

United States v. Richard M. Scrusby  
2:05-CR-119-MEF  
**EXHIBIT V-F**

**Declaration of Robert Harrison Hickman  
Under Penalty of Perjury Pursuant to 28 U.S.C. § 1746**

I, Robert Harrison Hickman, declare and state as follows:

1. I am over eighteen years of age and of sound mind.
2. I am a Principal in Global Strategy Group, LLC., where I am engaged in opinion research and campaign consulting. In addition, I was an election consultant for CBS News for more than 20 years.
3. I make this Declaration of my own free will, and I have neither been threatened nor offered any inducement to make the statements below.
4. I have personal knowledge of the following:
5. I first met Nick Bailey after the government began its investigation of him, in the fourth quarter of 2001 as I recall. I talked with him often during the period of Bailey's cooperation, as a witness for the government and continue to do so through the present day on a personal and professional basis. I believe I gained Nick's trust early in our friendship. He has confided in me over several years concerning his experiences during the time he was cooperating with the government.
6. I served as a jury consultant for Governor Don Siegelman in connection with the Siegelman/Scrusby trial. Many months after the trial was over, Governor Siegelman approached me to see if I could interest *60 Minutes* in airing the story of his prosecution and trial. I worked with others to encourage *60 Minutes* to pursue this story.
7. Stan Pate, Nick's current employer, and I convinced Nick to be interviewed by *60 Minutes*, but Nick agreed to do so only if I were present.
8. The *60 Minutes* interview of Bailey took place at the Federal Penitentiary in Atlanta and lasted five to six hours. Nick Bailey was in my presence throughout the entire interview. The only

individuals present were Bailey, me, and two *60 Minutes* producers, David Gelber and Joel Bach.

On three or four occasions during the interview, at Nick's request, Nick and I talked in private.

9. During the interview, Bailey said he had met with or been contacted by the government nearly 80 times during the period of his cooperation, and that his attorney, George Beck, had attended most of the interviews and kept a calendar or other records showing the dates and subjects of the interviews. I have learned from others that the prosecution provided the defense with only five FBI 302s summarizing Bailey's interviews. I reviewed summaries of these 302s. During the course of the *60 Minutes* interview, I mentioned to Nick that his 302s show that he remembered more and more as interviews went along, but that all of the changes in his representations seemed to be harmful for Governor Siegelman and good for the government's case. I observed that this is contrary to most of my experiences and research I have read, that as people conjure additional memories about an event, the usual pattern is to recall some mitigating and some aggravating facts.

10. Bailey explained that the prosecutors consistently told him he needed to be "more cooperative." He also said they encouraged his increased "cooperation" by saying things that frightened him. For example, Nick said the prosecutors told him that his brother, Shane Bailey, was in a "situation." The implied threat was implicit as the government apparently never said they would prosecute Shane if Nick did not say what they wanted him to say. Nick told me, however, that the import of what the prosecutors were saying about his brother was clear, and that it made a difference in his willingness to go along with what the prosecutors wanted him to say. Nick also told me that one federal prosecutor threatened to cause purported information of a highly personal nature about Nick to be disclosed. Nick said that while this threat was not made in the form of an explicit quid pro quo exchange for cooperative testimony, it was clear to

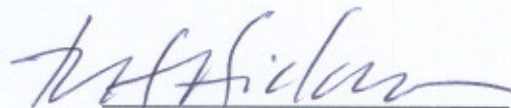
him that his "cooperation" was required if he did not want the information disclosed and affected the level of his "cooperation" with the government..

11. Bailey told me that, during the period of his cooperation, he ultimately refused to talk to First Assistant U.S. Attorney Louis Franklin because of Franklin's threatening comments. Nick said that Franklin often implied that if Nick did not cooperate more fully, Franklin would "turn up the heat" on Nick, his family and friends and/or attempt to embarrass Nick publicly. After a time, Nick said he talked primarily with Assistant U.S. Attorney Steven Feaga, ignoring Franklin so much that Franklin stopped coming to most sessions.
12. According to Bailey, Feaga became frustrated with Nick's inability to answer questions consistently in a manner that met Feaga's approval. Finally Feaga told him, "I'll write down the questions, you write down the answers," so Bailey could study them. Nick said that he kept these Q's and A's in a loose-leaf binder, made notes on the sheets in the binders, and referred to them in preparation for his interviews and testimony.
13. Nick recently told me that he was "amazed" when he had a chance to read his testimony in the Scrushy/Siegelman trial. He said that he said a number of things in the testimony that he knows not to have been true, including the number of interviews with investigators and prosecutors at which Siegelman was discussed. Nick was at a loss to explain the discrepancy between what he knows to be true and the testimony he provided except for the intense pressure he felt at the time of the trial to "say the right thing, the right way."
14. Nick has consistently told me that he adopted testimony language that was suggested to him by the prosecutors. The most memorable example is his testimony that an "absolute agreement" existed between Lanny Young and Nick and other members of the Siegelman administration. Nick remembers initially characterizing this as an "understanding." At the suggestion of the prosecutors, he came to call this first an "agreement" and then an "absolute agreement." Nick

told me that he now recognizes that he adjusted his terminology to accommodate the desires of the prosecutors.

15. In a similar manner, Nick has told me on multiple occasions that his representation of a critical meeting between Siegelman and Scrusby has evolved over time. Nick attributed some changes in his statements about the meeting to his attempt to accommodate "facts" presented to him by the prosecutors and their investigators when they told him that other evidence and witness statements conflicted with his recollection. One example he gave of this change was whether or not Siegelman had an actual check from Scrusby after the meeting.
16. With regard to that same meeting between Scrusby and Siegelman, Nick has recently said to me that he is "not exactly sure what happened that day," and that it is "likely" that Siegelman was surmising what Scrusby might want from the administration. Nick told me that it would not have been consistent with Siegelman's pattern and practice to have made and kept a specific commitment to a supporter or a contributor.
17. I was present during the entire interview of Bailey by the *60 Minutes* producers. I have reviewed the video of the *60 Minutes* segment that aired on CBS, and I believe that everything attributed to Nick in the segment that aired is a fair and accurate summary of what he actually said.

Signed under penalty of perjury pursuant to 28 U.S.C. § 1746.

  
Robert Harrison Hickman

Executed on June 18, 2009