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UNITED STATES DISTRICT COURT
EASTERN DISTRICT MICHIGAN
SOUTHERN DIVISION

KWAME M. KILPATRICK,
MOVANT,

Vs.

UNITED STATES OF AMERICA,
RESPONDENT.

Cause No:

2:10-cr-20403-NGE-MKM-1

Civil Action Number

Time: _____

Date: _____

Place: _____

) Theodore Levin U.S. Courthouse
) 231 W. Lafayette Blvd.
) Detroit, MI. 48226

NOTICE OF MOTION

F I L E D
JUN 30 2017

CLERK'S OFFICE
DETROIT

PLEASE TAKE NOTICE that KWAME M. KILPATRICK Movant, acting in pro se status in the above styled and entitled cause of action, on a date to be determined, at the appointed time and designated place, the Theodore Levin U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, Michigan, 48226, Kilpatrick will move this Honorable Court to Vacate, Set Aside or Correct the 336-month term of imprisonment, imposed on October 10, 2013.

In addition, the court imposed a Restitution Amount of ~~\$4,534,423~~^{\$4,534,423} and a term of three years Supervised Release.

The motion will be made on the grounds that;

- 1) The court erred in providing the jury incorrect instructions on the definition of "Official Act". There is insufficient evidence that Movant committed an "official act", and was convicted for conduct that is not unlawful.
- 2) The court erred when it denied Movant's requests and motion for new trial counsel, because "it was a tactic to delay the trial and untimely." The court failed to conduct an adequate and meaningful inquiry into the extent of issues related to Movant's attorney/client relationship, and denied Movant's Sixth Amendment Right to Counsel. Movant did not receive continuous

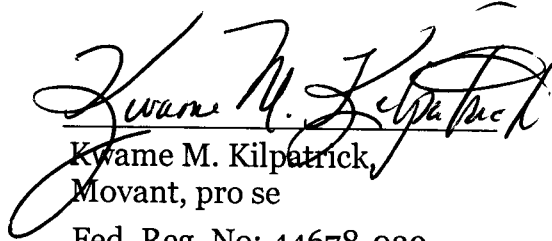
representation from an attorney, and had No Representation, at all, for important parts of the trial proceedings.

- 3) The court erred when it permitted the admission of Impermissible Hearsay and denied Movant's Right of Confrontation.
- 4) The court erred when it did not properly determine the amount of Loss/Harm, a key component of selecting the appropriate sentencing guideline range. There was No Economic Loss to the City of Detroit, nor any entity, nor person(s) related to this case. The court erred when it substituted "profits" (GAIN) for determining the guideline range for sentencing. There is no evidence that Movant should have been given a more than 20-level enhancement, and sentenced for \$9,654,553 of "value benefits received from estimated profits" from his co-defendant's companies. The court failed, after objection, to apply the proper guidelines to Movant's sentence.
- 5) The court erred when it did not give an "Allen Charge" to the jury. The jury failed to come to a Unanimous Verdict.
- 6) The court erred in providing the jury with incorrect instructions on the definition of "Official Act" regarding RICO Conspiracy. The jury convicted movant for a RICO Conspiracy count without finding that he committed or agreed to commit an "official act" related to any "question, matter, cause, suit, proceeding, or controversy" as clearly defined.

This motion is made pursuant to Title 18 U.S.C. § 2255 and is based upon the attached memorandum of points and authorities, all files and records in this case, and such further argument and supplemental supporting documents as may be presented in the pleading of this motion.

Respectfully, Submitted,

this day of **JUNE 23**, 2017.


Kwame M. Kilpatrick,
Movant, pro se

Fed. Reg. No: 44678-039
Federal Correctional Institution
P.O. Bo 1500
El Reno, Oklahoma 73036