

**MINUTES OF THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA**

**UNITED STATES OF AMERICA** v. **VICTOR H. KOHRING**

THE HONORABLE JOHN W. SEDWICK 3:07-cr-00055 JWS

PROCEEDINGS: **ORDER FROM CHAMBERS** **May 5, 2008**

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At docket 177, defendant Kohring moves for permission to interview one of the trial jurors. The local rules of this court prohibit attorneys from making contact with jurors without the prior approval of the court. D.Ak. LCrR. 1.1(b) and D.Ak. LR 83.1(h)(1).

In the First Superseding Indictment, Kohring was charged with four crimes: In Count 1 he was charged with conspiracy to commit extortion and attempted extortion under color of official right and bribery; in count 2 he was charged with interference with commerce by extortion induced under color of official right; in Count 3 he was charged with attempted interference with commerce by extortion induced under color of official right; and in Count 4 he was charged with bribery concerning programs receiving federal funds. On the ninth day of the trial, the jury returned its verdicts. The jury convicted Kohring on Counts 1, 3, and 4. The jury found Kohring not guilty on Count 2. After the verdicts were read, the jurors were all individually polled and each responded that these were his or her true verdicts.

According to the motion, defense counsel wishes to interview "a juror from Mr. Kohring's trial in order to obtain information for sentencing about what the government actually proved at trial and the basis of the convictions." (Doc. 177 at p. 1) An unnamed juror allegedly advised John Davies, "a trusted confidant" of defendant, of "potential misconduct during the jury deliberations." (Doc. 177 at p. 5) There is no suggestion of any outside interference with the jury deliberations. Rather, Kohring's motion papers imply that there is some ambiguity, uncertainty or problem about what was actually proved at trial and perhaps some related error in the jury instructions. (Doc. 177 generally)

By way of relief, defendant wants to obtain an affidavit from the unnamed juror to use at sentencing to explain what the jury did. (Doc. 177 at p. 8) Of course, what any one juror might say about the proof at trial is meaningless. It is the verdict of the jury as a whole which is of consequence. Moreover, even interviewing all of the jurors would be improper. With exceptions not relevant here, the common law rule that a juror's testimony cannot be used to impeach a jury verdict is the law applied in the federal courts. See, e.g., *Tanner v. United States*, 483 U.S. 107, 119-120 (1987). To the extent the motion is premised on error in the jury instructions, that is a matter which Kohring would have to pursue on appeal.

The motion at docket 177 is **DENIED**.

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