

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA)
)
v.) No. 1:11-CR-161-1
)
JOHNNY REID EDWARDS)

**GOVERNMENT’S RESPONSE TO MOTION OF CITIZENS FOR
RESPONSIBILITY AND ETHICS IN WASHINGTON FOR LEAVE
TO FILE BRIEF AS *AMICUS CURIAE***

The United States of America, through the undersigned attorneys, files this Response in opposition to the Motion of Citizens for Responsibility and Ethics in Washington (“CREW”) for Leave to File Brief as *Amicus Curiae* in this case. The Government respectfully submits that CREW’s Motion should be denied.

On June 3, 2011, a grand jury in this District returned a six-count Indictment charging defendant John Edwards with various crimes in connection with his campaign for President of the United States in the 2008 election cycle. The Indictment contains six counts: Count One charges conspiracy, in violation of Title 18, United States Code, Section 371; Counts Two through Five charge acceptance and receipt of illegal campaign contributions, in violation of the Federal Election Campaign Act (“Election Act”), specifically Title 2, United States Code, Sections 441a(a)(1)(A), 441a(f), and 437g(d)(1)(A)(i); and Count Six charges false statements in the form of a scheme to conceal material facts from the Federal Election Commission, in violation of Title 18, United States Code, Section 1001(a)(1).

Edwards is ably represented in this matter by at least four attorneys from three law firms. Consistent with the scheduling order in the case, those attorneys have filed five motions under Rule 12 of the Federal Rules of Criminal Procedure challenging the Indictment.

In this criminal case, like any other, the only issue before the Court at this stage of the proceedings is the sufficiency of the Indictment. There is no need to speculate regarding the strength of the Government's proof at trial or the defendant's potential explanations for his conduct. Suffice it to say that the Government intends to offer proof beyond a reasonable doubt as to each and every element of the crimes charged, including that the defendant acted willfully.

CREW's proposed filing will not aid the Court in resolving the issues that must be decided. Indeed, it adds nothing to the legal issues that are presented by Edwards' counsel, and instead consists largely of conjecture based on purported "facts" gleaned from news articles. (*See, e.g.*, Proposed *Amicus Curiae* Brief of Citizens for Responsibility and Ethics in Washington, at n.11-15, citing a range of news media sources, including an internet "blog" known as "the Daily Beast."). Criminal charges are neither brought nor decided based upon the content of news articles or internet blogs. They are based upon evidence, and for good reason. Not only are CREW's purported facts flatly wrong, but there is no place for this form of story-telling in a criminal case.

The Government respectfully submits that because the filing offered by
CREW will not aid the Court in resolving the issues presented for decision in the case, its
Motion for leave to file a brief should be denied. *See National Organization for Women,
Inc. v. Scheidler*, 223 F.3d 615, 617 (7th Cir. 2000); *Liberty Lincoln Mercury, Inc. v.
Ford Marketing Corp.*, 149 F.R.D. 65, 82-83 (D.N.J. 1993).

Dated: September 26, 2011

Respectfully submitted,

JOHN STUART BRUCE
Attorney for the United States
Acting under authority
conferred by 28 U.S.C. § 515

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CERTIFICATE OF SERVICE

This is to certify that on September 26, 2011, I filed the foregoing document on the Court's CM/ECF system, which will transmit a copy to the following counsel of record in this case:

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