**ANNOTATIONS AND COMMENTS**

“[I]t is well-established . . . that a disjunctive statute may be pleaded conjunctively and proved disjunctively.” *United States v. Williams*, 790 F.3d 1240, 1245 n.2 (11th Cir. 2015) (quoting *United States v. Haymes*, 610 F.2d 309, 310 (5th Cir. 1980) (citing *United States v. Quiroz-Carrasco*, 565 F.2d 1328, 1331 (5th Cir. 1978)); *see also Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (adopting as binding precedent all decisions of the former Fifth Circuit issued on or before September 30, 1981).

In other words, “when a defendant is charged in an indictment conjunctively with alternative means or alternative mental states, any one of which will satisfy an element of the crime, the ‘jury instruction may properly be framed in the disjunctive’ without a constructive amendment taking place.” *United States v. Mozie*, 752 F.3d 1271, 1284 (11th Cir. 2014) (quoting *United States v. Simpson*, 228 F.3d 1294, 1300 (11th Cir. 2000)). “The rule applies not only to alternative acts that satisfy a statutory element, but also to alternative mental states that may satisfy an element.” *Id.* (citing *Haymes*, 610 F.2d at 310–11).

“This is not only a permissible practice but also a common one.” *Id.* (quoting *United States v. Howard*, 742 F.3d 1334, 1343 n.3 (11th Cir. 2014)) (“Prosecutors can and frequently do . . . charge alternative elements in the conjunctive and prove one or more of them in the disjunctive, which is constitutionally permissible.”); *see also Simpson*, 228 F.3d at 1300.