

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. CR-14-20-JHP

JASON BRETT MERIDA,

Defendant.

MOTION IN LIMINE

COMES NOW the United States of America, by and through Douglas A. Horn and Christopher J. Wilson, Assistant United States Attorneys for the Eastern District of Oklahoma, and urges the Court to prohibit Defendant from arguing in closing statement that “other people should be charged”.

Defendant, through counsel, has stated in Opening Statement that other people in the Choctaw Nation should be charged. Specifically, Defendant has stated that former Chief Pyle and former Assistant Chief Batton are responsible for Defendant’s actions and should be charged. The Government anticipates that this theme will continue and will be argued by Defendant’s counsel in Closing Argument.

Tenth Circuit Court of Appeals Criminal Pattern Jury Instructions 1.19 states:

CAUTION - CONSIDER ONLY CRIME CHARGED

You are here to decide whether the government has proved beyond a reasonable doubt that the defendant is guilty of the crime charged. The defendant is not on trial for any act, conduct, or crime not charged in the indictment.

It is not up to you to decide whether anyone who is not on trial in this case should be prosecuted for the crime charged. The fact that another person also may be guilty is no defense to a criminal charge.

The question of the possible guilt of others should not enter your thinking as you decide whether this defendant has been proved guilty of the crime charged.

Defendant should not be allowed to argue in Closing Arguments that other people have not been charged and should be charged. To do so would be in complete contradiction of the Tenth Circuit Pattern Jury Instruction 1.19. Allowing any such arguments would be inviting the jury to disregard the instructions and their oath to follow the instructions. At a minimum, such arguments that directly contravene the Court's instructions risk confusing the jury.

The Tenth Circuit Pattern Jury Instruction 1.19 is unequivocal in stating "The question of the possible guilt of others should not enter your thinking as you decide whether this defendant has been proved guilty of the crime charged." Any comments or inference that others should be charged would be specifically contrary to the instructions given to the jury and should not be permitted.

Respectfully submitted,
MARK F. GREEN
United States Attorney

s/ Douglas A. Horn
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CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of November, 2014, I electronically transmitted the attached documents to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants: Rex Earl Starr and Lance Hopkins, Counsel for Defendant and hand-delivered a copy of the same in open court.

/s/ Douglas A. Horn
Douglas A. Horn
Assistant United States Attorney