

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

STATE OF OKLAHOMA,)

Plaintiff,)

vs.)

Case No. CF-2011-347

JAMES MICHAEL MILLER,)

DOB: 12/24/1967 SSN: [REDACTED])

and,)

WILLIAM HERBERT LAYDEN, JR.,)

DOB: 06/13/1950 SSN: [REDACTED])

and,)

ANGELA MARIE MARCUM,)

DOB 03/15/1958 SSN: [REDACTED])

Defendant.)

BY _____
DEPUTY
CINDY SMITH
2011 SEP 30 PM 12:42
CLERK OF THE SUPREME COURT

INDICTMENT

FOR: Count 1: CONSPIRACY AGAINST THE STATE, 21 O.S., § 424

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF OKLAHOMA:

By the order of the Supreme Court of Oklahoma, the Thirteenth Multicounty Grand Jury was convened with its principal site to be in Oklahoma City, Oklahoma County, Oklahoma, to serve from February 22, 2011 until August 22, 2012 or until the designated presiding judge determines the Thirteenth Multicounty Grand Jury has reached reasonable completion of its investigations, but in any event, no more than twenty-four (24) months from the commencement of its term. That the said Multicounty Grand Jury of the State of Oklahoma, being composed of good and lawful men and woman, legally drawn and summons according to law and then and there examined, impaneled, sworn and charged according to law to diligently inquire into and true presentment make of all public offenses against the State of Oklahoma committed and triable within the State of Oklahoma,

upon their oath and in the name and by the authority of the State of Oklahoma, do present and find that:

COUNT 1: CONSPIRACY AGAINST THE STATE

During a time period commencing on or about the 11th day of May, 2010, A.D., through an unknown date but including the 15th day of April, 2011, A.D., the crime of **Conspiracy Against the State** was committed in Pittsburg County, Oklahoma, by the defendants, ~~JAMES MICHAEL MILLER, WILLIAM HARBERT LAYDEN, JR., and ANGELA MARIE MARCUM.~~ That is to say that at all times prior to and during the entirety of the Conspiracy, the District 18 Drug Court Program, being a program of and supervised by the District Court, District 18, State of Oklahoma, was an agency of the State of Oklahoma. That is to also say that on the first date stated above and thereafter during the entirety of the **Conspiracy**, and within the aforesaid County and State, the Defendant **JAMES MICHAEL MILLER**, was one of the duly-appointed Assistant District Attorneys for District 18, State of Oklahoma, whose office was located in Pittsburg County, whose responsibilities included to representing the Office of District Attorney in District 18 Drug Court proceedings, and whose responsibilities also included filing and prosecuting probation violators from the District 18 Drug Court program on *Applications to Revoke Probation* filed in the District Court in and for the County of Pittsburg. That is to further say that on the first date stated above and thereafter during the entirety of the **Conspiracy**, and within the aforesaid County and State, the Defendant **WILLIAM HARBERT LAYDEN, JR.** was one of the duly-appointed Special District Judges serving in and for Judicial District 18, being Pittsburg County and McIntosh County, whose duties included presiding over District 18 Drug Court proceedings in Pittsburg County and McIntosh County, whose duties included the reporting of violators of the District 18 Drug Court Program to the District Attorney for the filing of *Applications to Revoke Probation* in the District Court for

Pittsburg and McIntosh Counties, and also included the supervision of the operation of the District 18 Drug Court Program. That is to also say that on the first date stated above and thereafter during a portion of the **Conspiracy**, and within the aforesaid County and State, the Defendant **ANGELA MARIE MARCUM** was the duly-appointed Drug Court Coordinator for the District 18 Drug Court Program serving Pittsburg County and McIntosh County, Oklahoma; that as the Drug Court Coordinator, she was entrusted with the collection of money paid by participants of the District 18 Drug Court Program to the District 18 Drug Court Program, with the depositing of all such money so collected with the County Treasurer for Pittsburg County, Oklahoma, and with making periodic reports to the Presiding Judge of the District 18 Drug Court Program regarding whether or not the individual program participants were complying with the terms and conditions of the District 18 Drug Court Program. That prior to the commencement of the **Conspiracy**, on or about the 29th day of April, 2010, acting pursuant to State statutes, the Honorable Jim Bob Miller, District Attorney, District 18, requested the Oklahoma State Bureau of Investigation (OSBI) and the Office of State Auditor and Inspector (OSAI) to investigate allegations of *Embezzlement* regarding monies allegedly received by the District 18 Drug Court Program, but not deposited with the Pittsburg County Clerk. That the OSBI is an agency of the State of Oklahoma with authority to conduct investigations of alleged criminal activity at the request of District Attorneys and certain other State Officers. That the OSAI is an agency of the State of Oklahoma with authority to conduct investigative audits of the books and records of public agencies at the request of District Attorneys and certain other State Officers. That the Multicounty Grand Jury is a public body of the State of Oklahoma authorized by the Constitution and Statutes of the State of Oklahoma to be empaneled at the direction of the Supreme Court of Oklahoma to inquire into and true presentment make in all manner and grades of crime committed within the State of Oklahoma, and, when so empaneled, cooperates in its

investigative activities with public investigative agencies such as the OSBI and the OSAI in their respective investigative activities. That about 9:00 a.m. on May 11, 2010, an agent of the OSBI and an investigative auditor with the OSAI served a duly-issued Multicounty Grand Jury *subpoena duces tecum* for certain books and records of the District 18 Drug Court Program on a representative of said program at the program office located in Pittsburg County, Oklahoma. That later on May 11, 2010, and thereafter, the aforesaid Defendants did willfully, intentionally, and feloniously, conspire and agree to impair, obstruct, or defeat the lawful function and duties of the OSBI, OSAI, and the Multicounty Grand Jury to investigate crimes by intentionally withholding access to the investigation to tangible relevant evidence, and by obstructing access to witnesses by intentionally harassing potential witnesses to the investigation, and pursuant to said unlawful agreement, the following overt acts were committed in furtherance of the **Conspiracy**:

A. At about 11:00 a.m. on the morning of May 11, 2010, Defendant **JAMES MICHAEL MILLER** met with Defendant **WILLIAM HARBERT LAYDEN, JR.** regarding the OSBI/OSAI/Multicounty Grand Jury investigation of the District 18 Drug Court;

B. At about 6:45 p.m., on the evening of May 11, 2010, Defendant **JAMES MICHAEL MILLER** counseled Defendant **ANGELA MARIE MARCUM** that a *subpoena duces tecum* "give you a time and date by which to produce documents . . . not a search warrant for osbi to get what they want;"

C. At about 7 p.m., on the evening of May 11, 2010, Defendant **ANGELA MARIE MARCUM** met with Defendant **WILLIAM HARBERT LAYDEN, JR.** regarding the OSBI/OSAI/Multicounty Grand Jury investigation of the District 18 Drug Court;

D. On or about May 12, 2010, and a number of times thereafter, the Defendant **ANGELA MARIE MARCUM** told Tammy Gay Green, a worker in the District 18 Drug Court office, that the

Drug Court's Presiding Judge, **WILLIAM HARBERT LAYDEN, JR.**, didn't want Drug Court staff persons, including Ms. Green, to talk with OSBI unless they had a lawyer present. Thereafter, Defendant **ANGELA MARIE MARCUM** asked Green repeatedly whether or not Green had spoken with OSBI;

E. On or about May 13, 2010, Defendant **ANGELA MARIE MARCUM** was observed by ~~Tammy Gay Green to be removing payment receipts from District 18 Drug Court individual~~ participant files;

F. On or about May 13, 2010, Defendant **ANGELA MARIE MARCUM** instructed Tammy Gay Green, Krystal Renee Johnson and Brandi Gray to remove payment receipts from District 18 Drug Court individual participant files and to give the receipts to **MARCUM**;

G. On or about May 13, 2010, Defendant **ANGELA MARIE MARCUM** told program participant Krystal Renee Johnson that the District Attorney was going to "revoke you all if ya'll keep this up;"

H. On or about May 13, 2010, Defendant **ANGELA MARIE MARCUM** told program participant Amy Roseanna James, "I didn't tell you this, but don't talk to them," referring to the investigators;

I. On or about May 13, 2010, Defendant **WILLIAM HARBERT LAYDEN, JR.** met with Defendant **JAMES MICHAEL MILLER** and suggested to **MILLER** that **MILLER** call potential witnesses to the OSBI/OSAI/Multicounty Grand Jury investigation of the District 18 Drug Court and question them about their knowledge about who caused the investigation of the District 18 Drug Court and about the subject matter of the OSBI/OSAI/Multicounty Grand Jury investigation of the District 18 Drug Court investigation;

J. On or about May 13, 2010 **JAMES MICHAEL MILLER** contacted **ANGELA MARIE**

MARCUM at the District 18 Drug Court office to arrange for calling certain persons in to talk with him about the subject matter of the OSBI/OSAI/Multicounty Grand Jury investigation of the District 18 Drug Court investigation;

K. On or about May 13, 2010 **JAMES MICHAEL MILLER** interviewed Drug Court worker Tammy Gay Green in a courthouse jury room about her knowledge regarding who might have caused the investigation of the District 18 Drug Court to occur and about her knowledge of the subject matter of the OSBI/OSAI/Multicounty Grand Jury investigation of the District 18 Drug Court investigation;

L. On or about May 13, 2010 **JAMES MICHAEL MILLER** interviewed Drug Court participant Brian Keith Wiley in a courthouse jury room about his knowledge regarding who might have caused the investigation of the District 18 Drug Court to occur and about his knowledge of the subject matter of the OSBI/OSAI/Multicounty Grand Jury investigation of the District 18 Drug Court investigation;

M. On or about May 13, 2010 **JAMES MICHAEL MILLER** interviewed Gensi Lynn Hedgecock, wife of Drug Court participant Joey Hedgecock, and and sister to Drug Court participant and worker Heather Lester, in a courthouse jury room about her knowledge regarding who might have taken money from District 18 Drug Court, whether Heather Lester had been interviewed by OSBI;

N. On or about May 13, 2010 **JAMES MICHAEL MILLER** interviewed Rachel Leah Lester, sister of Drug Court participant and worker Heather Lester, in a courthouse jury room about her knowledge regarding who might have caused the investigation of the District 18 Drug Court to occur and about her knowledge of the subject matter of the OSBI/OSAI/Multicounty Grand Jury investigation of the District 18 Drug Court investigation;

O. On or about May 13, 2010 **JAMES MICHAEL MILLER** interviewed Drug Court participant Jason Lee Cox in a courthouse jury room about his knowledge regarding who might have caused the investigation of the District 18 Drug Court to occur, about **MILLER** having been "lied to" about the matter by three other people who he would "handle" later, and about whether Mr. Cox had been interviewed by the OSBI;

~~P. On or about May 16, 2010, Defendants **ANGELA MARIE MARCUM** and **WILLIAM HARBERT LAYDEN, JR.** instructed District 18 Drug Court Compliance Officer Larry Joe Cook to investigate to find out who took money missing from District 18 Drug Court although the Defendants knew of the ongoing OSBI/OSAI/Multicounty Grand Jury investigation. Cook was originally directed to investigate Heather Lester and Tammy Gay Green, but additional names were supplied later by Defendant **MARCUM**;~~

Q. On or about May 17, 2010, Larry Joe Cook, Compliance Officer for the Pittsburg County office of District 18 Drug Court, took a black Hewlett Packard laptop computer bearing participant payment data of District 18 Drug Court participants together with some paper files to Defendant **ANGELA MARIE MARCUM**'s motor vehicle at the request of Defendant **ANGELA MARIE MARCUM** and never saw that computer again;

R. On or about May 17, 2010, Defendant **ANGELA MARIE MARCUM** instructed program participant Krystal Renee Johnson to bring **MARCUM** all of Johnson's payment receipts before Johnson was interviewed by OSBI and when Johnson sought to obtain them from **MARCUM** later that date, **MARCUM** told Johnson that the receipts had "disappeared;"

S. On or about May 17, 2010, Defendant **ANGELA MARIE MARCUM** told program participant Shonda Huddleston to "get rid" of her payment receipts before she went to talk with OSBI;

T. On the evening of May 18, 2010, Defendant **ANGELA MARIE MARCUM** met with Defendant **WILLIAM HARBERT LAYDEN, JR.** at **LAYDEN**'s residence to discuss how to "get to the bottom of this."

U. On or about Thursday, May 20, 2010, after Tammy Gay Green was interviewed by OSBI, Defendant **ANGELA MARIE MARCUM** told Ms. Green by telephone: "I told you, judge said he didn't want the staff members talking to the OSBI without an attorney,"

V. On or about Monday, May 24, 2010, fired Green as a worker in the District 18 Drug Court Program;

W. On or about July 7, 2010, Defendant **WILLIAM HARBERT LAYDEN, JR.** brought a *Violation Report* prepared by Defendant **ANGELA MARIE MARKUM** regarding District 18 Drug Court participant and office worker Heather Lester to the office of District Attorney Jim Bob Miller, seeking To revoke Ms. Lester for going out of Pittsburg County and for quitting her job at the District 18 Drug Court office, though **LAYDEN** and **MARCUM** both knew that Ms. Lester had, prior to leaving said County or quitting said job, been given permission to leave the County and quit the job by acting Drug Court Coordinator, Larry Joe Cook;

X. On or about July 9, 2010, Defendants **JAMES MICHAEL MILLER, WILLIAM HARBERT LAYDEN, JR.,** and **ANGELA MARIE MARKUM** met in the late evening hours at Defendant **LAYDEN'S** personal residence;

Y. On or about March 18, 2011, the same being twelve (12) days prior to when Defendants **LAYDEN** and **MARCUM** were subpoenaed to give testimony before the Multicounty Grand Jury, Defendants **JAMES MICHAEL MILLER, WILLIAM HARBERT LAYDEN, JR.,** and **ANGELA MARIE MARKUM** met in the late evening hours at Defendant **LAYDEN'S** personal residence;

Z. On or about April 1, 2011, the same being seventeen (17) days prior to when Defendants MILLER and MARCUM were scheduled to give testimony before the Multicounty Grand Jury, Defendants JAMES MICHAEL MILLER, WILLIAM HARBERT LAYDEN, JR., and ANGELA MARIE MARKUM met in the late evening hours at Defendant LAYDEN'S personal residence.

~~AA. On or about April 8, 2011, the same being ten (10) days prior to when Defendants~~
MILLER and MARCUM were scheduled to give testimony before the Multicounty Grand Jury, Defendants JAMES MICHAEL MILLER, WILLIAM HARBERT LAYDEN, JR., and ANGELA MARIE MARKUM met in the late evening hours at Defendant LAYDEN'S personal residence;

BB. On or about April 15, 2011, the same being thirty-nine (39) days prior to when Defendants MILLER and MARCUM were scheduled to give testimony before the Multicounty Grand Jury, Defendants JAMES MICHAEL MILLER, WILLIAM HARBERT LAYDEN, JR., and ANGELA MARIE MARKUM met in the late evening hours at Defendant LAYDEN'S personal residence.

All of the foregoing being committed in violation of Section 424 of Title 21 of the Oklahoma Statutes and against the Peace and Dignity of the State of Oklahoma.

TRUE BILL (X)

NO BILL ()

William J. Tucker

FOREMAN
OKLAHOMA MULTICOUNTY GRAND JURY

Penalties:

Conspiracy Against the State, 21 O.S., § 424: Imprisonment in the State Penitentiary for not more than ten (10) years imprisonment and a fine not to exceed Twenty-five Thousand Dollars (\$25,000.00).

WITNESSES (Before the Grand Jury):

John Jones, O.S.B.I., 701 West Carl Albert Expressway, McAlester, OK 74501

John Graham, O.S.B.I., 701 West Carl Albert Expressway, McAlester, OK 74501

~~*Wes Edens, Office of State Auditor & Inspector, 100 State Capitol, Oklahoma City, OK 73105*~~

Cara Nichole Hafeman, HC 67, Box 790, Canadian, OK

Genci Hedgecock, 324 W. Adams, McAlester, OK

Wacey Lee Nowlin, P.O. Box 39, Blanco, OK

Tresa Pippin, HC 63, Box 222, Eufaula, OK

Jason Lee Cox, HC 67, Box 309, Indianola, OK

Tony Joe McNatt, Route 6, Box 42, Eufaula, OK

Larry Joe Cook, HCR 74, P.O. Box 17B, Hartshorne, OK

Heather Lester, 18 Cecilia Road, Lot 31, Krebs, OK

James Jonathan Ryan Dalpaos, HCR 73, Box 72, Hartshorne, OK

Tammy Gay Green, Route 5, Box 1751, Eufaula, OK

Hon. Cerita Morley, County Treasurer, Pittsburg County, Pittsburg Co. Courthouse, McAlester, OK

Lisa Renee Russell, P.O. Box 27, Eufaula, OK

Shonda June Huddleston, Route 6, Box 4, McAlester, OK

Krystal Renee Johnson, P.O. Box 266, Indianola, OK

Eugene Tilman, III, 528 S. 7th Street, McAlester, OK

Cecilia Miers, Executive Director, PC-Care, Inc. 501 E. Delaware, McAlester, OK

Kim Cain, Oklahoma Department of Mental Health Substance Abuse Services, 1200 N.E. 13th Street, Oklahoma City, OK 73152-3277

Malinda Joy Alexander, P.O. Box 42, Haileyville, OK

Kristy Janes, 1103 Fleming, Apt # 26, McAlester, OK

Rachel Leah Lester, 1020 East Polk, Apt. #2, McAlester, OK

Jessica Gilliam, McAlester, OK 1557 E. Hereford Lane, McAlester, OK

Amy Roseanna James, 637 W. Monroe, McAlester, OK

Matt Ryan Lenardo, 1411 S. Street, McAlester, OK

Brian Wiley, P.O. Box 418, Savanna, OK

Rebekkah Wilson, McAlester, OK

Jim Lyles, Chief of Police, City of McAlester, P. O. Box 578, McAlester, OK

Jim Bob Miller, 4100 Pyle Mountain Road, McAlester, OK

Honorable Cindy Eller, Pittsburg County Court Clerk, 115 E. Carl Albert Parkway, McAlester, OK

William Layden, Associate District Judge, Pittsburg County Courthouse, McAlester, OK

James Michael Miller, c/o Warren Gotcher, Esq., McAlester, OK

Angela Marie Marcum, P.O. Box 1472, McAlester, OK