

To Whom It May Concern:

I write as an English teacher/ English department chairman/ English as a second language teacher trainer with over 25 years of experience in teaching. Specifically, I am expert in E.S.L., Spanish Language, and English Language, focusing on grammar, syntax, and the precise use of language. At the request of those representing GEZO EDWARDS, Case No. 1:11-cr-00129-CKK, out of the United States District Court for the District of Columbia, I have been asked to examine the specific language used in Count One of the indictment and corresponding jury instructions in the previously mentioned case.

In Count One of the indictment the government contends that the defendants "**did knowingly and intentionally combine, conspire, confederate and agree together and with other persons both known and unknown to the Grand Jury, to unlawfully, knowingly and intentionally distribute and possess with intent to distribute mixtures and substances containing a detectable amount of cocaine, a Schedule II narcotic drug controlled substance, and the amount of said mixtures and substances was five (5) kilograms or more in violation of Title 21, United States Code, Section 841(a)(1) and 841(b)(1)(A)(ii).**"

The adverb "**knowingly**" based on the adjective "**knowing**" means having or reflecting knowledge, information, or intelligence; according to the specific definition. This means that as part of the indictment, if the government wished to allege that it would prove that the defendants had specific knowledge, information or intelligence that the substance was in fact a Schedule II narcotic drug in violation of Title 21, United States Code, Section 841(a)(1) and 841(b)(1)(A)(ii), it failed to specify as much.

After careful review of the indictment and the corresponding jury instructions, it is evident that the documents do not claim or guide the jury to decide if the defendants had the required knowledge that the mixture constituted a controlled substance. In short, the stipulation that the crime had to have a controlled substance "knowledge" element in order to form mens rea was obscured from the jury in the final jury instruction. The indictment used ambiguous language that did not provide the specificity needed to demonstrate a defendant's knowledge, which is a key aspect of the alleged crime. The jury directions further exacerbate this problem. Upon examining the grammar and syntax regarding how average individuals will perceive the indictment and jury instructions, it is clear that the documents fail to meet the commonsense standard necessary for someone to determine if a defendant recognized the unlawful character of the substance.

The employment of passive and unclear language clouded the essential aspect of knowledge, resulting in probable misconceptions and misuses of the law. For instance, Count One of the indictment outlines the shared purpose or objective of the conspiracy as the

defendants "agree[ing] to unlawfully, knowingly and intentionally distribute and possess ... mixtures and substances that contain a detectable amount of cocaine[.]" When employing the adverb 'knowingly' to refer to the direct object "cocaine" or "controlled substance," we interpret that modification as -- "be aware it is cocaine or a controlled substance." Since a conspiracy is a pact to carry out a future action, the adverb "knowingly" cannot modify the direct objects. The verb "know" functions as a stative verb. These kinds of verbs are generally employed to depict a state, condition, or situation instead of an action. It cannot be used with the present continuous or future tense to form a correct sentence, while physical actions can. In contrast, while physical acts of distribution and possession can be consented to for the future, the mental state of knowledge cannot be agreed upon. In other terms, knowledge cannot be foretold or anticipated.

The interpretation of the indictment resulted in charges against the defendant for entering into an agreement and clarified the common intent or goal of the conspiracy as - distributing a controlled substance without the awareness of handling a controlled substance. If the government aims to make the defendants accountable for consenting to distribute a controlled substance while knowing it was illegal, they did not indicate that the defendant was aware the substance to be distributed was unlawful. This indicates that the defendant did not possess the required information to engage in a criminal agreement. Due to the absence of clear language mandating that the jury determine the defendant's awareness that the substance was cocaine, Count One of the indictment and the related jury instructions are fundamentally defective. I would ask the court to consider these very important details. If you have any questions, feel free to contact me.

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