

**IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT**

STATE OF MISSISSIPPI

PLAINTIFF

FILED

VS.

CAUSE NO. 25CI1:16-CR-00836-LER

DEC 19 2016

ROBERT SHULER SMITH ZACK WALLACE, CIRCUIT CLERK

DEFENDANT

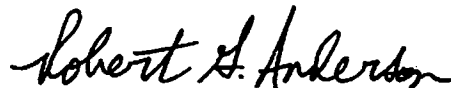
BY _____ D.C.

STATE OF MISSISSIPPI'S PROPOSED JURY INSTRUCTIONS

Attached hereto for filing are the State of Mississippi's proposed jury instructions
in the above referenced case.

THIS the 19th day of December, 2016.

Respectfully submitted,
JIM HOOD, MISSISSIPPI
ATTORNEY GENERAL



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D.C.

DEFENDANT

INSTRUCTION NO. _____

A conspiracy is an agreement or understanding between two or more people to commit a crime. The crime of conspiracy is complete when the agreement is made. Therefore, the crime of conspiracy is separate and distinct from the crime contemplated by the conspiracy. Whether or not the conspirators accomplished the crime they conspired to commit is immaterial to the question of guilt or innocence.

In establishing a conspiracy, the State is not required to prove an expressed or formal agreement between the conspirators to commit a crime. It is sufficient for the State to prove, beyond a reasonable doubt, from all of the facts and circumstances of this case, together with the acts of the parties, that Robert Shuler Smith and Jamie K. McBride knowingly and voluntarily entered into a common plan with the understood purpose to commit a crime. Express language or specific words are not required to prove involvement in a conspiracy.

If a conspiracy has been shown to exist beyond a reasonable doubt, then any reasonably foreseeable act of a conspirator in furtherance of the conspiracy is considered by law to be the act of any other member of the conspiracy. Each conspirator is responsible for the reasonably foreseeable acts of any other member of the conspiracy done in furtherance of the conspiracy. Furthermore, one may become a member of a conspiracy without full knowledge of all of the details of the unlawful scheme or the names and identities of all of the other alleged conspirators. A person may be held as a conspirator regardless of the point in time in which he or she enters it, so long as he or she enters it with the intent to further its objects during the life of the conspiracy.

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ROBERT SHULER SMITH

WICK WALLACE, CIRCUIT CLERK

DEFENDANT

BY _____ D.C.

INSTRUCTION NO. _____

The Court instructs the jury that to establish a conspiracy, the State is not required to prove that two or more persons entered into a solemn compact, orally or in writing, stating that they have formed a conspiracy to violate the law, setting forth the details of the plan, the means by which the unlawful plan is to be carried out, or the specific part to be played by each conspirator. It is sufficient to show the existence of a conspiracy if the State proves beyond a reasonable doubt in this case that two or more persons, one of which was the defendant, Robert Shuler Smith, in any manner or through any contrivance, express or inferred, voluntarily came to a common understanding to violate the law as set forth in these instructions and express language or specific words are not required to prove involvement in a conspiracy.

Thus, if you believe from the evidence in this case beyond a reasonable doubt that:

1. The Defendants, Robert Shuler Smith and Jamie K. McBride, between the dates of December 1, 2015, and June 22, 2016, did
2. Knowingly, unlawfully and feloniously, without authority of law, conspire with Ivon Johnson and with others to hinder the prosecution, conviction and punishment of Christopher Butler in Hinds County Cause Nos. 12-452 and 12-831,

then you shall find the Defendant guilty of Conspiracy to Hinder Prosecution in the First Degree.

If the prosecution has failed to prove any one or more of the above-listed elements beyond a reasonable doubt, then you shall find the Defendant not guilty.

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ZACK WALLACE, CIRCUIT CLERK
ROBERT SHULER SMITH BY _____ D.C. DEFENDANT

INSTRUCTION NO. _____

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Thus, if you believe from the evidence in this case beyond a reasonable doubt that:

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2. Knowingly, unlawfully and feloniously, without authority of law, conspire with Ivon Johnson and with others to hinder the prosecution, conviction and punishment of Christopher Butler in Hinds County Cause Nos. 12-452 and 12-831,

then you shall find the Defendant guilty of Conspiracy to Hinder Prosecution in the First Degree.

If the prosecution has failed to prove any one or more of the above-listed elements beyond a reasonable doubt, then you shall find the Defendant not guilty.

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DEFENDANT

INSTRUCTION NO. _____

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Thus, if you believe from the evidence in this case beyond a reasonable doubt that:

1. The Defendants, Robert Shuler Smith and Jamie K. McBride, between the dates of December 1, 2015, and June 22, 2016, did
2. Knowingly, unlawfully and feloniously, without authority of law, conspire with Ivon Johnson and with others to hinder the prosecution, conviction and punishment of Christopher Butler in Hinds County Cause Nos. 16-50 and 16-275,

then you shall find the Defendant guilty of Conspiracy to Hinder Prosecution in the First Degree.

If the prosecution has failed to prove any one or more of the above-listed elements beyond a reasonable doubt, then you shall find the Defendant not guilty.

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DEFENDANT

INSTRUCTION NO. _____

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Thus, if you believe from the evidence in this case beyond a reasonable doubt that:

1. The Defendant, Robert Shuler Smith, between the dates of December 1, 2015, and June 22, 2016, did
2. Knowingly, unlawfully and feloniously, without authority of law, conspire with Ivon Johnson and with others to hinder the prosecution, conviction and punishment of Christopher Butler in Hinds County Cause Nos. 16-50 and 16-275,

then you shall find the Defendant guilty of Conspiracy to Hinder Prosecution in the First Degree.

If the prosecution has failed to prove any one or more of the above-listed elements beyond a reasonable doubt, then you shall find the Defendant not guilty.

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ROBERT SHULER SMITH

DEFENDANT

INSTRUCTION NO. _____

The defendant, Robert Shuler Smith, is charged in Count III of the indictment with the crime of consulting, advising, and counseling in Mississippi a person charged with a crime while Smith was acting in his capacity as the duly elected district attorney.

If you unanimously find beyond a reasonable doubt that:

1. Robert Shuler Smith – during the period between January 14, 2016, and June 22, 2016 – was the duly elected and acting district attorney for the Seventh Circuit Court District, which includes Hinds County, Mississippi;
2. Christopher Butler during the stated period was charged with a crime that was pending in Hinds County, Mississippi; and
3. Robert Shuler Smith, while acting in his capacity as district attorney during the stated period, did wilfully and unlawfully consult, advise, or counsel Butler by meeting with Butler in the Hinds County Jail when Butler's attorney was not present, by later advising Butler's attorney in various ways to attack the criminal case then pending against Butler, and by other means seeking the release of Butler from jail,

then you shall find Robert Shuler Smith guilty as charged in Count III.

If the state did not prove any one of the above listed elements beyond a reasonable doubt, then you shall find Robert Shuler Smith not guilty of Count III.

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ROBERT SHULER SMITH _____ D.C. DEFENDANT

INSTRUCTION NO. _____

The Court instructs the jury that your verdict shall be in one of the following forms and you may simply write your verdict on a sheet of paper and your verdict need not be signed.

If you find the defendant guilty of conspiracy as charged in Count I of the Indictment, the form of your verdict shall be:

“We, the jury, find the defendant, Robert Shuler Smith, guilty of conspiracy in Count I.”

In the event you find the defendant not guilty of conspiracy as charged in Count I of the indictment, the form of your verdict shall be:

“We, the jury, find the defendant, Robert Shuler Smith, not guilty of conspiracy in Count I.”

If you find the defendant guilty of conspiracy as charged in Count II of the Indictment, the form of your verdict shall be:

“We, the jury, find the defendant, Robert Shuler Smith, guilty of conspiracy in Count II.”

In the event you find the defendant not guilty of conspiracy as charged in Count II of the indictment, the form of your verdict shall be:

“We, the jury, find the defendant, Robert Shuler Smith, not guilty of conspiracy in Count II.”

If you find the defendant guilty of consulting, advising or counseling a criminal defendant as charged in Count III of the Indictment, the form of your verdict shall be:

“We, the jury, find the defendant, Robert Shuler Smith, guilty of consulting, advising or counseling a criminal defendant in Count III.”

In the event you find the defendant not guilty of consulting, advising or counseling a criminal defendant as charged in Count III of the Indictment, the form of your verdict shall be:

“We, the jury, find the defendant, Robert Shuler Smith, not guilty of consulting, advising or counseling a criminal defendant in Count III.”