

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

U.S. DISTRICT COURT
DISTRICT OF N.H.
FILED

2007 JAN -8 P 1:34

UNITED STATES OF AMERICA)

)

v.)

)

Criminal No. 1:06-cr-00071-SM

)

**ELAINE A. BROWN, and)
EDWARD LEWIS BROWN,)
Defendants)**

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_____)

NOTICE AND MOTION TO COURT THAT DEFENDANTS

HAVE BEEN OBSTRUCTED FROM OBTAINING THE JURY LISTS

JUDICIAL AND ADMINISTRATIVE NOTICE

The Defendants in propria persona without representation by an attorney notice this court and all parties involved in the above captioned case, of their motion for the court to order the suppression of evidence. Officers of the court are hereby noticed of their continuing duty under authority of the supremacy; equal protection and full faith and credit clauses of the United States Constitution and the common law authorities of Haines v Kerner, 404 U.S. 519-421, Platsky v. C.I.A. 953 F.2d. 25, and Anastasoff v. United States, 223 F.3d 898 (8th Cir. 2000). In Haines: pro se litigants are held to less stringent pleading standards than bar licensed attorneys. Regardless of the deficiencies in their pleadings, pro se litigants are entitled to the opportunity to submit evidence in support of their claims. In Platsky: court errs if court dismisses the pro se litigant without instruction of

how pleadings are deficient and instructions to repair pleadings. In Anastasoff: litigants' constitutional Rights are violated when courts depart from precedent where parties are similarly situated.

MOTION TO COURT THAT DEFENDANTS

HAVE BEEN OBSTRUCTED FROM OBTAINING THE JURY LISTS

Elaine A. Brown and Edward L. Brown, husband and wife, Defendants herein, move this court under authority of United States Constitution, Amendment VI, the Federal Rules of Criminal Procedure and settled case law to **ORDER** James R. Starr, clerk of court, to provide the defendants with an un-redacted list of the jury pool to be used in their case so that they can determine that each juror is selected and qualified according to law and prepare their motion challenging all jurors who are not qualified to sit on the jury panel . The Defendants have the absolute and unqualified right to demand that Judge Steven J. McAuliffe comply with United States Constitution Article VI and settled case law as set out by the United States Supreme Court in Test v. United States, 420 U.S. 28 (1975) .

MEMORANDUM AND FACTS

1. The United States Constitution is the "Supreme Law of the land."
2. Amendment VI protects the people's right to an impartial jury that has not been deliberately "manipulated" by officers of the court or other government employees to give unfair advantage to their employer, the United States. Amendment VI provides:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

3. The only persons qualified to sit as jurors in federal cases in United States District Courts are those who are verified to reside in the district on federal territory that is subject to the disposition of Congress pursuant to authority granted in Article VI of the Constitution.

4. The first sentence of Chapter 5 Title 28 U.S.C. identifies the territorial composition of each district and division as the federal territory within the counties of the State on January 1, 1945: Sections 81-13 1 of this chapter show the territorial composition of districts and divisions by counties as of January 1, 1945. In those sections is found a mix of federal territories, States, insular possessions, and the federal district, which dictates court territorial composition as federal territory.

5. In 1975 the United States Supreme Court held in *Test v. United States*, 420 U.S. 28 (1975) that every federal litigant has an **unqualified right** to inspect the jury lists so that a motion objecting to those jurors might be made. The United States Code shows that only federal territory comprises the districts and divisions in the States. Furthermore, it permits any federal litigant to reject any juror on any jury list that does not show actual juror residence on federal territory. Since the government is in control and knows its territory on January 1, 1945, the government must present jury lists showing that jurors are qualified as to citizenship and residence. Undisputed federal law permits any federal

litigant to reject any grand and petit jurors that are not shown to be United States citizens and residents of federal territory within the judicial district.

6. Litigants who are denied the Sixth Amendment right to an impartial jury of a State and district previously ascertained by law cannot be lawfully convicted.

7. An unqualified right of a litigant to inspect jury lists held required not only by the plain text of the provisions of the Jury Selection and Service Act of 1968, 28 U.S.C. 1867 (f), allowing the parties in a case "to inspect" such lists at all reasonable times during the "preparation" of a motion challenging compliance with jury selection procedures, but also by the Act's overall purpose of insuring "grand and petit juries selected at random from a fair cross section of the community," 28 U.S.C. 1861. Hence, where the District Court denied petitioner's motion, prior to his trial and conviction on a federal drug charge, to inspect the jury lists in connection with his challenge to the grand and petit juries-selection procedures, the Court of Appeals' judgment affirming his conviction is vacated, and the case is remanded so that he may attempt to support his challenge. **TEST v. UNITED STATES, 420 U.S. 28 (1975)**

CONCLUSION

Wherefore, this District Court is absent subject matter jurisdiction if it proceeds without ordering the court officers and clerk of court, to provide the defendants with an un-redacted list of the jury pool. Thus this matter is of paramount importance to all involved in this case. The Defendants request that judge McAuliffe issue an **ORDER** to the Clerk of Court to provide the defendants with an un-redacted list of the jury pool to be used in their case so that they can determine that each juror is selected and qualified according to

law and prepare their motion challenging all jurors who are not qualified to sit on the jury panel . Judge McAuliffe has a non-discretionary duty to grant this motion and (1) Order the production of the un-redacted jury pool list; (2) Enjoin the United States from any further extraterritorial harassment of Elaine Brown and Edward Brown; (3) Stay all further trial proceedings until such time as the plaintiff, United States of America, and the clerk comply with the organic and settled case law .

ORAL ARGUMENT DEMANDED

Date Jan. 8, 2007

Prepared and submitted by:

Elaine A. Brown
Elaine A. Brown
c/o 401 Center of Town Road
Plainfield, New Hampshire

Edward L. Brown
Edward L. Brown
c/o 401 Center of Town Road
Plainfield, New Hampshire

CERTIFICATE OF SERVICE

I, **Edward L. Brown**, certify that I delivered via postage paid First Class U.S. Mail Return Receipt, a true and correct copy of the above and foregoing **NOTICE AND MOTION** to the office of the Clerk of Court U.S. District Court, District of New Hampshire, at 55 Pleasant St., Concord, NH 03301-0001 for entry into the record and to William E. Morse in the office of THOMAS P. COLANTUONO, the United States Attorney for the District of (NH) located at 53 Pleasant St. Concord, NH 03301-0001.

Date JANUARY 8, 2007

Edward L. Brown
Edward L. Brown

James R. Starr, Clerk
Clerk's Office
Warren B. Rudman U.S. Courthouse
55 Pleasant Street, Room 110
Concord, NH 03301-3941.

January 8, 2007


By Hand

Re: 01:06-cr-00071-SM UNITED STATES OF AMERICA v. Elaine Brown; Ed Brown

Dear Mr. Starr:

Please timely file the enclosed Defendants' motion into the above captioned case file and make a suitable docket entry. I have already mailed a true copy of the enclosed motion to the United States Attorneys office.

With all due respect,


Edward Lewis Brown
c/o 401 Center of Town Road
Plainfield, New Hampshire