

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

**U.S. DISTRICT COURT  
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 THE COURT TO ISSUE AN ORDER  
TO THE GOVERNMENT TO PRODUCE THE PLAINTIFF REAL  
PARTY IN INTEREST**

**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 produce the plaintiff real party in interest. 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 THE COURT TO ISSUE AN ORDER TO THE  
GOVERNMENT TO PRODUCE THE PLAINTIFF  
REAL PARTY IN INTEREST**

Elaine A. Brown and Edward L. Brown, husband and wife, Defendants herein, move this court under authority of the Constitution for the United States, Amendments V; VI, the Federal Rules of Criminal Procedure and settled case law to Order the Government to produce the actual plaintiff and disclose the address and physical location for the plaintiff UNITED STATES OF AMERICA. Defendants have the absolute right to know the real party in interest plaintiff so that they may determine the true damages they caused, if any, and prepare their meaningful defense.

**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. The Clerk of Court docketed the instant case as 'USA v. BROWNS et al, Defendants' on 04/05/2006.

3. 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.

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

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 McAuliffe, Tom Colantuono and those working in collusion with them.

7. The defendants are entitled to the evidence that there is no actual damaged plaintiff as that is exculpatory evidence and disclosure is made mandatory under Brady. The plaintiff information sought to aid in the defense falls clearly within the principles set out in Brady v. Maryland, 373 U.S. 83 (1963). Under Brady, prosecutors have a constitutional obligation to disclose all exculpatory evidence. "The suppression by the prosecution of evidence favorable to an accused upon request violates due process where

the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." The Supreme Court has retooled the "materiality" component of the Brady doctrine. See Kyles v. Whitley, 514 U.S. 419, 115 S. Ct. 1555 (1995). The Court emphasized that a showing of materiality does not mean that disclosure of suppressed evidence would have resulted in a defendant's acquittal. Kyles, 115 S. Ct. at 1565- 66. Rather, the touchstone of Brady is whether "the favorable evidence could reasonably be taken to put the whole case in such a different light as to undermine confidence in the verdict." In assessing Brady claims, suppressed evidence must be considered collectively, and not on an item-by-item basis.

### **CONCLUSION**

**Wherefore**, this court is absent subject matter jurisdiction ab initio by proceeding without an actual plaintiff and sworn complaint, thus this matter is of paramount importance to all involved in this case. The Defendants request that this court issue an **ORDER** to the U.S. Attorney to produce the actual plaintiff, if one exists, and provide the correct location and mailing address for subpoena service on real party in interest. If there is no plaintiff injured party, 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 by hand, 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 by First Class U.S. Mail 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

United States Attorney Office  
FOIA Disclosure Officer  
District of (NH)  
53 Pleasant St.  
Concord, NH 03301-0001

August 31, 2006

Via Certified Mail RR  
#7002 0860 0001 2711 5657

Dear FOIA Disclosure Officer:

This request is made under the Freedom of Information Act (FOIA) 5 USC 552 and applicable regulations thereunder.

If some of this request is exempt from release, please send those portions that can be reasonably segregated and provide me with indexing, itemization, and detailed justification concerning the information you are not releasing. I am waiving inspection of the requested records. If you determine that this request is exempt from release, please furnish me with the statutory basis for your claimed exemption. Re: Vaughn v. Rosen 484 F. 2d 820 (Ca DC, 1973), cert. denied 415 U.S. 977.

If your office does not maintain the records requested, please forward a copy of this letter to the proper office and notify me of the person to contact at that office.

The information requested will provide knowledge and understanding of the operations, rules and regulations of the government, and will assist the requester relative to the policies and practices actually used therein.

I have been unable to locate the real party plaintiff in your case: **01:06-cr-00071-SM UNITED STATES OF AMERICA v. Elaine Brown; Ed Brown**

**Please provide the following information by COPIES OF ALL DOCUMENTS that are in your possession, under your control, or within your system of records regarding:**

1. The precise legal name for the plaintiff in the above captioned case.
2. The plaintiff's residential address and a precise description of the geographical location.

If the plaintiff is a corporation then please send me:

1. The precise legal name of the plaintiff corporation.
2. The state of incorporation.
3. The mailing address for the corporate headquarters.
4. The name of the chief corporate officer.

If some of the requested documents are difficult to locate, please forward to me the ones you have without waiting an unreasonable time to find the other documents and then forward the others as they are found.

I understand the penalties provided in U.S.C. 552(a)(1)(3) for requesting or obtaining access to documents or records under false pretenses. I am the person making this request and my verified signature appears below. As provided by 5 U.S.C. 552, I will expect a reply within twenty (20) working days after your receipt of this request.

I request a waiver of all fees for this request. Disclosure of the requested information to me is in the public interest, because it is likely to contribute significantly to public understanding of the operations and activities of the federal government, and is not in my commercial interest. See 5 U.S.C. 552(a)(4)(B). If you determine that funds are needed to be paid prior to receipt of the documents by me, please let me know so that this FOIA can be efficiently and timely moved forward.

Your prompt attention to this FOIA request is appreciated. If you have any questions that would expedite this request, please email me at [Edward.L.Brown@valley.net](mailto:Edward.L.Brown@valley.net)

PLEASE GOVERN YOURSELF ACCORDINGLY.

Date \_\_\_\_\_

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

Subscribed on \_\_\_\_\_, by Edward L. Brown, who personally appeared and proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument.

WITNESS my hand and official seal.

\_\_\_\_\_



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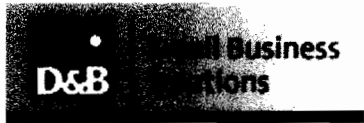
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**BR UNITED STATES COURT OF APPEALS**

55 Pleasant St Rm 110, Concord, NH

**BR SUPREME COURT, UNITED STATES OF THE**  
Also Trades As: UNITED STATES DISTRICT COURT

55 Pleasant St Rm 412, Concord, NH

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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 THE COURT TO ISSUE AN ORDER TO THE GOVERNMENT TO PRODUCE THE PLAINTIFF REAL PARTY IN INTEREST.

\_\_\_\_\_  
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,

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