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July 22, 2008

The Honorable William J. Martini  
United States District Court Judge  
Martin Luther King Jr. Federal Office  
Building and Courthouse  
50 Walnut Street  
Newark, NJ 07102

Re: United States v. Sharpe James and Tamika Riley  
Criminal No. 07-578

Dear Judge Martini:

Please accept this letter in response to the letter brief filed by the Government last evening.

The Government's responsive papers are long on rhetoric (albeit unsupported), and short on citation to the trial record. While the Government proclaims defendant James to be unrepentant for the crimes he allegedly committed, it rather presumptuously assumes that serious motions pending before this Court for a directed verdict and a new trial have been decided and that the jury's verdict will be left undisturbed.

Where is there any support for the Government's suggestion that the Southward Redevelopment Plan was not a success, or that Newark lost anything economically as a result of defendant Riley allegedly "flipping" properties, or that the quality of the homes

that were built on the properties purchased by Riley was deficient, or that Basil Franklin was influenced by the enormous control of James, which allegedly brought Franklin to tears on the witness stand, or that James decided which particular pieces of Newark property Riley would get, and when, or that James was an “organizer” of “extensive criminal activity”, or that increases in the tax rolls attributable directly to Riley’s properties are not attributable to Riley, or that defendant repeatedly lied, defrauded and failed to disclose his allegedly criminal acts, in order to defraud the people of Newark?

Where is the support for the foregoing? It does not exist. Hence, the reason for virtually no citation by the government to the record.

What was the actual testimony relating to the rhetorical themes trumpeted by the Government? It follows, issue by issue:

*Sharpe James did Nothing to Influence the Sale of  
Property to Tamika Riley*

Basil Franklin testified at trial as follows:

Q. Now, at any point in time did Sharpe James ever ask you to treat her proposal any differently than any other developer?

A. No, sir.

Ashley Cross, Page 19

Q. Now, with respect to any of these properties. Did Sharpe James ever make any attempt to influence you with respect to Which property would be --- would go to Tamika Riley?

A. Absolutely not.

Q. Did he ever at any point try and steer these properties to

Tamika Riley as far as you can recollect?

A. Absolutely not.

Q. So it would be fair to say that with respect to the properties in the March 21<sup>st</sup>, 2001 Resolution, that Sharpe James did nothing whatsoever to steer these properties to Tamika Riley. Is that correct?

A. Yes, sir.

Franklin cross-Ashley, p.193-194

**Q. What, if any, influence did Sharpe James bring to the Determination that these properties would be properties That would be developed by Tamika Riley?**

**A. Absolutely none.**

**Q. Sharpe James did not steer in any way, shape or form these properties to Tamika Riley. Is this correct?**

**A. Right, sir.**

Basil Franklin-cross-Ashley, pg. 198-199

Gayle Chaneyfield-Jenkins, who sat on the Town Council, also testified that James did nothing to influence the City Council to sell property to Tamika Riley. Ms. Cheneyfield-Jenkins testified:

Q. All right. Now, did Sharpe James in any way try and nfluence you in any regard whatsoever with respect to any of these proposals?

A. No.

Q. Did he ever discuss Tamika Riley with you at any time?

A. Absolutely not.

Ashley Direct Examination at 35.

Another Council member, Dr. Mamie Bridgeforth confirmed that James did nothing to influence the City Council to sell land to Tamika Riley:

Q. And it was not a steeply discounted price for any one individual. Is that correct?

A. No, this was the price that land sold for at that time.

Q. Now, I am going to ask you: At any time, at any Point in time, did Sharpe James ever come to you, ma'am,

And try to influence you to vote on behalf of any Tamika Riley package?

A. No, sir.

Q. To your knowledge, did Sharpe James ever discuss, at any time, Tamika Riley with you in any way, shape or form?

A. No, sir

Q. To your knowledge, did Sharpe James ever discuss, at any time, Tamika Riley with you in any way, shape or form?

A. No, sir

Ashley Bridgeforth Direct at 135 to 136.

Regina Bayley, who worked for the DEHD, testified that she did not remember seeing any letter written by Sharpe James suggesting that Tamika Riley be sold certain Newark properties:

Q: Now do you remember ever seeing a letter written by Sharpe James or on behalf of Tamika Riley asking that Tamika Riley get any properties? Do you remember seeing such a letter ma'mm?

A: No, I don't believe the Mayor would ever write a letter like that.

Bayley cross at 34 to 35.

Diane Fuller-Coleman, who was walking down the hall towards Franklin with Ms. Riley, when Al Faiella stated that he would like to see "these two ladies" receive Newark properties, testified that she also never saw any letter from the Mayor directing that any property be sold to Tamika Riley:

Q: Do you ever remember seeing any letter from Sharpe James where get a piece of property? This property is Tamika Riley's?

A: No, I never saw that.

Cross of Fuller-Colman at 118, Lines 4 to 7.

Wendee Bailey also testified that she was aware of no involvement by the Mayor in land transactions involving Tamika Riley:

Q: Now throughout this process being involved with Ms. Riley, did you ever have any conversation with Sharpe James?

A: No, sir.

Bailey-cross-p. 24-25, lines 15-25,1-3

Shaun Craig testified that she had no personal involvement with the Mayor and issues she had with Riley:

Q: [T]o your knowledge, did Johnny Jones ever contact or tell the Mayor anything with respect to these issues that you've discussed this morning?

A: Not to my knowledge.

Q: Did you ever contact the Mayor of

The City of Newark?

A: No.

Craig- recross-p. 141, lines 16-21.

Shastri Persad testified that he was not aware of any negotiations with Riley involving the Mayor as well:

Q: Did any of these negotiations involve Sharpe James in any way, shape or form?

A: No.

Persad-cross- p. 148, lines 6-9,

Finally, Alexander Alvarez, who testified for the Government, stating that he was unaware of the Mayor having anything to do with Riley's negotiations for Newark property:

Q: Did you have any interaction with Sharpe James at any point in time?

A: No, sir.

Alvarez-cross- p. 133, lines 22-25

There is not one witness who testified that the Mayor was involved in any way in the sale of any particular parcel of land to Riley at any particular time. The only testimony in any way involving the Mayor concerned hearsay of Al Faiella (a witness not available to either side because he was asserting his Fifth Amendment rights) to Basil Franklin that the Mayor would like "these ladies" (Tamika Riley and Diane Fuller Coleman and their non-profit project) to get land.

*The Town Council Set the Price for Properties  
and James Had Nothing to do With That Process*

Every witness who testified at trial stated that the Municipal Council set the price for the sale of Newark properties, and that Mayor James had nothing to do with the setting of prices:

Councilwoman Gayle Chaneyfield Jenkins testifie:

**Q. How was the price set for these properties?  
who set the price?**

A. The price was set. That's one of the responsibilities of the governing body, the Municipal Council

Gayle Chaneyfield Jenkins-direct-Ashley, p. 10, lines 3-6

Similar testimony was offered by Basil Franklin:

Q: the prices...or \$2,000 per unit, were those intended to apply to everyone who brought in to this program?

Basil Franklin Direct at 79.

Franklin further testified:

**Q. Did he ever at any time do anything whatsoever with respect to these properties insofar as the price of the properties were concerned?**

A. Absolutely not.

**Q. Is it fair to say that the \$2,000 per housing unit, that is the price that was paid by Tamika Riley, according to the Resolution?**

A. Yes, sir.

**Q. Did Sharpe James have anything to do with the 2,000 per unit?**

**A. No, sir.**

**Q. Did he at any time try to get these properties at a steeply Discounted rate?**

**A. No, sir.**

Basil Franklin –cross-Ashley, p. 193-194

Newark’s Corporation Council confirmed Franklin’s testimony:

**Q. –at \$2,000 per unit, that’s the same price that was charged to everyone under the South Ward Redevelopment Plan. Isn’t it, ma’am?**

**A. Yes. There was consistent price.**

**Q. That was not a price that was set especially for Tamika Riley. Is that correct?**

**A. No.**

**B.**

**Corporation Counsel Joanne Watson-recross-Krovatin, p. 84**

Councilwoman Gayle Chaneyfield Jenkins offered her further testimony on the pricing issue:

**Q. All right. Now, this \$2,000 per unit for rehabilitation, was that a uniform price, ma’am, for everybody?**

**A. Yes, sir. I just said that was a uniform price for everyone.**

**Q. And so there were no distinctions?**

**A. Absolutely not.**

**Q. Now, did Sharpe James have anything to do with the setting of the price for these properties?**

A. No.

**Gayle Chaneyfield Jenkins**-direct-Ashley, p. 10-11

Dr. Mamie Bridgeforth was yet another witness testifying that the Town Council set prices:

**Q. All right. So it was \$2,000 per unit if you were a private, quote developer. Is that correct?**

**A. If you were a private developer and not a nonprofit.**

**Q. Now, was that a uniform price?**

**A. Yes.**

Q. So that was a price for everybody, not simply Tamika Riley or Joe Schmo or Charlie Jones; that was a price for everybody. Is that correct?

A. Yes.

**Dr. Mamie Bridgeforth**-direct-Ashley, p. 133

*The Enactment of Senate Bill 967 Was Completely Unrelated to the Sale of Land To Tamika Riley*

Although the indictment clearly alleged a link between Senate Bill 967 as facilitating the Mayor's ability to "steer" Newark land to Tamika Riley, every stitch of trial testimony suggested that Senate Bill 967 had nothing to do with Riley. Newark Corporate Counsel, Joanne Watson, testified:

Q. Now, did there come a time that you became aware of a New Jersey Senate Bill 967?

A. Yes.....That Bill was intended to basically clarify the roles of the Municipal Council and the Mayor with respect to who has the authority to dispose of property. There was an issue between Council and the Mayor as

to whether or not Council can unilaterally decide to dispose of property.

Watson-direct-p. 206-207, lines 1-10.

Ms. Watson further testified:

Q. To your knowledge, did Senate Bill 967 have anything to do Riley?

A. Her answer: No, it didn't have anything to do with Tamika Riley.

Watson-cross-Ashley, p. 26, lines 7-9

*Land Could Be Conveyed to Tamika Riley without the Mayor's Signature on The Contract*

Councilwoman Gayle Chaneyfield- Jenkins testified that, if approved by the City Council, the Mayor of Newark did not have to sign a real estate contract in order for land to conveyed by Newark to a third party:

Q. Then and only then after the Mayor puts his signature on the contract can the land be transferred?

A. So subsequently No. Once the Council places it into a vote and the Mayor does not sign off on it, it still becomes law.

That's what happened with the McClellan Street project. The Mayor would not sign off on that piece of property, and because 20 days after it happened it automatically becomes law even if his signature is not on it.

Gayle Chaneyfield-Jenkins-recross-Primavera, p. 110, lines 5-6, 8-13

Although the Government makes much of the comments made by defendant on the Senate floor about Council members selling land to girlfriends, his statement is not in any way probative of whether he committed the crimes charged in the indictment, which

post-date the statement he made to the Senate. As the record establishes, the Government never proved that the Mayor had any involvement in the sale of any particular piece of land to Riley at any time. The record is equally barren of evidence that the Mayor knew if Riley in fact purchased land, how many properties she actually purchased, or what she did with any property after disposing of it.

*No Prior Experience was Necessary in  
Order to Become a Developer of Land Under  
The SWRP*

The Government makes much of Tamika Riley not having development experience and therefore not being eligible to purchase land under the SWRP. That statement is flagrantly untrue. Witness after witness testified that no development experience was necessary. In fact, the SWRP application had a specific section dealing with applicants who did not have prior development experience. Ms. Riley indicated on her application that she had no prior development experience.

Councilwoman Gayle Chaneyfield-Jenkins testified that prior development experience was unnecessary under the SWRP:

Q. Did a developer pursuant to the new procedures did the developer have to have any prior experience, Ms. Chaneyfield-Jenkins?

A. No.

Q. And why, why would it be that a developer or a designated developer be someone who did not have prior experience?

A. Well, as I stated, when the development first started in the City of Newark and the nonprofits, most of the developments was done by churches and nonprofit organizations and they had no development

experience, but what they would do is, they would hire a team that would help them put together the process of how to carry forth.

And it was the same with the new people that were coming up.

Any of the developers who we had, a lot of them used to be builders, and then they became developers. So the term “developer” was a term that a lot of people assumed that name, but the criteria was decided by the Council.

Basil Franklin not only testified that no prior development experience was necessary, but he also testified that Tamika Riley disclosed that she had no prior experience:

Q. So you know the whole time you were dealing with Ms. Riley In all of her proposals----and we'll get to additional ones that She had no prior experience as a developer. Is that right?

A. Yes, sir.

Q. Was that a disqualifier? Did that disqualify her from applying To buy properties from the City of Newark?

A. No, sir.

Q. Why not?

A. Well, a couple of reasons. One of the things that my team and I try to encourage is minorities in entrepreneurs, and people that somehow seem to have the desire, the will to perform the tasks, first of all.

Secondly, it's always our opinion, or my opinion and to this day the opinion of the current administration, that to be a developer, you specifically don't have to have any experience as long as you have people on your team that have the experience to deliver what is required of you.

Q. And were there people who walked in off the street, who was similar to Ms. Riley in that they had no prior experience?

A. Well, the answer would be yes. In fact, I can think of almost all the sources of entry you would have people—people like that.

Q. And people who walked off the street, people like Ms. Riley, would not have been considered in the RFP process. Isn't that right?

A. Right, sir.

Q. But when that program changed, people like Ms. Riley, who had no prior experience, were eligible for consideration in your Department. Is that accurate sir?

A. Yes.

Basil Franklin-cross-Krovatin, p. 116-118

Councilwoman Dr. Mamie Bridgeforth also testified that to be a developer under the SWRP one did not need prior development experience:

Q. Now, in order to become a qualified developer pursuant to the South Ward Redevelopment Plan, was it necessary that the person--assuming that it was person and not an entity—that the person had prior experience in building?

A. No, it was not necessary that the person had prior experience in Building.

Q. And how could it be that a person would not have to have prior experience in building if they were going to be a designated developer, the purpose of which was to build properties or rehabilitate properties?

A. A person could put together a development team. A person could partner with someone else that had development experience and bring a project to fruition.

Q. Now, is that true only with respect to individuals, or is that also true with respect to entities.

A. It's true with respect to entities. There were nonprofit organizations that desired to participate in development, and they did not

have any experience, but they partnered with those who did and were able to develop projects that were very commendable.

Professional basketball player, Eric Williams, whose interest in purchasing Newark property led to Tamika Riley meeting the Mayor, had no prior development experience. Yet there is no contention by the Government that he was ineligible to purchase Newark property.

*The SWRP was Highly Successful in Rehabilitating Newark and was not some Unlawful Scheme of the Mayor*

Although the Government paints the SWRP as some scheme concocted by the Mayor in order to funnel property to his friends, the fact is that the program was highly successful and accomplished its mission of encouraging the development of well-kept habitable homes in spaces that had been rubble. There was no testimony to the contrary. None.

Gayle Chaneyfield Jenkins testified:

Q. Now, was the South Ward Redevelopment Program a successful program, ma'am?

A. Oh, absolutely.

Q. And certainly the city – the South Ward was indeed rehabilitated. Is that a fact?

A. Oh absolutely – “You had -- You have now in in the City of Newark over 8,000 lots that have been developed and homes that once were burnt out or empty lots where you have people who may not have been in Newark for five or 10 or 15 years come back and not even remember what their own block looked like. And certainly the community was happy because it made their property values rise...”

Gayle Chaneyfield Jenkins-direct-Ashley, p. 11-14

Dr. Mamie Bridgeforth testified about the salutary purposes of the SWRP:

Q. Can you tell the jury what the South Ward Redevelopment Plan entails?

A. (Rather lengthy) ...developing abandoned buildings, building on empty lots and restoring back to the tax rolls those pieces of property that heretofore as a result of urban blight were not benefitting the community in a way...affordable housing...so the whole process was to try to do something to turn the entire urban blight in the South Ward around.

Dr. Mamie Bridgeforth-direct-Ashley, p. 122.

Government witness, London Farley, testified about the success of the SWRP:

Q. Was the South Ward Redevelopment Plan successful in your view?

A: I would say yes, very much so.

Farley-direct-p.75, lines 2-4,

Government witness, Regina Bayley, testified that Sharpe James had a share of responsibility for the success of the SWRP:

Q. Was Sharpe James and his hands on policy with respect to DEHD partially responsible for the development of the South Ward?

A. Yes.

Bayley-cross-Ashley, p. 45-46, lines 13-25, 1-2

Bayley further testified:

Q: You would agree with me that the South Ward has been certainly rebuilt to a tremendous extent in the last five, six years?

A: Yes, sir.

Q: And it's no longer the South Ward that was the rubble of the riots, is that correct?

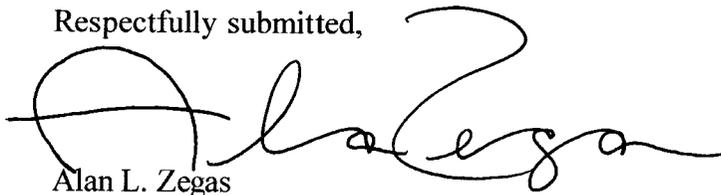
A: Yes, sir.

Bayley-cross-Ashley, p. 53, lines 7-13.

The foregoing testimony is unrefuted. There is no proof that defendant James was involved in the sale of realty to Tamika Riley, or that he knew whether she purchased land. There is also no proof that he was aware of any fraud on her part, or that he had any knowledge of what she subsequently did with any property she purchased.

Faced with a record not supporting the conclusions reached by the jury, the Government seems intent on continuing to intone its inappropriate "send a message" theme. If there is any message to send, it is that atmospherics should not be used to convict any person, and where a verdict is not supported by evidence beyond a reasonable doubt, then the verdict must, as a matter of justice, be overturned.

Respectfully submitted,



Alan L. Zegas

cc: Thomas R. Ashley, Esq.  
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