

**IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN
DISTRICT OF MISSOURI
WESTERN DIVISION**

CT COURT FOR T9AMESTRA,)

to the provisions of Title 21, Unit

the admission of evidence on gang culture and attitudes was harmless error.”

2. “Codes” Defendant suggests to the court that before any evidence concerning “codes” can be admitted, there must be a sufficient foundation that this defendant knew and used such “codes”.

is found in ***U. S. V. McMillan***, 508 F.2d 101 (8

609(a), these convictions can be used if less than ten years old. Some of the witnesses, most importantly Delbert Roberson, have convictions which are more than ten years old. With Court approval, it will be Mr. Wiggins's intention to use those convictions older than ten years to impeach these witnesses. The Eighth Circuit has found, in a case such as this one, wherein the matter of guilt hinges on the credibility of cooperating witnesses, it is appropriate to permit impeachment using convictions older than ten years. *United States v. Brown*

of the rule in resorting to this form of evidence.

C. Witnesses' motives to fabricate

The Sixth Amendment guarantee of effective cross-examination of witnesses requires permitting probing inquiry about a witness' motivation and bias, which inquiry is always deemed critically relevant. *Delaware v. VanArsdall*, 475 U.S. 673, 678 (1986); *Davis v. Alaska*, 415 U.S. 308, 315, 316 (1974); *United States v. Love*, 329 F.3d 981, 984 (8th Cir. 2003); *United States v. Chandler*, 326 F.3d 210, 218 (3rd Cir. 2003); *United States v. Alexius*, 76 F.3d 642, 645 (5th Cir. 1996); *Burr v. Sullivan*, 618 F.2d 583, 586 (9th Cir. 1980). Of course, a defendant must be given wide latitude for detailed inquiry about any formal

The government has submitted its proposed instructions. Counsel for the government and counsel for Mr. Wiggins are scheduled to meet tomorrow, February 8, 2012, and prepare a packet of agreed proposed jury instructions to be submitted to the court by February 10, 2012. After tomorrow's meeting, Mr. Wiggins anticipates he will agree to most of the governments proposed instructions, but may have proposed instructions to offer objecting to others along with alternative submissions, and proposals for instructions regarding issues not addressed by the government.

Respectfully submitted,

/s/ Michael W. Walker
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