



# 2012

## APPELLATE MOOT COURT COMPETITION

### BRIEFING ORDER

\*DO NOT RISK DISQUALIFICATION! COMPETITORS ARE NOT ALLOWED TO RECEIVE ANY HELP ON THE PROBLEM BEFORE THEIR BRIEF IS SUBMITTED (BRIEFS ARE DUE JANUARY 25, 2012.) PRIOR TO THE DEADLINE, COMPETITORS MAY ONLY DISCUSS THE PROBLEM WITH THEIR TEAMMATE AND NO ONE ELSE, INCLUDING PROFESSORS, COACHES, STUDENTS, COLLEAGUES, OR ANY OTHER INDIVIDUAL.

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

UNITED STATES,	§	
	§	
Respondent/Cross-Appellant,	§	Case No. 11-11223
	§	
v.	§	
	§	
LOUIS WHEATLEY,	§	
	§	
Appellant/Cross-Respondent.	§	
	§	

**BRIEFING ORDER**

This matter comes to this Court on the parties’ cross-appeals from the judgment entered in the United States District Court for the Central District of California, Case No. CV 11-30445 WMF (ABCx). Wilma M. Frederickson, District Judge, Presiding.

Louis Wheatley (“Wheatley”) appeals the District Court’s denial of his motion to dismiss the indictment and the District Court’s subsequent denial of his Federal Rules of Criminal Procedure, Rule 29, motion for judgment of acquittal as to Count 1 of the jury verdict against him. The United States appeals the District Court’s grant of Wheatley’s motion as to Counts 2 and 3, and the District Court’s order vacating Wheatley’s conviction on Counts 2 and 3. For purposes of briefing on appeal, Wheatley is the Appellant/Cross-Respondent and is directed to follow the briefing rules applicable to an appellant; the United States is the Respondent/Cross-Appellant and is directed to follow the briefing rules applicable to a respondent.

Each party is directed to brief the following questions:

1. Does Federal Law § 999.2(3) violate the First Amendment Free Speech Clause in the U.S. Constitution, on its face or as applied to Wheatley, such that his conviction under that statute (Count 1) should be overturned?
2. Should Wheatley's conviction under Count 1 be overturned as a matter of public policy, or in the alternative, because his actions were justified under the defense of necessity?
3. Does 18 U.S.C. § 43 exceed congressional authority under the Commerce Clause of the U.S. Constitution?
4. Did the District Court properly overturn the jury verdict convicting Wheatley under Counts 2 and 3 because 18 U.S.C. § 43 does not apply to Wheatley's conduct under the evidence presented in this case?

The parties' briefs shall be limited to these issues, but the parties are not limited in their briefing to the arguments or authority upon which the District Court relied. For the purposes of briefing and arguments, the parties may cite only legal authority dated before October 5, 2011.

IT IS SO ORDERED this 5<sup>th</sup> day of October, 2011.

Hon. C. Harland Sanders  
United States Circuit Judge