UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA,	)	
	)	
v.	)	
	)	**CRIMINAL CASE NO.1:11-CR-161-1**
JOHNNY REID EDWARDS	)	
	)	
	)	

JOHN EDWARDS' MOTION TO DISMISS THE INDICTMENT FOR FAILURE TO ALLEGE A CRIME AND LACK OF NOTICE AS TO WHAT THE LAW PROSCRIBED
(Motion to Dismiss No. 1)

Pursuant to Federal Rule of Criminal Procedure Rule 12(b)(3), and the First, Fifth and Sixth Amendments to the U.S. Constitution, Mr. Edwards moves to dismiss the Indictment because (1) the Indictment itself is unconstitutionally vague as to what is charged -- the government has secured an Indictment which does not reveal its theory of the charges; instead, it cites three inconsistent and mutually exclusive theories without identifying which theory is the basis for the Indictment and which theory the government will pursue at trial; (2) even if any offense was specified and accepting the facts alleged in the Indictment as true, the Indictment should be dismissed because no crime occurred under any of the theories posited by the government; and (3) the lack of constitutionally required "fair warning" that Mr. Edwards' alleged conduct would violate the campaign finance laws would preclude criminal liability in this case.

Case Speaks.com

Dated: September 6, 2011

/s/ James P. Cooney III
James P. Cooney III, N.C. Bar No. 12140
jcooney@wcsr.com
WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
One Wells Fargo Center
Suite 3500, 301 South College Street
Charlotte, NC 28202-6037
(704) 331-4980 (phone)
(704) 338-7838 (fax)

/s/ Abbe David Lowell
Abbe David Lowell, *pro hac vice*
ADLowell@Chadbourne.com
Christopher D. Man, *pro hac vice*
CMan@Chadbourne.com
CHADBOURNE & PARKE LLP
1200 New Hampshire Ave., NW
Washington, DC 20036
(202) 2974-5600 (phone)
(202) 974-5602 (fax)

/s/ Wade M. Smith
Wade M. Smith, N.C. Bar No. 4075
THARRINGTON SMITH LLP
209 Fayetteville Street Mall
Raleigh, NC 27602
Email: WSmith@tharringtonsmith.com
(919) 821-4711 (phone)
(919) 829-1583 (fax)

Rose Speaks.com

CERTIFICATE OF SERVICE

I hereby certify that on September 6, 2011, I electronically filed the foregoing **MOTION TO DISMISS FOR FAILURE TO ALLEGE A CRIME AND LACK OF NOTICE AS TO WHAT THE LAW PROSCRIBED (Motion to Dismiss No. 1)** with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

Brian Scott Meyers
U.S. Attorney's Office – EDNC
Terry Sanford Federal Building
310 New Bern Avneue, Suite 800
Raleigh, NC 27601-1461
Telephone: (919) 856-4530
Fax: (919) 856-4487
Email: brian.s.meyers@usdoj.gov

David V. Harbach
U.S. Department of Justice
Public Integrity Section
1400 New York Avenue, NW, Suite 1800
Washington, DC 20005
Telephone: (202) 262-7597
Fax: (202) 514-3003
Email: david.harbach@usdoj.gov

Jeffrey E. Tsai
U.S. Department of Justice
Public Integrity Section
1400 New York Avenue, N.W., Suite 1800
Washington, DC 20005
Telephone: (202) 307-0933
Fax: (202) 514-3003
Email: jeffrey.tsai@usdoj.gov

Case Speaks.com

Robert J. Higdon
U.S. Attorney's Office – EDNC
Terry Sanford Federal Building
310 New Bern Avenue, Suite 800
Raleigh, NC 27601-1461
Telephone: (919) 856-4530
Fax: (919) 856-4487
Email: bobby.higdon@usdoj.gov

/s/ James P. Cooney III
James P. Cooney III (NCSB # 12140)
Womble Carlyle Sandridge & Rice, PLLC
One Wells Fargo Center
Suite 3500, 301 South College Street
Charlotte, NC 28202
Telephone: (704) 331-4980
Email: jcooney@wcsr.com

Attorney for Defendant

Date: September 6, 2011

RoseSpeaks.com