall notify the probation officer at least 10 days prior to any change in residence or employment;
7. The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
8. The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9. The defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
10. The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and

shall permit confiscation of any contraband observed in plain view of the probation officer;

11. The defendant shall notify the probation officer within **72 hours** of being arrested or questioned by a law enforcement officer;
12. The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
13. As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
14. If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervision that the defendant pay any such fine or restitution in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

### **ADDITIONAL CONDITIONS OF SUPERVISED RELEASE**

The defendant shall also comply with the following additional conditions of supervised release:

1. Any unpaid portion of the restitution shall be paid in installments of not less than \$200.00 per month. These payments are to commence with three (3) months from the defendant's release from imprisonment.
2. Any unpaid portion of the fine shall be paid in installments of not less than \$31.00 per month. These payments are to commence with three (3) months from the defendant's release from imprisonment. Payments toward the victims' restitution shall take priority over payments of the fine.
3. The defendant shall be evaluated for substance abuse and referred to treatment as determined necessary through an evaluation process. The defendant may be tested for the presence of illegal controlled substances or alcohol at any time during the term of supervision.
4. The defendant shall participate in a program of mental health counseling and/or treatment.
5. The defendant shall provide the probation officer all requested financial information, both business and personal. The defendant shall not incur any new debts or liquidate any assets without the permission of the supervising United States Probation Officer, until the financial obligations are satisfied.
6. The defendant shall not have any contact with the individual victims identified in this case.



Upon a finding of a violation of probation or supervised release, I understand the Court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Date

\_\_\_\_\_  
U.S. Probation Officer/Designated Witness

\_\_\_\_\_  
Date

## CRIMINAL MONETARY PENALTIES

All criminal monetary penalty payments, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program, are to be made to the Clerk, U.S. District Court, unless otherwise directed by the Court. Payments shall be made payable to the Clerk, U.S. District Court, and mailed to 111 N. Adams St., Suite 322, Tallahassee, FL 32301-7717. Payments can be made in the form of cash if paid in person.

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth in the Schedule of Payments. The defendant shall pay interest on any fine or restitution of more than \$2,500, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options in the Schedule of Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

### SUMMARY

<u>Special Monetary Assessment</u>	<u>Fine</u>	<u>Restitution</u>
\$100.00	\$1,000.00	\$6,550.00

### SPECIAL MONETARY ASSESSMENT

A special monetary assessment of \$100.00 is imposed.

### FINE

A fine in the amount of \$1,000.00 is imposed. Interest is waived.

### RESTITUTION

Restitution in the amount of \$6,550.00 is imposed. Interest is waived.

The defendant shall make restitution to the following victims in the amounts listed below.

<u>Name of Payee</u>	<u>Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
Cathy McBroom	\$3,300.00	\$3,300.00
Donna Wilkerson	\$3,250.00	\$3,250.00

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise. If nominal payments are made by the defendant the court authorizes those payments to be made to the victims on a rotating basis.

The amount of loss and the amount of restitution ordered will be the same unless, pursuant to 18 U.S.C. § 3664(f)(3)(B), the court orders nominal payments and this is reflected in the Statement of Reasons page.

### **SCHEDULE OF PAYMENTS**

Payments shall be applied in the following order: (1) special monetary assessment; (2) non-federal victim restitution; (3) federal victim restitution; (4) fine principal; (5) costs; (6) interest; (7) penalties. The defendant must notify the court of any material changes in the defendant's economic circumstances, in accordance with 18 U.S.C. §§ 3572(d), 3664(k) and 3664(n). Upon notice of a change in the defendant's economic condition, the Court may adjust the installment payment schedule as the interests of justice require.

Special instructions regarding the payment of criminal monetary penalties pursuant to 18 U.S.C. § 3664(f)(3)(A):

Unless the court has expressly ordered otherwise above, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. In the event the entire amount of monetary penalties imposed is not paid prior to the commencement of supervision, the U.S. probation officer shall pursue collection of the amount due. The defendant will receive credit for all payments previously made toward any criminal monetary penalties imposed.