

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

UNITED STATES OF AMERICA)

v.)

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

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

2007 JAN - 3 P 2: 18

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

NOTICE AND MOTION FOR ALL CONTRACTS

DISCOVERABLE UNDER BRADY - AGURS - GIGLIO

JUDICIAL AND ADMINISTRATIVE NOTICE

The Respondents in propria persona without representation by an attorney notice this court and all parties involved in the above captioned case, of this notice, their motion herein, and the included memorandum. 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 ALL CONTRACTS DISCOVERABLE

UNDER BRADY - AGURS – GIGLIO

Elaine A. Brown and Edward L. Brown, husband and wife, Respondents herein, move this court for an Order compelling the government to disclose and divulge to the respondents all potentially favorable evidence, including but not limited to, all contracts, deals, understandings or agreements by the government or any of its agents or agencies with the respondents or any individuals who may serve as witnesses, consultants or sources of information. The requests herein are extremely important to the defense and are requested under the authority of Brady v. Maryland, 373 U.S. 83 (1963); United States v. Agurs, 427 U.S. 97 (1976); United States v. Giglio, 405 U.S. 150 (1972). The purpose of this motion is to avoid injection into trial of matters which are irrelevant, inadmissible and prejudicial and granting of this motion is not a ruling on evidence and therefore cannot be error.

The respondents request that they be permitted to inspect, copy or photograph all of the following items, which are in the possession, custody or control of the government, the existence of which is known, or by the exercise of due diligence may become known to the attorney for the government. The disclosure and production should include, but should not be limited to, the following evidence:

(A) The government is requested to produce the original contracts, or set forth in certified true detail the specifics of all contracts, understandings, deals or agreements that the government has with the Respondents, correspondents, co-conspirators indicted or unindicted, accomplices, aiders or abettors which specifics should include but not be limited to all plea bargain agreements or agreements not to prosecute, payments or benefits, tangible or intangible for said person, his or her family, friends or associates.

(B) The government is requested to produce the original contracts, or set forth in certified true detail the existence of any and all contracts, understandings, deals or agreements that the government has with any and all individuals, known or unknown to the defense, who are officers of the court, or involved or participated in any acts in furtherance of any prosecution, investigation, adjudication, administration or other preparation of this case numbered ~~1:06-cr-00071-SM~~ and all related proceedings.

(B) The government is requested to produce the original contracts, or set forth in certified true detail the existence of any and all contracts, understandings, deals or agreements that the government has with any and all individuals, known or unknown to

the defense, who are with any law enforcement agency, or any other governmental agency or agents working under the supervision of the government or with the government, including but not limited to, local and State police agencies who are involved or participated in any acts in furtherance of any prosecution, investigation, administration or other preparation of this case numbered **1:06-cr-00071-SM** and all related proceedings.

(C) The government is requested to produce the original contracts, or set forth in certified true detail the existence of any and all contracts, understandings, deals or agreements that the government has with any and all individuals, known or unknown to the defense, who were involved or participated in any acts alleged to be in furtherance of any crime alleged in the Indictment.

(D) In order to sustain the charges in the indictment against respondents the government will be required to prove that they knowingly and/or willfully engaged in each of the crimes charged, thus it is specifically requested that the government disclose whether or not they intend to introduce evidence of other crimes, wrongs or acts committed by the respondents as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident in this case, and if so, let the government be required to disclose the nature of this evidence and the witnesses intended to be used.

(E) The name(s) and address(es) of such witness(es), and the name(s) and address(es) of any other witness(es) who might have favorable evidence as to any and all of these respondents(s), which are known, or which by the exercise of due diligence shall become known to the government.

(F) Alternatively, the above-requested materials may also be required to be produced as Brady and/or Giglio material. If it is favorable to the government and the government intends to rely upon it in any way it is discoverable under Rule 16. If it is favorable in any way to the respondents it must be produced as Brady material. If it serves to impeach the testimony or credibility of a government witness it must be produced as Giglio material.

In order to equitably implement the Brady and/or Giglio rule, it is requested that the government's and prosecution's files be produced in Court and examined by the Court and respondents so that a fair determination can be made of that material which is favorable to the defense. A decision of what materials exist in the prosecution's file which would be favorable to the defense cannot be left to the prosecution, but must be supervised by the Court.

Respondents specifically reserve the right to make any additional requests for the material covered above at the time this motion is argued, or at such other time as the existence of such materials shall become known to the respondents, and it is respectfully requested that the prosecution be admonished that their duty under Brady/Giglio is a continuing one.

MEMORANDUM AND FACTS

(1) The right of the respondents to disclosure of all potentially favorable or exculpatory evidence exists whether such evidence is material to the respondents' guilt or to the mitigation of their punishment, and regardless of whether such exculpatory evidence would be admissible in the respondents' behalf at trial or in obtaining further evidence. The respondents are entitled to the pretrial discovery of such evidence regardless of whether it is considered to be competent evidence or admissible at trial.

(2) An extremely important category of Brady material is evidence which may serve to impeach the testimony or credibility of a prosecution witness. Such evidence falls within the Brady doctrine since it consists of information favorable to the accused either as direct or impeaching evidence. *United States v. Giglio, supra*.

(3) Where exculpatory or potentially favorable evidence is contained in the statement of a government witness discoverable under the Jencks Act, the relevant portions of such statement must be disclosed prior to trial. (5th Amendment, U.S. Constitution).

(4) In order to effectively exploit any Brady/Giglio material which may exist, it is essential that the defense be given this material three (3) weeks in advance of trial so that other investigatory leads may be pursued in sufficient time to permit a full preparation of the defendants' case. U.S. Constitution; *United States v. Aqaianian*, 852 F.2d 56 (2d Cir. 1988); *Arizona v. Youngblood*, 109 S. Ct. 333 (1988). The U.S. Attorney has withheld this Brady/Giglio material and exculpatory information from the respondents in this case.

(5) If the respondents are forced to wait until the time of trial, it may be too late for them to contact witnesses and interview them. Therefore, it is imperative that the evidence in the prosecution file which is favorable to the defense be disclosed immediately so that arrangements can be made for those persons to be called during the course of this trial.

(6) The disclosure and production requested here should be made without regard to whether the evidence to be disclosed and produced is deemed to be admissible at the trial of this action. In the case at bar, it is impossible and indeed not required under United States v. Agurs, supra, to make a specific request for all available Brady material, particularly since much of that material may be totally unknown to the defense.

CONCLUSION

Wherefore, the Respondents request that this court issue an **ORDER** for the government to produce and deliver to the defense, all original contracts, or set forth in certified true detail the existence of any and all contracts, understandings, deals or agreements that the government has with any and all individuals involved with this case **1:06-cr-00071-SM** as required by Brady – Agurs - Giglio. Depending upon the Court's decision affecting the relief requested in this motion, the respondents respectfully reserve the right to make further and additional motions which may be required and advisable in light of the Court's rulings on relief sought herein and the response of the government. The specific requests contained in these motions are not meant to limit or preclude future requests by the respondeants for further relief from this Court as deemed appropriate. It is further

requested that the Court grant such other and further relief as it may deem just and proper under the circumstances of this case. This court has a non-discretionary duty to grant this motion or (1) Order the Dismissal of the fraudulent grand jury indictment and charges 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 complies with the organic law.

ORAL ARGUMENT DEMANDED

Date Jan 2, 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 hand delivery, 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 Jan 24, 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 2, 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

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

January 3, 2006

Via Certified Mail

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

Received on this date, **NOTICE AND MOTION FOR ALL CONTRACTS
DISCOVERABLE UNDER BRADY – AGURS – GIGLIO**

Signature