

U.S. DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

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

DEC 29 2006

FILED

UNITED STATES OF AMERICA)

v.)

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

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

**NOTICE AND MOTION FOR STEVEN J. MCAULIFFE TO ISSUE A
SWORN STATEMENT THAT HE IS NOT THE PLAINTIFF OR
COMPENSATED BY THE PLAINTIFF IN THIS CASE**

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 government to certify the actual venue for each count listed in the indictment. 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 FOR STEVEN J. MCAULIFFE TO ISSUE A SWORN
STATEMENT THAT HE IS NOT THE PLAINTIFF OR
COMPENSATED BY THE PLAINTIFF IN THIS CASE**

Elaine A. Brown and Edward L. Brown, husband and wife, Defendants herein, move this court and judge Steven J. McAuliffe under authority of the Article III of the Constitution for the United States, Amendments V; VI, VIII, the Federal Rules of Criminal Procedure and settled case law, to certify under oath that Steven J. McAuliffe is not the plaintiff in this proceeding and has not been paid money or received any other compensation from the UNITED STATES or any other plaintiff. Defendants have the absolute Right to know the judicial officer sitting to hear this case is fair and impartial and such judicial officer has the corresponding duty to certify on the record his complete impartiality and fairness to both parties appearing in the matter at trial.

MEMORANDUM AND FACTS

1. This case was commenced on 04/05/2006 with the sham Grand Jury returning an alleged indictment styled as 'UNITED STATES OF AMERICA v. ELAINE A. BROWN and EDWARD LEWIS BROWN, Defendants.

2. Judge Steven J. McAuliffe has continually written his orders styled as 'United States v. Elaine A. Brown and Edward L. Brown, substituting his corporate employer, the UNITED STATES, for the actual named plaintiff, UNITED STATES OF AMERICA, to obstruct the defendants from learning the identity of the true real party in interest and preparing an on point defense.

3. Dunn and Bradstreet list the UNITED STATES as a corporation doing business and located at 55 Pleasant St., Concord, NH 03301-0001. See D&B attachment.

4. On information and belief, Judge Steven J. McAuliffe, is employed by the same corporation, UNITED STATES doing business and located at 55 Pleasant St., Concord, NH 03301-0001.

5. The defendants sent a FOIA request on August 31, 2006 to the U.S. Attorney office located at 53 Pleasant St. Concord, NH 03301-0001 asking them for the identity of the plaintiff that they allegedly represent. The U.S. Attorney office received and signed for this FOIA request on September 5, 2006 and they have to date refused to disclose the plaintiff's information to the Defendants. See attachment of FOIA and delivery card .

6. The defendants have made a diligent effort to locate the imaginary plaintiff in this case and have been repeatedly obstructed by Steven J. McAuliffe, Tom Colantuono and those working in collusion with them.

7. Steven J. McAuliffe has a duty to the defendants to divulge his position as a plaintiff in this case, 'Silence can only be equated with fraud where there is a legal or

moral duty to speak or where an inquiry left unanswered would be intentionally misleading. ... We cannot condone this shocking conduct by the I.R.S.. Our revenue system is based upon the good faith of the taxpayers and the taxpayers should be able to expect the same from government in its enforcement and collection activities. This sort of deception will not be tolerated and if this is the "routine" it should be corrected immediately," (See also, U.S. v. Prudden, 424 F.2d 1021, 1032 (1970). "Silence is a species of conduct, and constitutes an implied representation of the existence of facts in question, and the estoppel therefrom is accordingly a species of estoppel by misrepresentation. When silence is of such a character and under such circumstances that it would become a fraud on the other party to permit the silent party to deny what his silence has induced the other party to believe and act upon, it will operate as an estoppel." Carmine v. Bowen, 64 A.932. ..."Suppression of material facts which a party is bound to disclose is equivalent to false representations.".. Tyler v Savage, 143 US 79 ...See also Magee v Manhattan L. Ins. Co., 92 US 93 and Wheeler v. New Brunswick & C.R. Co., 5 S.Ct. 1061, 1160, where the court held that silence is equated with concealment."

CONCLUSION

Wherefore, this court is absent subject matter jurisdiction ab initio by proceeding without a fair and impartial judicial officer as established by Article III of the U.S. Constitution and settled law, thus this matter is of paramount importance to all involved in this case. The Defendants request that Steven J. McAuliffe certify under oath that he is not the plaintiff in this proceeding and he has not been paid money or received any other compensation from the UNITED STATES or any other plaintiff. Defendants have the

absolute Right to know the judicial officer sitting to hear this case is fair and impartial and such judicial officer has the corresponding duty to certify on the record his complete impartiality and fairness to both parties appearing in the matter at trial. If there is no fair and impartial federal judicial officer who is not a plaintiff or compensated by the plaintiff, then this court must DISMISS THE INDICTMENT made in this case **1:06-cr-00071-SM**. This court has a non-discretionary duty to grant this motion and (1) Order the Dismissal of the fraudulent grand jury indictment filed in this matter; (2) Enjoin the United States from any further harassment of Elaine Brown and Edward Brown; (3) Stay all further proceedings until such time as the United States of America complies with the organic and settled case law.

ORAL ARGUMENT DEMANDED

Date Dec. 29, 2006

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 hand delivery or 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 December 29, 2006

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.

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

2006 DEC 29 P 3:27

December 29, 2006

By Hand

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

Received on this date, NOTICE AND MOTION FOR STEVEN J. MCAULIFFE TO
ISSUE A SWORN STATEMENT THAT HE IS NOT THE PLAINTIFF OR
COMPENSATED BY THE PLAINTIFF IN THIS CASE.

Signature

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

December 29, 2006

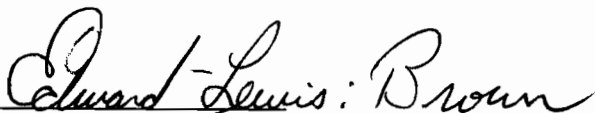
By Hand

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,

A handwritten signature in cursive script that reads "Edward Lewis Brown". The signature is written in black ink and is positioned above the typed name.

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