

Entrapment?

The Buju Banton case has brought into the public light the entrapment defense. Generally speaking entrapment may be claimed as a defense in the United States when a law enforcement agent induces a person to commit an offense which the person would be unlikely to commit. The defense tends to rise when a paid informant or an undercover agent are witnesses against the defendant.

Most of the legal opinions in the United States relating to entrapment focus on whether or not the defendant has a predisposition to commit the offense. In *Jacobson v. United States* 503 U.S. 540 1990, the US Supreme court focused on whether or not the prosecution had been able to establish that the defendant had a predisposition for purchasing child pornography in the mail. This test is sometimes called the subjective test for entrapment as it focuses on the intention of the defendant and not upon the nature of the US Government involvement in the case.

In 1987 the State of Florida enacted section FS 777.201 which requires Florida state courts to actually apply the subjective test. The State of Florida prohibits a law enforcement officer from using "methods of persuasion" which creates a "substantial" risk that a crime will be committed by a person other than one who is ready to commit the crime. This is a very strict standard. The Florida District Court of Appeal held that it is not entrapment for a government **informant** to offer illegal drugs to a known drug addict to enter into an illegal activity. See *Campbell v. State* 935 So. 2d 614.

One of the major issues that will be of great importance is whether or not Buju is on tape asking to purchase drugs. If he is engaged in any transactional behavior activity it appears to me that the entrapment defense must fail under the current federal and state law. Another troubling aspect of the case is whether Buju was actually regularly associating with known drug dealers. This will tend to torpedo his entrapment argument.

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