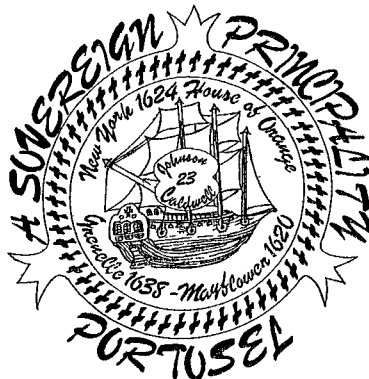


RICO COMPLAINT

BOOK II
Pages 359 to 661

**VERIFIED PETITION FOR MANDATORY JUDICIAL NOTICE OF
BREECH OF CONTRACT BY PATRICK SCOTT, ET AL. AND
EXTORTION AND DURESS IN OBTAINING THE LAWFUL
PROPERTIES OF THE JOHNSON FAMILY MEMBERS
IN THE 16 FEBRUARY, 2001 TREATY**

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA

In re: Case No. 92-33339-BKC-SHF
WARREN DOUGLAS JOHNSON, JR., CHAPTER 7
Debtor.

VERIFIED PETITION FOR MANDATORY JUDICIAL NOTICE OF
BREECH OF CONTRACT BY PATRICK SCOTT, ET AL. AND
EXTORTION AND DURESS IN OBTAINING THE LAWFUL
PROPERTIES OF THE JOHNSON FAMILY MEMBERS
IN THE 16 FEBRUARY, 2001 TREATY

COMES NOW, Warren D. Johnson, Sr., Petitioner, In Propria
Persona and In Sui Juris, and hereby states the following is
true, correct and complete:

1. On or about January 11, 2001, I [Warren D. Johnson, Sr.]
received a call from Adam Brown, who is married to my grand
daughter, Kelly Lynn [Johnson] Brown. Adam Brown told me that
he had been threatened and would be indicted if our family did
not turn over their lawful assets. He was sobbing uncontrollably
and he told me that he knew Warren D. Johnson, Jr. would not
sign any such agreement and it would violate his religious
conscience to not fight for his beliefs. Adam Brown begged me
to talk to Patricia Ann Wellspeak and to Jeffrey Alan Johnson,
in order for all of them to convince Warren D. Johnson, Jr. to
sign such an agreement (Treaty).

2. I did talk to Patricia Wellspeak and Jeffrey Johnson,
whereby we all convinced Warren D. Johnson, Jr. to sign such
a treaty. Jeffrey Alan Johnson notified attorney Nathan Lyman,
the former county attorney for Orleans County, New York, of
the extortion threats. Nathan Lyman told our family to have

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing is a true and correct copy of this document and was forwarded by First Class Mail on ____ day of March, 2004 to: LAW OFFICE OF PATRICK SCOTT, Counsel for Trustee, 111 Southeast 12th Street, Suite B, Fort Lauderdale, FL 33316.

BY:

Warren D. Johnson, Sr.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA

In re: Case No. 92-33339-BKC-SHF
WARREN DOUGLAS JOHNSON, JR., CHAPTER 7
Debtor.

VERIFIED PETITION FOR MANDATORY JUDICIAL NOTICE OF
BREACH OF CONTRACT BY PATRICK SCOTT, ET AL. AND
EXTORTION AND DURESS IN OBTAINING THE LAWFUL
PROPERTIES OF THE JOHNSON FAMILY MEMBERS
IN THE 16 FEBRUARY, 2001 TREATY

COMES NOW, Jeffrey Alan Johnson, a Judge of the Common Law Court filed under Apostille No. A-116355E with the Secretary of the State of New York and attached as Exhibit "A", made herein as part of this Petition, appearing Sui Juris and In Propria Persona, and hereby moves this Honorable Court to take mandatory judicial notice of the following undisputed facts:

1. Agreements in all the lawsuits in the above referenced 16 February, 2001 Treaty were not, **"entered by all courts prior to March 7, 2001"**; and, Patrick Scott, et al., has breached the Fiduciary duty to insure, **"all documents and funds shall be released to the parties who provided them, ... shall be paid to the parties who provided the original funds."**

2. A 14-page Complaint has been filed under the European Court of Human Rights in Strasbourg, France under Article 34 of the Convention, along with 324 pages of Exhibits; (Exhibits TCI-1 to TCI-13 comprising of 213 pages, and Exhibits CR-C-1 to CR-C-12 comprising of 111 pages), and referred herein to and made a part of this Petition.

This Complaint of violations of the U.K. Human Rights Act were delivered to the Congress of the United States — Committee on Government Reform, Congressman Thomas M. Davis, III, 2157 Rayburn House Office Building, Washington, D.C. 20515-6143. This committee has taken over the investigation of the Criminal Acts against Warren D. Johnson, Jr. by a criminal tribunal, which started in 1988 and continues through the present in case no. 98-8039-CR-RYSKAMP, et al.

3. From April 19, 2002 through to date of this filing, numerous motions and filings have been made in case no. 98-8039-CR-RYSKAMP, as shown in Exhibit "B" herein and made a part of this Petition. These documents copiously document the criminal acts of A.U.S.A. Carolyn Bell, F.B.I. Agent Michael McBride, et al., herein referred to as a "criminal tribunal".

4. Numerous reports of threats, extortion, and duress were reported to the Courts as shown in Exhibit "B", which includes submission of Exhibits A to Z, which consists of 668 pages, of which Exhibit "B" is the Index for said exhibits in support of numerous motions filed in case no. 98-8039-CR-RYSKAMP since April 19, 2002, and are hereby all referred and made a part of this Petition.

5. Dianne June Johnson signed an Affidavit on 17th of July, 2003, which is attached as Exhibit "C" and sets forth absolute proof that Carolyn Bell has lied to the Court and the Court had no jurisdiction whatsoever in case no. 98-8039-CR-RYSKAMP.

6. Jeffrey Alan Johnson signed an Affidavit on July 7, 2003, which is attached as Exhibit "D" and also sets forth absolute proof that Carolyn Bell has lied to the Court and

the court had no jurisdiction whatsoever in case no. 98-8039-CR-RYSKAMP.

7. On March 9, 2004, Warren D. Johnson, Jr. filed "Johnson's Response and Objections ..." (see Exhibit "E"), which along with Exhibit "F" attached hereto and made a part of this Petition, do copiously document the case law that shows that there was no hearing on March 24, 1998 between Magistrate Judge Ann E. Vitunac and any grand jury. There was no Indictment and no jurisdiction granted to any court by a grand jury. In Exhibit "F", being a July 3, 2003 Petitioner's [Warren D. Johnson, Jr.] Response and Objections, Warren D. Johnson, Jr. documents Carolyn Bell's lies from pages 11 to 20, along with Patrick Scott's WED. FEB 14, 2001 e-mail threat (see Exhibit Y filed in case no. 98-8039-CR-RYSKAMP). Carolyn Bell has never produced an Affidavit refuting one of her lies or Patrick Scott's threats and coercion.

8. Exhibit "G" sets forth the great conflict of interest of Magistrate Judge Patrick A. White; our family's history of establishing the original common law court; and, the article whereby the Supreme Court cites the European Court of Human rights.

9. Exhibit "H" is a February 21, 2001 letter from Reverend Richard Grund that states, **"I have signed them [Treaty and assignment of project and lawsuits against Mohamud Rashid Bodhanya for over \$5.5 million] the duress and threats of the last two days in a letter from Patrick Scott, Bankruptcy Attorney for the Trustee and the verbiage of U.S. Attorney Carolyn Bell's telephone call to you today."**; and, **"The Turks**

and Caicos corporations I represent and their subsequent creditors have now been defrauded by this action."

10. In a March 27, 2001 letter, Reverend Richard Grund again states, **"my signature was given, under duress, almost a month ago."** See Exhibit "I" which has been made a part of this Petition.

11. In a August 23, 2001 letter from Warren D. Johnson, Jr. to attorney Robert Critton, a chronological list of extortion events and dates are set forth, with dates of all reporting, including a fax to John Ashcroft, the Attorney General on Approximately February 14, 2001 by Attorney Angela Morelock. See Exhibit "J" which has been made a part of this Petition.

12. The motives for Patrick Scott were the facts that:

a. **"He needed to settle the case so he could pay a large bank loan"**, which Scott informed attorney David Finegold, and David Finegold informed me [Jeffrey Alan Johnson] of Scott's statement in the weeks **prior to** 16 February, 2001. Patrick Scott has lied to the Court in Docket No. 230 on October 22, 2001 in Item 2 RE: threats against Adam Brown; and, Patrick Scott lied in Item 6 as when he told David Finegold he needed to settle a large bank loan. Patrick Scott would not have told anyone that he needed to settle a case that he, in fact, had already settled. b. Restitution in this case at approximately seventeen months after sentencing was illegal and unlawful. There is a timeliness of issuing a Restitution Order that limits the Statutory limit of time to (90) days for final determining of victim losses after sentencing. The underlying cases are: United States v Cobb, 967 F.2d 1555, 1556 (11th Cir. 1992) and

United States v. Hooshmand, 931 F.2d 725, 737 (11th Cir. 1991); and reconfirmed after the 16 February, 2001 treaty in United States v. Myat Maung, an 11th Circuit case, Nos. 00-10296 and 00-14669, dated September 25, 2001.

CONCLUSION

Oliver Wendell Holmes, Jr. said that "Law is supposed to uphold social norms of right conduct."

A case that was brought as a vendetta against Warren D. Johnson, Jr., who broke no laws, so that the entire Johnson family could be threatened and extorted is bad conduct and is illegal. This case shows the absolute worst case of abuse of power under the color of law and the color of authority. Common law is the formal statement of the results and conclusions of the common sense of mankind. It takes very little common sense to realize Patrick Scott's e-mail of WED, 14 FEB. 2001 is a threat. (See Exhibit K).

The Johnson family had no legal reason to give up its lawful assets, which they individually paid for, except for the heinous, gross malicious threats, which came after putting an innocent man in prison.

Verified

I, Jeffrey Alan Johnson, do hereby declare and certify that the above is true and correct to the best of my knowledge, subject to the pains and penalty of perjury, under the laws of the United States of America and the laws of the State of New York, pursuant to Title 28 U.S.C. § 1746.

Executed this _____ day of March, 2004.

Respectfully submitted,

Jeffrey Alan Johnson
12118 East Yates Road
Lyndonville, New York 14198

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing is a true and correct copy of this document and was forwarded by First Class Mail on _____ day of March, 2004 to: LAW OFFICE OF PATRICK SCOTT, Counsel for Trustee, 111 Southeast 12th Street, Suite B, Fort Lauderdale, FL 33616.

BY: _____
Jeffrey Alan Johnson

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA

In re:

Case No. 92-33339-BKC-SHF

WARREN DOUGLAS JOHNSON, JR.,

Chapter 7

Debtor.

VERIFIED PETITION FOR MANDATORY JUDICIAL NOTICE
OF BREACH OF CONTRACT BY PATRICK SCOTT, ET AL. OF
AGREEMENT ESCROW UNDER 1.05 OF THE
16 FEBRUARY, 2001 TREATY

COMES NOW Warren Douglas Johnson, Jr., Petitioner, Sui Juris
and In Propria Persona, and petitions this Honorable Court to
take Mandatory Judicial Notice under the Federal Rules of
Evidence (FRE) Rule 201(d) of the following undisputed facts:

1. In the Agreement made 16 Day of February, 2001, hereinafter
Treaty, five lawsuits are clearly listed and referenced as
"the Lawsuits."

2. In said Treaty under 1. Consideration, 1.05 it states,

"In the event the Agreement is not approved in
the Lawsuits, ... all documents and funds shall
be released to the parties who provided them.
In any event, if **all approvals** and a preliminary
acceptance order in the Criminal Case are not
entered by all courts prior to March 7, 2001,
all documents and funds shall be released to the
parties who provided them, ... shall be paid to
the parties who provided the original funds."

3. "All approvals" were "not entered by all courts prior to
March 7, 2001," as clearly provided by this Treaty and it was
breached by Soneet Kapila and Patrick Scott.

4. Demand is hereby made to this Court for "all documents and
funds shall be released to the parties who provided them," along
with any interest accrued (or) the future forward value of all

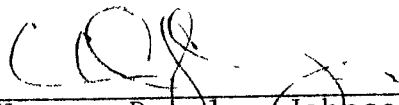
assets lost, destroyed, damaged, stolen or disposed of in this breach of the Treaty.

5. The attached Exhibit "A", which has been made a part of this filing, lists all actions by this Court from Docket Entry 289 to Docket Entry 298, which were not delivered to named Debtor and are hereby requested. As an inmate of the Bureau of Prisons, all legal mail, both outgoing and incoming, is documented and must be signed for.

Oath

I, Warren Douglas Johnson, Jr., hereby declare that I am of age and competent to be a witness, that the facts contained herein are true, correct, complete and not misleading to the best of my first-hand knowledge under penalty of perjury under the Laws of The United States of America, the Laws of Florida and my unlimited commercial liability, this 29th day of October, 2003.

Respectfully submitted,




Warren Douglas Johnson, Jr.
#53225-004/Unit A-3
Federal Correctional Complex-Low
P.O. Box 1031
Coleman, Florida 33521-1031

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing is a true and correct copy of this document and was forwarded by First Class Mail on 29th day of October, 2003 to: LAW OFFICE OF PATRICK SCOTT, Counsel for Trustee, 111 Southeast 12th Street, Suite B, Fort Lauderdale, FL 33316.

BY:



Warren D. Johnson, Jr.

Florida Southern Bankruptcy Court - Docket Report

5/13/02	288	Notice of consolidated filing by Debtor Warren Douglas Johnson Jr. for verified declaration in support of complaint and motion, redress of grievances, injunctive relief and for prospective injunctive relief (rj) [EOD 05/13/02] [92-33339]
6/10/02	289	Motion by Debtor Warren Douglas Johnson Jr for clarification of questions to Court (rj) [EOD 06/11/02] [92-33339]
8/21/02	290	Amended [287-1] Interim Report for period ending 3/31/02 Filed by Trustee Soneet Kapila (sk) [EOD 08/22/02] [92-33339]
10/4/02	291	Motion By Trustee Soneet R Kapila For authorization to pay excess real property taxes (rj) [EOD 10/08/02] [92-33339]
10/8/02	292	Order (10/7/02) Granting [291-1] Motion For authorization to pay excess real property taxes by Soneet R Kapila (rj) [EOD 10/09/02] [92-33339]
5/1/03	293	Trustee's Interim Report. Period Ending 3/31/03 . (rj) [EOD 05/02/03]
7/30/03	294	Application By accountant Soneet R Kapila For Compensation (Fees: \$ 3072.50, Expenses: \$ 108.29) . (rj) [EOD 07/31/03] [92-33339]
8/26/03	295	Application By Trustee Soneet R Kapila For Compensation (Fees \$ 15595 53, Expenses: \$ 747.15) . (rj) [EOD 08/27/03] [92-33339]
9/5/03	296	Notice of Hearing by accountant Soneet R Kapila Re. [295-1] Application For Compensation (Fees \$ 15595 53, Expenses \$ 747 15) by Soneet R Kapila Scheduled For 10:30 9/30/03 at Courtroom 6, WPB (sk) [EOD 09/08/03] [92-33339]
9/8/03	297	Motion By Trustee Soneet R Kapila for authority to make second interim distribution and to pay interim fees and expenses (rj) [EOD 09/10/03] [92-33339]
9/17/03	298	Notice of Hearing by Patrick S Scott for Trustee Soneet R Kapila Re [297-1] Motion for authority to make second interim distribution and to pay interim fees and expenses by Soneet R Kapila schd For 9 30 9/30/03 at Courtroom 6, WPB (rj) [EOD 09/19/03] [92-33339]

<http://pacer.flsb.uscourts.gov/bc/cgi-bin/rundkt.pl>

EXHIBIT "A"

July 17, 2003

This is a memo to Warren Johnson from Dianne Johnson

In the early part of June 2003, Terry Fisher asked me to go out to dinner with her to the Palm City Grill

The exact time cannot ascertain because Terry is presently in Ireland and, she paid for the dinner on her credit card.

Terry and I had to wait for a table so we entered into the Palm City Grill Bar area. It was there that a former FBI agent David Van Holley stopped me and asked how I was doing. I said that I was just fine and, proceeded to tell me that he had taken early retirement and was now living on Pine Tree Lane. He said that he had always liked Warren, that Warren had always been very nice to him and a gentleman. He also stated that he was so sorry for what happened to us, that Mike McBride had a real burr for Warren. Van Holley stated that he got out as quickly as he could when he was offered an out, he hated to see the destruction of families that happened during investigations and trials. He went on at length about the times he sat in trials and watched the pain that the families went through. He said that he was very sorry for what our family has been through.

Dianne Johnson

July 17, 2003

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 98-8039-CR-RYSKAMP

UNITED STATES OF AMERICA,
Plaintiff,

v.

WARREN D. JOHNSON,
Defendant.

**PETITIONER'S RESPONSE AND OBJECTIONS
TO REPORT AND RECOMMENDATIONS
OF MAGISTRATE JUDGE PATRICK A WHITE
(Judge White) AS FILED IN
CASE NO. 02-80353-CIV - DKT. 19
(Hereinafter R & R)**

COMES NOW Warren Douglas Johnson, Jr., Petitioner, Sui Juris and In Propria Persona, and hereby timely responds and objects to MAGISTRATE JUDGE P. A. WHITE's aforementioned R & R as follows:

A. On "4/19/02 - Dkt. 1 - **The Complaint/Petition for Writ of Habeas Corpus 28 USC 2241**" was shown duly filed and recorded as such by this Honorable Court into case no. 02-08353-CIV-RYSKAMP. This resulted from the filing by Petitioner into this instant case a Combined Motion under F.R.E. Rule 201(d); Petition for Writ of Habeas Corpus; and Filing of a Criminal Complaint, under F.R.Cr.P. Rule 3 ... (hereinafter Combined Motion) and sets forth in its Exhibit D, pages D-1 and D-2 a copy of the law for mandatory "Judicial Notice if requested by a party and supplied with the necessary information." These documents speak for themselves and Judge White's statement, "the clerk assigned the motion its own civil

case number, and it was construed as a motion to vacate pursuant to 28 U.S.C. § 2255." is false, misleading and conflicts with the Court's own Docket Entry #1.

B. Judge White's summary of the evidence set forth in the Combined Motion by Petitioner is addressed in the following order.

1. The Court was Without Jurisdiction

In Exhibit D, page D-5, Petitioner sets forth the issues of Jurisdiction under Federal Rules of Criminal Procedure (F.R.Cr.P.) Rule 6(f) and responds and support his argument, evidence, and case law with the following statements.

Federal courts are under an independent obligation to examine their own jurisdiction. **Malowney v. Federal Collection Deposit Group**, 193 F.3d 1342, 1346 (11th Cir. 1999).

"We [Judges] have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution." **Cohens v. Virginia**, 6 Wheat. (19 U.S.) 264, 404 (1821). A Federal Court not only has the power but also the obligation at any time to inquire into jurisdiction whenever the possibility that jurisdiction does not exist. **Philbrook v. Glodgett**, 421 U.S. 707, 95 S.Ct. 1893, 44 L.ed.2d 525 (1975).

Citing **FW/PBS, Inc. v. Dallas**, 493 U.S. 215, 107 L.ed.2d 603 (1990), the Court stated the following:

"The federal courts are under an independent obligation to examine their own jurisdiction, standing 'is perhaps the most important of [the jurisdictional] doctrines,' **Allan v. Wright**, 468 US 737, 750, 82 L.ed.2d 556 (1984).

Citing **Blackledge v. Perry**, 417 US 21, 30, 94 S.Ct. 2098, 2103-04, 40 L.ed.2d 628 (1974):

"Objections to the jurisdiction of the court may be raised at any time during the pendency of the proceedings."

Revisiting **Breese v. United States**, The 5th Amendment grand jury clause of the U.S. Constitution states:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, ..."

In **Breese, supra.**, the indictment was returned in open court to a magistrate judge. **Breese** states in the dicta that:

"It became a constitutional right or privilege of the accused to be placed on trial only after an indictment presented in open court by at least twelve of the grand jurors."

In **Simmons v. Commonwealth**, 89 Va. 157, 15 S.E. 387, decided in 1892, the Court says:

"It still does not appear that the indictment was delivered by the grand jury, and its finding recorded. This omission is a fatal defect. No man can be tried for a felony in the courts of this commonwealth except upon an indictment of the grand jury, and the indictment to be valid must be presented in open court and the fact recorded. Until this is done the accused is not indicted. This was decided in **Cawood's case (Commonwealth v. Cawood, 2 Va. Cas. 541 (1825))**, nearly three-quarters of a century ago. ... It was held to be essential to the validity of an indictment that it be publicly delivered in open court, and that the fact be recorded; that this is the evidence required by law to prove that it is sanctioned by the accusing body; and that until it is so presented the party charged is not indicted ..." (emphasis added)

And this petitioner cites this very circuit:

"...if such record is not available, that the court conduct a supplementary adversary hearing to determine whether the requirements of Fed.R.Cr.P. Rule 6(f) were in fact met with regard to the return of the subject indictment." **United States v. Bullock**, 448 F.2d 728 (5th Cir. 1971) (11th Cir. precedent).

"The validity of every judgment depends upon the jurisdiction of the court before it is rendered, not upon what may occur subsequently." **Pennoyer v. Neff**, 95 US 714, 729, 24 L.ed 565, 571 (1878).

"Whenever there is a limited jurisdiction, the facts that bring the suit within the jurisdiction must appear on their record." **Bingham v. Cabbot**, 3 US (3 Dall.) 381-382, 1 L.ed 646-647 (1795).

"A court can acquire no jurisdiction to try a person for a criminal offense unless he has been charged with the commission of a particular offense and charged in the particular form and mode required by law." **Albrecht v. United States**, 273 US 1 (1927).

All hearings in Open Court are to be recorded and the original record filed with the Clerk of the Court. See Title 28, U.S.C., § 753(b). The issues in the instant motions do all impugn the validity of an indictment's jurisdictional conference upon the trial court, upon the indictment process's invocation of jurisdiction through customary, constitutional and lawful means, modes, forms and procedures needed for the court to have the authority to try. "An indictment or presentment is an essential ingredient of the "due process of law" under the Constitution. **41 Am Jur 2d (Indictments and Information)** § 6, citing **Wong Wing v. United States**, 163 US 228, 41 L.ed 140, 16 S.Ct. 977. Below same **41 Am Jur 2d** as above, but at § 19:

Indictment is the jurisdictional instrument upon which a defendant stands trial.

[without a valid indictment] the court lacks subject matter jurisdiction over the offense.

The court in **U.S. Schultz**, 17 F.3d 723 (5th Cir. 1994) was adamant. This court speaks firmly and unequivocally of the necessity for the government to prove the jurisdictional element and that the issue of jurisdiction may be raised at any time of the criminal proceedings, including post-verdict.

The facts are that jurisdiction must be proven on the record. No evidence of a validly returned indictment exists on the record. Records of all Returns of Indictment in Open Court before a magistrate are required to be recorded on the docket, the record kept by the Clerk of the Court, and the fact of Return of Indictment in Open Court normally cited and sworn to by the grand jury foreman on the face of the indictment.

"It is the case, then, and not the court, that gives jurisdiction." **Martin v. Hunter's Lessee**, 14 US (1 Wheat.) 304, 338 (1816) (emphasis in the orig.). Title 28, U.S.C., section 753(b) F.R.Civ.P. requires that all open court hearings be recorded and the record (with the Court Recorder's official certificate attached) filed with the Clerk of the Court for safekeeping. The statute also makes it a requirement that the record be available for examination and a transcript furnished to 1) the public in the first instant, and 2) the parties to the case in the second instant.

Furthermore, the government is required to prove jurisdiction upon challenge, and the court should hold an adversary hearing upon challenge to jurisdiction, where the government will not or cannot prove jurisdiction. And where jurisdiction cannot be proven from the record, the defendant/Petitioner must be released forthwith.

The court in **Gliddon v. Zdanok**, 8 L.ed.2d 671, 678-679 (1962) further emphasized the above when it held:

"...when the statute claimed to restrict authority is not merely technical, but embodies a strong policy concerning the proper administration of judicial business, this court has treated the alleged defect as 'jurisdictional' and agreed to consider it,"

And at 689, it held, "It is as much the duty of Government to render prompt justice against itself, in favor of citizens, as it is to administer the same between private individuals."

That has not been the case of the district court in this instance.

See In re Nielsen, 131 US 176, 9 S.Ct. 672, 33 L.ed 118,

"The judgment of a court having jurisdiction of a cause may be collaterally impeached on habeas corpus for want of jurisdiction to enter the particular judgment." In making the requirement of an indictment jurisdictional, Rule 7(a) of the R.R.Cr.P. codifies what always was considered to be the law. Thus, in **Ex Parte Bain**, 121 US 1, 7 S.Ct. 781, 30 L.ed 849 (1887), the defendant was convicted on an indictment found invalid because it had been amended by the court. The Court held that "...the jurisdiction of the offense is gone because the case was not properly presented by indictment." (emphasis added)

Finally, and authoritatively:

"It is the settled doctrine of this court that the jurisdiction of the [federal] courts of the United states must appear affirmatively from the record, and that it is not sufficient that it may be inferred argumentatively, from the facts stated...[cites omitted]. Upon like grounds the jurisdiction of this court...cannot arise from mere inference, but only from averments so distinct and positive as to place it beyond question that the party bringing a case here...intended to assert a federal right." **F.G. Oxley Stave Co. v. Butler County**, 166 US 648, 655, 41 L.ed 1149, 1152 (1896).

Repeating **Bingham v. Cabbot**, 3 US (3 Dall.) 381-382, 1 L.ed 646-647 (1795),

"Whenever there is limited jurisdiction, the facts that bring the suit within the jurisdiction must appear on the record."

The government has neither provided proof of jurisdiction on the record, the record itself available to Petitioner lacks record proof of jurisdiction or return in open court; and, the lower court has refused of itself or on challenge to require proof, or enquire into jurisdiction, and refused to call an adversary hearing to enquire into jurisdiction.

The failure to return the indictment is a jurisdictional defect. Jurisdictional defects cannot be waived. **United States v. Spinner**, 180 F.3d 514, 516 (3d Cir. 1999).

United States v. Smith, 866 F.2d 1092, 1096 (9th Cir. 1989) discusses jurisdiction and Rule(b) and is recited below in pertinent part from 1096:

"12(b)(1) assertion of 'defects in the institution of the prosecution' includes such defenses as prosecutorial misconduct, improper grand jury procedures, and non-compliance with the F.R.Cr.P."

"In other words, Rule 12(b)(1) defenses generally involve defects in the procedures leading up to the indictment, because this type of defect can be cured by the prosecutor prior to trial."

(and at 1094) "Rule 12(b)(2) specifically provides that the jurisdictional defenses 'shall be noticed by the court at any time during pendency of the proceedings.'"

Black's Law Dictionary is explicit in its definition of 'institution' as used above. It defines institution as the beginning of something. The institution of prosecution are those actions, clearly, of investigation and other activities of the prosecution concerning the matter **before** indictment.

Rule 6(f) of the F. R. of Cr. Pr. states:

"Finding and Return of Indictment. An indictment may be found only upon the concurrence of 12 or more jurors. The indictment shall be returned by the grand jury to a federal magistrate judge in open court."

Rule 6(f) is the codification of **Renigar v. United States**, 172 F. 646, 650 (4th Cir. 1909), which held,

"It is essential to the validity of an indictment that it be presented in open court and in the presence of the grand jury,"

Renigar held the failure to return an indictment in open court was a jurisdictional defect. **Renigar** defined return in open court as follows:

"When the grand jury has found its indictments, it returns them into court, going personally in a body." Id. at 648.

When Congress passed 6(f) as law, which later became the Rule 6(f), it was the codification of **Renigar**, not **Breese and Dickerson, supra.**, wherefore the part of **Breese and Dickerson** cited by the government in the instant appeal, was answered and vitiated by Congress's response and repudiated for **Renigar**.

In **United States v. Thompson**, 287 F.3d 1244, 1251 n.4 (10th Cir. 2002), the Court stated, "The government acknowledged at oral argument, and this court agrees, that an indictment is not valid until its return in open court" citing, inter alia, the 4th Circuit's opinion in **Renigar, supra.**, at 648-652.

Citation of **United States v. Lennick**, 18 F.3d 814, 817 (9th Cir. 1994) was a mistake of the government. Purportedly a Rule 6(f) case, but it ruled based on cases that concerned nothing to do with Rule 6(f). **Bank of Nova Scotia v. U.S.**, 487 US 250, 101 L.ed.2d 228, 108 S.Ct. 2369, was not about failure to return an indictment in open court, not supported by any Rule 6(f) citations or rulings except for **Breese, supra.** All the cited case law were about violations of Rules 6(d) and Rule 6(e) and testimony before the grand jury. All the issues addressed by the cases cited in **Lennick, supra.**, were issues that are NOT constitutional. However, Rule 6(f) is substantive, not a matter of form only, is jurisdictional in nature.

See **Renigar, supra.**

"The defect here is not a matter of form, but of substance--not that the indictment was imperfect in matter of form, but that, in fact, no indictment was found or presented by a grand jury, which is a jurisdictional prerequisite."

The government has cited cases in support of its position, but they are either off the point and not pertinent, or have been repudiated by all authoritative 6(f) cases in this Circuit. In **Glenn v. United States**, 303 F.2d 536, 539 (5th Cir. 1962), **Glenn** clearly addressed the importance of the proper **return** of the indictment by ordering the record corrected to reflect the fact that it had actually been done lawfully. Id. at 539.

Fed.R.Cr.Proc. 6(f) requires an "indictment may be found only upon the concurrence of 12 or more jurors". Failure to return an indictment by such procedure renders the indictment void. **Gaither v. United States**, 413 F.2d 1061 (D.C. Cir. 1969) **41 Am Jur 2d §45**, "Under federal law, an indictment is 'found' when returned by a grand jury and filed in open court. **U.S. v. Panebianco**, (C.A.2 NY) 543 F.2d 447, cert. den. 429 US 1103, 51 L.ed.2d 553, 97 S.Ct. 1128, 97 S.Ct. 1129".

Importantly, is the court's finding in **Russell v. U.S.**, 369 US at 763, 82 S.Ct. at 1046, (1962):

"... the substantial safeguards to those charged with serious crimes cannot be eradicated under the guise of technical departures from the rules" "construing Rule 7(c) of the R.R.Cr.P.; quoting **Smith v. United States**, 360 US 1, 9, 79 S.Ct. 991, 996, 3 L.ed.2d 1041 (1959); cf. **United States v. Smith**, 553 F.2d 1239, 1242 (10th Cir. 1977)(... the absence of prejudice to the defendant does not cure what is necessarily a substantial jurisdictional defect in the indictment.)".

Defendant/Appellant has examined the record. There is no record proof of compliance with Rule 6(f) of the F.R.Cr.P. and the requisite Return in Open Court of Indictment before a magistrate by the grand jury, no record proof of a criminal complaint, no record proof that 12 or more concurring grand jurors voted on indictment. All efforts possible have been made.

The court must, from the above citations and law see that the requirements of law and Constitution have been met by neither the government, nor the district court, and the Petitioner should be released forthwith for lack of proof of jurisdiction on the record, and is entitled to his relief of his motions and arguments.

The Government's Answer to Petitioner's Motion to Vacate, Set Aside, or Correct Sentence Pursuant to Title 28, United States Code, Section 2255 (herein Bell's Answer), which was dated September 26, 2002, is without merit, fallacious and sets forth arguendo based solely on an answer to Title 28, United States Code, Section 2255; yet, on Page 5 of Government's Answer, Carolyn Bell, A.U.S.A., states, "On April 19, 2002, Petitioner filed the instant motion for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 (DE #1 in civil case No. 02-80353-Civ-RYSKAMP.)"

Carolyn Bell was well aware that the Combined Motion was filed as a Habeas Corpus pursuant to Title 28 U.S.C. § 2241, as well as a F.R.Cr.P. Rule 3 Criminal Complaint and a mandatory Judicial notice to the Court under F.R.E. Rule 201(d). Her answer to Petitioner's motion is total deception and is further evidence of a "cover-up" of the lies that she told at trial and copiously documented in the Combined Motion - in Book 2 - pages 103 to 111, where Petitioner clearly outlines the lies she told or participated in. These lies worked to Petitioner's actual and substantial disadvantage infecting his entire trial with error and were an objective factor external to Petitioner's defense.

Such conduct constitutes a denial of due process. The biggest lie in Bell's Answer of 09/26/02 is, "an indictment was properly returned" (see Page 16, line 2); and, again under the same heading as Bell's Answer of 09/26/02, Carolyn Bell files another answer on November 8, 2002 (hereinafter Bell's Answer 11/08/02) whereby she states, "Petitioner argues that he was denied his Constitutional rights as the indictment against him was not returned in open court. Petition is mistaken."

In the Combined Motion, Page 46, Petitioner quotes Judge Ryskamp as follows:

"This Jury is totally lost."

"You have reams and reams of pages dealing with concepts they [Jury] don't understand and we have lost sight of the fact that this is supposedly a case about hiding assets from Bankruptcy.

I haven't heard any of that today yet. All I am hearing is about a transaction that isn't even involved in the indictment. This whole retirement center isn't mentioned in the indictment."

Judge Ryskamp further stated, as shown in the Combined Motion, Exhibit J - page J-42,

"If you [Johnson] can establish later on that the Government has withheld evidence or misled the Jury, that's a pretty serious accusation and I will deal with that later on."

Request for Affidavit from Carolyn Bell RE: Jurisdiction

These lies by the Government can only be dealt with if the Court orders A.U.S.A. Carolyn Bell to **file an Affidavit** with the Court under the same oath that Petitioner and his family have used in their verified petitions and affidavits whereby Carolyn Bell swears that: she was in Magistrate Judge Ann E. Vitunac's

"open court" on Tuesday, March 24, 1998 with a minimum of 16 Grand Jurors of Grand Jury 97-02, whereby 12 jurors voted to indict John Doe/Warren Johnson, Junior; and, that the record of the Clerk of the Court of all court hearings on March 24, 1998, before and after said date, purchased for \$20 each from the Clerk of the Court, being tapes AEV-98-36, AEV-98-37 and AEV-98-38 are a fraud and do not represent all the hearings held in Magistrate Judge Ann E. Vitunac's courtroom; and that all the strictures of F.R.Cr.P. Rules 6(f) and 6(c) were met and that "petitioner is mistaken." Additionally, let A.U.S.A. Carolyn Bell swear that the Government's Exhibit "A" that is purported to be a transcript of said indictment hearing is true, correct, and complete, is in no way fraudulent and also meets all the strictures of F.R.Cr.P. Rule 6(f) back in 1998.

2. Further Deception Committed by the Prosecution

(A) The second biggest lie told the Court is that Petitioner "according to information provided by U.S. Attorney Carolyn Bell ..." sold lots for \$20,000,000 (\$20 million) and that, "Defendant [JOHNSON] placed \$20,000,000 in trust." See Combined Motion, Exhibit F, page F-1 (3 & 4) and page F-3 (78). Exhibit A contains an Affidavit of Warren D. Johnson, Sr. in which he swears that he owned and sold 19 lots on Jupiter Island, Florida for under \$2 million total; and, placed less than \$20,000 in trusts for Mark and Kelly Johnson; and, gave a gift of \$250,000 to the Full Gospel Christian Association; and, loaned Linkous Corporation \$261,250. His affidavit is supported by 48 pages of closing statements, contracts, notes, receipts, and filing of

accounting documents with the Federal government (I.R.S.) between 1978 to 1981.

**Request for Affidavit from Carolyn Bell RE: \$20,000,000
Lots Sold by Petitioner and \$20,000,000 in Trust**

Petitioner prays the Court will order A.U.S.A. Carolyn Bell to file an Affidavit under penalty of perjury and her full commercial liability that she has evidence to support these statements that she told the Court and order her to attach whatever closing statements, deeds, copies of DOC stamps and trust filing to the I.R.S. showing said \$20,000,000 in lot sales and bank deposit slips and cancelled checks of \$20,000,000 in deposits to said trusts.

(B) The next Biggest lie is that Petitioner had a contract on the Jupiter Island property and inferred that Petitioner then transferred the contract to his father. See Combined Motion, Exhibit J, pages J-32 to J-33.

**Request for Affidavit from Carolyn Bell RE: Solicitation
of Perjury from Attorney Fredrick Sundeim by Carolyn Bell**

Petitioner prays the Court will order A.U.S.A. Carolyn Bell to file an Affidavit under penalty of perjury and her full commercial liability that she has evidence to support her statements and to order her to attach a contract, signed and accepted by a seller of said property on Jupiter Island, whereby any offer became a **valid contract** and that Petitioner did transfer said contract to his father.

(C) The next Biggest lie is that a Land Trust was in fact the owner of Bay Pointe Estates subdivision on March 23, 1994 when Dr. Walter Harber warranted that he was the 100% owner of Bay Pointe Estates subdivision and in fact he never used any

land trust.

**Request for Affidavit from Carolyn Bell RE: False
and Misleading Arguendo by AUSA Carolyn Bell
Regarding Bay Pointe Estates Land Trust
(Herein Land Trust) Owning Bay Pointe Estates**

Petitioner prays the Court will order A.U.S.A. Carolyn Bell to file an Affidavit under penalty of perjury and her full commercial liability that she has evidence to support her arguendo that the Land Trust owned the Bay Pointe Estates Subdivision where in fact the Land Trust document that was signed before November 1, 1991 and in fact it was never used by Dr. Walter Harber, the true owner of Bay Pointe Estates Subdivision. Also, order Carolyn Bell to prove that Dr. Walter Harber committed false and fraudulent statement in the three (3) documents filed with a governmental agency (Martin County, Florida), whereby Harber acknowledges on the 7th day of January 1994 that he is "the **sole owner** of Bay Point Estates property" (see Combined Motion, Exhibit H, page H-3 - item 5 - line 6); and, "Harber is the **owner** in fee simple ..." (see Combined Motion, Exhibit H, page H-11 - line 13); and, "U. Harber, warrants and represents that he is authorized to enter into this agreement individually ..." (see Combined Motion, Exhibit H, page H-16 - line 6); and, "Harber as **owner** of the property ..." (see Combined Motion, Exhibit H, Page H-21 - line 4); and Carolyn Bell must attach her evidence to support the Land Trust ownership, including all checks written on the Trust, accounting records of the Trust and tax returns filed by the owners of the Trust with the Federal government (I.R.S.) as would have been required in the Trust agreement during the last

twelve (12) years of operation, under No. 11, Page 5 of said Trust Agreement. Additionally, order Carolyn Bell to attach all tax returns filed since 1992 whereby "Beneficiaries shall file all such returns and pay all taxes on the earnings and avails of the Trust Property or growing out of their interest hereunder."

(D) The next Biggest lie was that Petitioner was indicted under a valid law, which was not even passed and became effective until over one(1) year after the alleged crime.

Request for Affidavit from Carolyn Bell RE: Violation by Defendant of Title 18, United States Code, Section 152(1)

Petitioner prays the Court to order A.U.S.A. Carolyn Bell to file an Affidavit with the Court under penalty of perjury and her full commercial liability that Title 18, United States Code, Section 152(1) was duly passed into law and was effective as a felony on or before March 24, 1994; and, that this law was not in fact a "fatal defect" in a proported indictment under Count 1, and, shows malicious prosecution under which money laundering was charge under Counts 3, 4, 5, 6, and 7.

(E) The next Biggest lie was that Warren D. Johnson, Jr. extended a loan with Southeast Bank after March 29, 1990.

Request for Affidavit from Carolyn Bell RE: Count 2 - Loan Application Fraud

Petitioner prays the Court to order A.U.S.A. Carolyn Bell to file an Affidavit with the Court under penalty of perjury and her full commercial liability that Petitioner's Financial Statement dated January 1, 1991 was more than a copy (which the bank did not know where it came from) and that the bank did

convert any offer to extend said bank loan to a valid loan extension, after the March 29, 1990 extension did expire, and all "escrow" interest funding that extension was used up. Petitioner's evidence of the thirteen (13) documents necessary to extend said loan on March 29, 1990, the interest reserve statement through the May 8, 1991 to June 8, 1991 and the July 1, 1991 offer from Southeast Bank to extend are filed in the Combined Motion, showing a time loss of only approximately two months from the last offer to extend the loan and a foreclosure, with **no extension**, was ever made. See Exhibit S, pages S-1 to S-32. Southeast Bank was a failed institution taken over by an agency of the United States, who foreclosed said property from Petitioner in September 1991, and through the Bank's attorneys did state in foreclosure documents that the "last loan extension was March 29, 1990."

Petitioner further prays the Court to order A.U.S.A. Carolyn Bell to attach the evidence of thirteen (13) documents that would be required after the July 1, 1991 offer to extend the loan that prove Petitioner extended any loan; and her evidence that Petitioner did comply with the six (6) requirements of the bank's offer to extend the loan on July 1, 1991 (see Pages S-29 to S-30), including placing \$39,500 into an "interest escrow account" — "prior to closing this extension ..." (see Exhibit S, page S-29); and, that the attorneys for the United States' agency, as receiver for Southeast Bank, did file false and fraudulent foreclosure statements/documents into the District Court of Florida in September 1991 which did state the

"last loan extension was March 29, 1990." The bank could not rely on a copy of Petitioner's January 1, 1991 Financial Statement for its March 29, 1990 valid loan extension, since the Financial Statement would be at least 8 months in the future, and no loan extension was granted Petitioner after July 1, 1991, when Southeast Bank make its last offer to extend.

(F) The next Biggest lie is that Petitioner owed Masterloom for an \$8 thousand (\$8,000) rug that was sold to Doug Smith, President of Baja Boats.

**Request for Affidavit from Carolyn Bell RE: False
and Misleading Arguendo by A.U.S.A. Carolyn Bell
Regarding a \$8,000 Masterloom Carpet**

Petitioner prays the Court will order A.U.S.A. Carolyn Bell to file an Affidavit under penalty of perjury and her full commercial liability that she has evidence to support her arguendo that petitioner owned and kept the aforesaid Masterloom rug and the rug was worth \$8,000; and, Petition hid said rug in his Banruptcy from creditors on October 2, 1992 and thereafter, where in fact the following is true:

FBI Agent Michael McBride and Carolyn Bell did interview Doug Smith, President of Baja Boats, who did agree to purchase said rug at the Atlanta furniture show from Nasser Rahmanen, and did discuss trading the rug on a Baja Boat. The rug that Doug Smith purchased was sold by Masterloom to another buyer and a substitute rug was deliviered months later that its guaranteed delivery "date" to Smith's house. The house was sold to Charles Faust and Nasser Rahmanan was told to pick up the rug. Faust had

hired Howard Interiors and Howard's brother to re-design the dining room where the rug was under the dining room table. The rug was sold to the secretary of Howard's brother for \$400, which was the fair market value at that time. The FBI (302) Field Reports on Doug Smith interview(s) were withheld from Petitioner and/or destroyed, which conduct constitutes denial of due process, as did the destruction of the FBI (302) Field Reports on Monday, September 14, 1998 when both Jerry Linkous and Dr. Walter Harber told Carolyn Bell and FBI Agent Michael McBride that the \$250,000 payment on March 23, 1994 was for a lot that Harber owed Linkous Corporation for and had never previously paid.

It is clear, the destruction or withholding of FBI (302) Field Reports is "some objective factor external to the defense" and "worked to his [Petitioner's] actual and substantial disadvantage infecting his entire trial with error." Did Judge Ryskamp question "I have often wondered what would happen if we tried a civil case with criminal lawyers and I am finding out right now, and it's a **disaster**." (See Combined Motion, Exhibit J, page J-42 (531) lines 5 to 7).

Was the Jury and Judge totally lost? Judge Ryskamp thought so. (See Combined Motion, Exhibit J, page J-42 (531) lines 10 to 11 and lines 20 to 22).

Isn't the real issue before the Court whether A.U.S.A. Carolyn Bell lied to mislead the Jury, using deceit and making misrepresentations to the Jury? Judge Ryskamp thought so. (See Combined Motion, Exhibit J, page J-42 (1173) lines 4 to 6).

Judge Ryskamp went on to say, "If you can establish later on that the government has withheld evidence or misled the Jury, that's a pretty serious accusation and I will deal with that later on." See Combined Motion, Exhibit J, page J-42 lines 2 to 5.

Will Judge Ryskamp now consider Petitioner's Combined Motion with Exhibits A to Z in support of said Combined Motion filed April 19, 2002 (or) was his promised that **"I will deal with that later on"** merely disengenuous window dressing for the record?

Does this Court really want to cover-up the criminal acts of a Tribunal d/b/a or acting as United States Attorney, who with such heinous and flagrant lies have sent a knowingly innocent man to prison for these years?

Didn't the Court find that the Petitioner was actually convicted because he drove luxury cars? See Combined Motion, Exhibit L, Page L-31 (366) lines 1 to 12 and page L-33 (370) lines 1 to 11.

(G) Based on copiously documented lies, threats, extortion, duress, theft of property and obstruction of Justice, Petitioner also requests the following order.

Request for Affidavit from Carolyn Bell RE: Extortion against Petitioner and his Family; Threats against Adam Brown and other; Theft of Property in Violation of Existing Law; And, Obstruction of Justice

Petitioner prays the Court to order A.U.S.A. Carolyn Bell to swear under penalty of perjury and her full commercial liability that she did not "threaten to indict Adam Brown" in a telephone call with Attorney Richard Lubin (Lubin & Gayno -

Palm Beach, Florida) "if Adam Brown testified for Warren D. Johnson, Jr"; and, that she (Carolyn Bell) did not tell attorney Richard Lubin that "the reason she filed a seizure against Adam and Kelly Brown's house and Adam Brown's property in Otters Run was to stop him from hiring lawyers to help his father-in-law [Warren D. Johnson, Jr.]"; and, that she did not attend a meeting with attorney Patrick Scott where "Adam Brown was threatened with Indictment, if he did not give up his lawful money and property in Otters Run"; and, she did not threaten Richard Grund if he did not give up the lawful property of "legal persons" owned or controlled by twenty-one (21) members of Warren D. Johnson, Jr.'s family; and, that she did not receive the e-mail threat sent by attorney Patrick Scott on Wednesday, February 14, 2001 if the Johnson family did not give up their lawful property and sign a 16 February 2001 Agreement that,

"if he [Warren D. Johnson, Jr.] does not sign the settlement agreement and related documents by the commencement of the hearing on Friday, I [Patrick Scott] think there will be no turning back. We will pursue every asset, including Adam Brown and Kelly Brown's home, the Globenet stock, and judgments against every family member who ever made a dollar from selling Ice Ban America or IBAC stock. We will seek nondischargeable judgments against several of them for conspiracy to defraud."

"But once the restitution hearing begins, there is no way to settle the case."

(See Combined Motion, Exhibit Y, pages Y-1 and Y-2).

IN CONCLUSION

The government's lie concerning Petitioner selling property for \$20 million (\$20,000,000) and placing the \$20 million

(\$20,000,000) in trust so outraged Judge Ryskamp, that he mentioned it five (5) times at sentencing (see Combined Motion, Exhibit L, pages L-19 (335); L-20 (336) lines 21 to 25; L-21 (337) lines 5 to 7 (350) and (351), lines 1 to 2, and lines 13 to 15); and, this lie and other documented lies so "infected Petitioner's entire trial with error and worked to his actual and substantial disadvantage" that Judge Ryskamp gave Petitioner more prison time and stated:

"On that basis ... a upward departure, that horizontal departure ... this type of criminal misconduct". (See Combined Motion, Exhibit L, page L-21 (337) lines 8 to 12).

This horrendous prison sentence was not given for a mere \$250,000, in which there was no crime, but for Petitioner driving luxury cars and the Government lies of Petitioner stealing \$20 million and hiding his fortune, as well as a \$8,000 rug, and somehow hiding a multi-million project that Petitioner was blocked from closing by an F.B.I Agent's sister (Corrine B. Calvasina).

In this country you are no longer innocent till proven guilty, but innocent till proven "unpopular." Since the Jury was lost from day one, what else could they believe, but the Government's lies and hate of Petitioner, as did Judge Ryskamp because he saw Petitioner's luxury cars.

Petitioner could not bring his defense before this Jury because Judge Ryskamp decided that "He [Petitioner] is probably competent to represent himself, ..." — "But it's not in his best interests to represent himself." See Combined Motion, Exhibit N, page N-33 lines 17 and 22 to 23.

Exhibit N is quite clear that Petitioner requested to represent himself as noted by the Court minutes of Magistrate Judge Ann E. Vitunac (see Combined Motion, Exhibit N, page N-4 and N-9). Petitioner was ordered to have a lawyer by Magistrate Judge Ann E. Vitunac "or the court will pick a lawyer for you." See Combined Motion, Exhibit N, pages N-2 lines 8 to 14 and lines 9 to 16; N-3 (5) lines 5 to 7).

The Government's lies and misconduct in this case are so shocking and outrageous as to violate the universal sense of Justice and, if covered-up longer, the terms Rules of Law and Due Process are reduced to mere Judicial locutions.

This case reveals the exact pattern of widespread and continuous misconduct, which this Court's powers were meant to deter.

Petitioner, Sui Juris and In Propria Persona, and appearing without counsel, states the following:

This court should liberally construe Petitioner's motion in light of the holding of the Court in **Haines v. Kerner**, 30 L.ed.2d 652 (1972).

Pro se litigant's pleadings are to be construed liberally and held to less stringent standards than formal pleadings drafted by lawyers; if court can reasonably read pleadings to state a valid claim on which litigant could prevail, it should do so despite failure to cite proper legal authority, confusion of legal theories, poor syntax and sentence construction, or litigant's unfamiliarity with pleading requirements. **Boag v. MacDougall**, 454 US 364, 70 L.ed.2d 551 (1982). Also, **Simmons v. Abruzzo**, 49 F.3d 83 (2d Cir. 1995).

Court will go to particular pains to protect pro se litigant against consequences of technical error if injustice would otherwise result. **U.S. v. Sanchez**, 88 F.3d 1243 (D.C. Cir. 1996).

When dismissal of pro se complaint is warranted, it should generally be without prejudice to afford plaintiff opportunity to file an amended complaint. Federal Courts are obliged to "look behind the label" of a pro se motion to determine if a recognizable remedy is available. **Fernandez v. U.S.**, ___ F.2d 148, 1491 (11th Cir. 1994). See **Good v. Allain**, 823 F.2d 64 (5th Cir. 1987).

In summary, Petitioner allows this Court to construe the April 19, 2002 Combined Motion and all Exhibits A to Z, with any and all additions, corrections and revisions with this motion, including mandatory Judicial Notice of all the facts contained therein, as Petitioner's filing and submission of a Title 18, United States Code, Section 2255 motion with the request to amend and supplement the Combined Motion as it relates to the ineffectiveness and incompetences of Robert Adler, a Court appointed attorney, which prejudiced Petitioner and violated his Sixth Amendment rights to having effective counsel in this criminal case and further states:

1. Robert Adler failed to obtain "consent of the client endorsed thereon" for Appearance by Attorney under Local Rule 11.1(D) to be filed with the Clerk of the Court to represent Petitioner.
2. Robert Adler only spend approximately 30 minutes each

- week, usually on Wednesday, prior to trial with
Petitioner. Adler arrived at his office at approximately
9:30 A.M., whereby Petitioner was allowed to use a
conference room alone during the morning hours only,
with Mr. Adler coming in for approximately 30 minutes.
3. Mr. Adler told Petitioner he had 70 to 90 cases, spent
mornings in Court and had to drive to Miami and Vero
Beach Jails to visit clients, and only allotted 10 minutes
average per week per client.
 4. Mr. Adler produced no witnesses for the defense except
for Petitioner.
 5. Mr. Adler failed to subpoena or interview Mr. Douglas
Smith, President of Baja Boats, who owned the Masterloom
carpet (rug), which was lost in a sale of his home and
ultimately sold to Howard Interior's secretary for
\$400.00. Mr. Adler never subpoenaed Howard Interiors
or the secretary.
 6. Mr. Adler never subpoenaed Dr. Walter Harber, even though
Dr. Harber told attorney Adler and Joe Carmack (his
investigator) that the \$250,000 paid Linkous was for
a lot he never paid for.
 7. Mr. Adler met with Jerry Linkous who, on or about September
9, 1998 in Adler's office, told him and his investigator
that the \$250,000 was paid for a lot by Dr. Harber.
Jerry Linous was subpoenaed but was never called by
Mr. Adler to testify at trial.
 8. Mr. Adler never subpoenaed the records of Dr. Harber's

cancelled checks or tax returns to prove the \$250,000 was in fact the only payment for principal Harber did make on said lot, and that the tax returns would reflect a \$275,000 Agreement for Deed from 1982 to 1986 at 18% interest, and after Dr. Harber sold Lot 11 in Bay Pointe he filed a Federal tax return with the United States, and showed his basis cost at \$250,000, which he then had to pay or become a tax cheat.

9. Mr. Adler told Petitioner that he did not want to represent him.
10. Mr. Adler wrote the words "crime family" on a pad next to Petitioner's name at trial. The note was witnessed by Mark Johnson.
11. Mr. Adler met with Norman Schroeder, attorney for Sunpoint Savings Bank, who said he was an expert on Bankruptcy and privy to a side deal between Alredo Sanchez and Sunpoint Bank, whereby Petitioner was not liable on the Haverhill Court apartments loan to Sunpoint and taken over by Great Western Bank. Mr. Adler promised to have expert witness testify for Petitioner, but delivered none.
12. Mr. Adler never checked with attorney Robert Furr to inquire about Elkins and Friedman being Petitioner's attorneys in Bankruptcy Court, up through trial, and the severe breach of Attorney - Client Privilege when attorney Elkins testified and perjured himself as a witness for the Government. Robert Furr was only hired

as special counsel to fight two adversarial lawsuits, and wrote a letter to Bankruptcy Judge Steven Friedman after Petitioner's trial that Elkins and Friedman were Petitioner's Bankruptcy attorneys and there was no substitution of counsel form ever filed in case no. 92-33339-SHF-BKC through trial or November 24, 1998.

13. Mr. Adler never had a trial strategy and repeatedly told Petitioner "that the Government could not win if they did not put Dr. Harber and Jerry Linkous on the stand" and "there was no way to prove their case without Harber and Linkous."

RELIEF SOUGHT

Pursuant to this Court's supervisory powers over the prosecution, their agents and witness, as a means of maintaining Judicial integrity, policing the ethical misconduct of the Government agents, and deterring further misconduct by them in the future, WHEREFORE Petitioner responds to Magistrate White's R & R and asks this Honorable Court to take all remedial action within its power to do the following:

I. Determine its Jurisdiction over Petitioner, and either agree with Petitioner that do to the failure of A.U.S.A. Carolyn Bell and/or Magistrate Judge Ann E. Vitunac's failure to abide by the Rule of Law in the strictures of Title 18, U.S.C., §3057; Title 18, U.S.C., § 3060; and F.R.Cr.P. Rules 6(f) and 6(c) that the Court failed to obtain jurisdiction from the people of the United States (or) set forth the case law under which it claims jurisdiction.

RELIEF SOUGHT
(continued)

II. Order A.U.S.A. Carolyn Bell to produce a true, correct, and complete sworn statement in Affidavit form as requested by Petitioner for each and every issue raised by Petitioner from page 11 of Petitioner's Response and Objections to R & R, to page 20, as set forth in seven items from (A) to (F).

III. Petitioner does hereby consent to MAGISTRATE JUDGE PATRICK WHITE's R & R request and recommendation to construe Petitioner's Combined Motion and this Response and Objections as a Title 28, U.S.C., § 2255 petition, which was originally filed April 19, 2002, along with all Exhibits A to Z and revisions and additions in support of said Title 28, U.S.C., § 2255 filing.

IV. Petitioner requests the Court to allow Petitioner to supplement and amend his Title 28, U.S.C., § 2255 (Combined Motion) with research, case law and further arguendo, if existing evidence and the fact that Title 18, U.S.C., §152(1) did not exist as law on March 23, 1994 does not in fact and law compel the Court to drop all charges against Petitioner and unconditionally release Petitioner from prison.

V. Order the Attorney General of the United States to negotiate the restoration of all of the assets, monies, land, contracts, costs, legal fees, and all other awards allowed by law, both United States laws and International law as set forth in the Law of Nations, whereby Petitioner, his family, PORTOSEL, and others indirectly and directly damaged by this case will be restored as if these actions against Petitioner, his family,

RELIEF SOUGHT
(continued)

PORTOSEL and "legal persons" controlled by Johnson family members never happened.

VI. Grant a declaratory Judgment in favor of Petitioner for prison time served by Petitioner, loss of Petitioner's health and related medical and dental problems from this prison term, damage due to the stress of actions against the Johnson family caused to individual family members by actions and activities related to this case, in monetary amounts to be negotiated with the Attorney General or won by litigation, or ordered by any court.

VII. Grant a declaratory Judgment against Patrick Scott and Soneet Kapila, who the court referred to as a United States Trustee, for breach of contract in the 16 February 2001 Agreement, under (pg.2.) 1. Consideration - 1.05 which contract (treaty) states:

"In any event, if all approvals ... are not entered by all courts prior to March 7, 2001, all documents and funds **shall be released** to the parties who provided them, ... shall be paid to the parties who provided the original funds."

VIII. Time bar the United States for failure to answer any and all issues set forth by Petitioner in the Combined Motion and contained in Exhibits A to Z which was made part of the motion (being a Rule 201(d), F.R.E. for mandatory Judicial Notice), where Petitioner can show a Federal Judge's order to answer and a time limit given to the government.

IX. Order any and all other relief that the Court finds

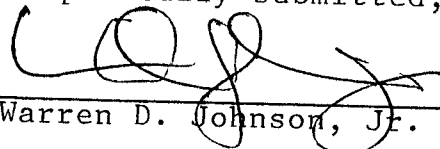
RELIEF SOUGHT
(continued)

is just, appropriate and allowed by law, and under the provisions available but not limited to Title 28, U.S.C., § 2255.

The lies, misconduct, abuse of discretion, and ineffective counsel are a **"cause and prejudice"** of substantial issues with merit, and impeded Petitioner's efforts to raise such issues prior to April 19, 2002; and, the delay of the court in a **"deal with that later on"** did cause Petitioner to suffer prosecutorial and judicial misconduct where **"such conduct constitutes a denial of due process."**


These substantial issues of merit were labeled by the court as **"a pretty serious accusation"** which **"worked to his [Petitioner's] actual and substantial disadvantage infecting his entire trial with error."** See Combined Motion, Exhibit J, page J-42 (1179) lines 2 to 5.

Respectfully submitted,



Warren D. Johnson, Jr.

I, Warren D. Johnson, Jr., hereby declare that I am of age and competent to be a witness, that the facts contained herein are true, correct, complete and not misleading to the best of my first-hand knowledge under penalty of perjury under the Laws of The United States of America, the Laws of Florida and my unlimited commercial liability, this 3 day of July, 2003.



Warren D. Johnson, Jr.
c/o 53225-004 / Unit A-3
Federal Correctional Complex-Low
P.O. Box 1031
Coleman, Florida 33521-1031

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 02-80353-CIV-RYSKAMP
(98-8039-CR-RYSKAMP)
MAGISTRATE JUDGE P.A. WHITE

WARREN D. JOHNSON, JR.,
Movant,

v.

UNITED STATES OF AMERICA,
Respondent.

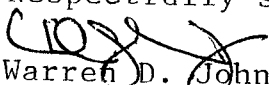
PETITIONER' NOTICE OF RECEIPT OF
REPORT OF MAGISTRATE JUDGE
AND FILING OF OBJECTIONS BY
JULY 4, 2003

COMES NOW, Warren D. Johnson, Jr., Sui Juris and In Propria Persona, without counsel and not appearing pro se, hereby notices this Honorable Court that he will be filing Objections to the Report of Magistrate Judge "within ten days of receipt of a copy of the report." The UNITED STATES MAGISTRATE JUDGE P.A. WHITE signed the report on the 19th day of June, 2003, and the envelope was postmarked JUNE 23, 2003, and was not received at Coleman, Florida until June 25, 2003.

Warren D. Johnson, Jr. has never given his consent for UNITED STATES MAGISTRATE JUDGE P.A. WHITE to have any standing in this Court, or any authority to make rulings/recommendations.

WHEREFORE, Petitioner requests this Honorable Court to allow the filing of Petitioner's Objections to be placed in the institution's internal "Legal Mail" mailing system by Monday, July 7, 2003, as the 4th of July is a federal holiday.

Respectfully submitted,


Warren D. Johnson, Jr., 53225-004
FCC, Coleman - Low (Unit A-3)
P.O.B. 1031, Coleman, FL 33521

#02-CV-80353

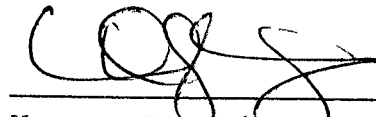
Dkt. 20 (07/01/03)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing
has been provided by First Class Mail to the following:

Carolyn Bell, AUSA
United States Attorney's Office
500 Australian Avenue, Suite 400
West Palm Beach, FL 33401

BY:



Warren D. Johnson, Jr.

date

June 26, 2003

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

Case No. 98-8039-CR-RYSKAMP

UNITED STATES OF AMERICA,
Plaintiff,

v.

WARREN D. JOHNSON, JR.,
Defendant.

VERIFIED PETITION FOR PROOF OF COURT'S AUTHORITY

Comes Now Warren D. Johnson, Jr., Sui Juris and In Propria Persona in a special not general appearance and as Attorney-in-Fact for WARREN D. JOHNSON, JR., as ens legis person appearing generally, for the purpose of obtaining conclusive evidence of the delegation of authority the Honorable Court is acting under and for good cause shown therefore states as follows:

1. In order for Petitioner to prepare certain post conviction pleadings Petitioner respectfully requests the following instruments and/or documents from this Court.

a.) a true, correct and complete copy of the complaint which was brought to a United States Grand Jury for the purpose of commencing an investigation on WARREN D. JOHNSON, JR.

b.) a true, correct and complete copy of the Appointment Affidavit which officially created the office of UNITED STATES DISTRICT JUDGE for KENNETH C. RYSKAMP.

c.) a true, correct and complete copy of the Oath of Office Kenneth C. Ryskamp swore (or affirmed) and signed which installed him into the position and/or office of UNITED STATES DISTRICT JUDGE.

Dkt. 211 (06/18/03)

d.) a true, correct and complete copy of the Liability/Indemnity Bond under which JUDGE RYSKAMP performs his official functions.

e.) a true, correct, complete and not misleading statement made under the penalty of perjury under the Laws of The United States by JUDGE RYSKAMP that he does not pay FEDERAL or STATE INCOME TAXES or is not otherwise subject to diminishment of compensation during his tenure in office or under the direct or indirect control of any agency, instrumentality, or subsidiary of The United States Government.

Failure to provide conclusive evidence to the above requested instruments and documents will be construed as irrebuttable presumption that the Court never had jurisdiction over Petitioner and that "Defendant" should never have been brought to trial.

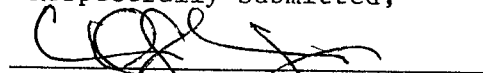
RELIEF REQUESTED

WHEREFORE petitioner requests the Honorable Court, within 72 hours of its receipt thereof, deliver to Warren D. Johnson, Jr. at the below listed location the above requested items and provide Petitioner all other relief that is just and/or appropriate.

OATH

I, Warren D. Johnson, Jr., hereby declare that I am of age and competent to be a witness, that the facts contained herein are true, correct, complete and not misleading to the best of my first hand knowledge under penalty of perjury under the Laws of The United States of America, the Laws of Florida and my unlimited commercial liability, this 15th day of June, 2003.

Respectfully submitted,



Warren D. Johnson, Jr.
c/o 53225-004 / A-3
Federal Correctional Complex - Low
Post Office Box 1031
Coleman, FL 33521-1031

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 98-8039-CR-RYSKAMP

UNITED STATES OF AMERICA,
Plaintiff,

v.

WARREN D. JOHNSON, JR.,
Defendant.

MOTION TO "STRIKE" TRANSCRIPT OF
PURPORTED INDICTMENT RETURN HEARING
AND RELEASE DEFENDANT FOR LACK OF JURISDICTION

COMES NOW Warren Douglas Johnson, Jr., Petitioner, Sui Juris and In Propria Persona, and hereby petitions this Court to "strike" the transcript of the March 24, 1998 Indictment Return Hearing from the official record as the document does not conform with the legal requirements of Title 28 U.S.C. § 753(b) and for good cause further states: 1. the transcript was not made from the original record, which would have been the audio tape if one existed; 2. the purported hearing according to the Court records occurred on Monday, March 23, 1998 and it appears that the Court Reporter either modified, falsified or made up the shorthand notes; 3. the transcript is not "certified" by the Court Reporter to be a **true, correct, and complete** copy of the shorthand notes; and 4. the shorthand notes are not recorded and certified records of the Clerk of Court's office.

WHEREFORE, Petitioner requests the Court to "strike" the transcript filed by AUSA Carolyn Bell as Dkt. #16 in case number 02-80353-civ-RYSKAMP/ as a fraudulent and not an authentic record of the Clerk's office and release defendant for lack of jurisdiction by the Court in accordance with constitutional violations of Federal Rules of Criminal Procedure (F.R.Cr.P.) Rules 6(c) and Rules 6(f).

OATH

I, Warren Douglas Johnson, Jr., hereby declare that I am of age and competent to be a witness, that the facts contained herein are true, correct, complete and not misleading to the best of my first hand knowledge under penalty of perjury under the Laws of The United States of America, the Laws of Florida and my unlimited commercial liability, this 1st day of April, 2003.

Respectfully submitted,



Warren Douglas Johnson, Jr.
#53225-004/ A-3 (Citrus)
Federal Correctional Complex-Low
P.O. Box 1031
Coleman, Florida 33521-1031

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing is true and correct and a copy of this document was mailed by First Class Mail on 1st day of April, 2003 to: Carolyn Bell, Assistant United States Attorney, 500 S. Australian Boulevard, Suite 400, West Palm Beach, Florida 33401-6235.



BY:

Warren D. Johnson, Jr.

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7001 2510 0002 1771 1323

A-3

Warren Johnson
53225-004

Postage \$ 1.60
Certified Fee 2.30
Return Receipt Fee (Endorsement Required) 1.75
Restricted Delivery Fee (Endorsement Required)
A-3
Total Postage & Fees \$ 4.65

FCC COLEMAN
LOW FACILITY
MAILROOM

Postmark
APR -1 7:18

Sent To Clerk of the Court
United States District Court
Street Apt No 701 Clematis Street
or PO Box No
City, State ZIP+4 West Palm Beach, FL 33401

PS Form 3800, January 2001 See Reverse for Instructions

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 98-8039-CR-RYSKAMP

UNITED STATES OF AMERICA,

Plaintiff,

v.

WARREN D. JOHNSON, JR.,

Defendant.

VERIFIED PETITION FOR MANDATORY JUDICIAL NOTICE OF
PASSAGE OF THE HUMAN RIGHTS ACT 1998 ON NOVEMBER 9, 1998
AND FOR MANDATORY JUDICIAL NOTICE THAT SONEET KAPILA
IS NOT AN AGENT OF THE UNITED STATES GOVERNMENT

COMES NOW Warren Douglas Johnson, Jr., Petitioner, Sui Juris
and In Propria Persona, and petitions this honorable Court to
take Mandatory Judicial Notice under the Federal Rules of Evidence
(FRE) Rule 201(d) of the facts contained in:

1. The Human Rights Act 1998, incorporating the European
Convention on Human Rights into UK law on November 9, 1998, with
Article 5 - Right to liberty and security; Article 6 - Right to
a fair trial; Article 7 - No punishment without law; Article 8 -
Right to respect for private and family life; Article 9 - Freedom
of thought, conscience and religion; and Article 10 - Freedom of
expression contained herein and made a part of this filing as
Exhibit CR-C-02; and, Sch.1, Part II, Article 1- Protection of Property.

2. Letter to Warren D. Johnson, Jr. from Joseph A. Guzinski,
General Counsel, Executive Office for United States Trustees,
U.S. Department of Justice with regard to Soneet Kapila contained
herein and made a part of this filing as Exhibit CR-C-03 and as

good cause therefore sets forth the following:

BACKGROUND

1. Soneet Kapila, a Chapter 7 Trustee, and his attorney, Patrick Scott, committed larceny as defined by 50 AM Jur 2(d) §§ 123 and 125, in that they extorted collateral for a multi-billion dollar (U.S.) project from numerous Turks & Caicos Island corporations; destroyed the multi-billion dollar (U.S.) Grand Turk Harbour Project; and, acted as agents for Merrill Lynch, et al., who manipulated the F.B.I., attorneys and the Department of Justice in a coherent scheme to defraud.

The Royal Johnson Family and PORTOSEL, the sovereign principality, are protected under the Laws of the United Kingdom, in that the Turks & Caicos Islands are a British overseas territory. One of the great principals of the English common law is Freedom of Contract. Under 66 AM Jur 2(d) § 125 Restitution and Implied Contracts; Criminal Proceedings or imprisonment; Threats and Fears Thereof it states:

" . . . if the threats of prosecution actually exist in the mind of an innocent person, the fear of imminent arrest and imprisonment, this will constitute **duress**, and money paid by reason thereof may be recovered back by the innocent party."⁶

6. Cribbs v. Sowle, 87 MICH. 340, 49 N.W. 587 (1891)

The aggrievous crimes committed against Warren D. Johnson, Jr., the Royal Johnson Family and PORTOSEL have been copiously documented in affidavits, exhibits, evidence and motions before this Court and the violations of The Human Rights Act of 1998 (UK) are well documented, as shown in Exhibit CR-C-02 attached.

2. The Court erred in its representation to the courtroom Jury that Soneet Kapila was the United States Trustee and an

agent of the United States Government. See the Court's statement recorded in the Trial Transcripts at the close of Kapila's testimony as a witness for the Prosecution.

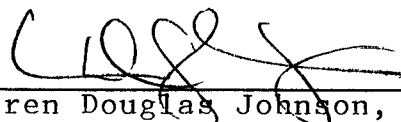
Joseph A. Guzinski, General Counsel clearly states in his letter to Petitioner that "The trustee [Soneet Kapila] does not represent the Government, or any arm thereof, . . ."

WHEREFORE, Petitioner requests this honorable Court to take mandatory judicial notice of the facts contained herein including the attachments that have been made a part of this filing.

OATH

I, Warren Douglas Johnson, Jr., hereby declare that I am of age and competent to be a witness, that the facts contained herein are true, correct, complete and not misleading to the best of my first hand knowledge under penalty of perjury under the Laws of The United States of America, the Laws of Florida and my unlimited commercial liability, this 19th day of March, 2003.

Respectfully submitted,



Warren Douglas Johnson, Jr.
#53225-004 / A-3
Federal Correctional Complex-Low
P.O. Box 1031
Coleman, Florida 33521-1031

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing is true and correct and a copy of this document was mailed by First Class Mail on 19th day of March, 2003 to: Carolyn Bell, Assistant United States Attorney, 500 S. Australian Boulevard, Suite 400, West Palm Beach, Florida 33401-6235.

BY:



Warren D. Johnson, Jr.

The Human Rights Act 1998

Incorporating the European Convention on Human Rights into UK law (November 9, 1998)

■

Article 5

Right to liberty and security

1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

- (a) the lawful detention of a person after conviction by a competent court;
- (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
- (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
- (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
- (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
- (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

3. Everyone arrested or detained in accordance with the provisions of paragraph 1(c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

Article 6

Right to a fair trial

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

3. Everyone charged with a criminal offence has the following minimum rights:

- (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
- (b) to have adequate time and facilities for the preparation of his defence;
- (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
- (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
- (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

Article 7

No punishment without law

- 1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.
- 2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.

Article 8

Right to respect for private and family life

- 1. Everyone has the right to respect for his private and family life, his home and his correspondence.
- 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 9

Freedom of thought, conscience and religion

- 1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
- 2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Article 10

Freedom of expression

- 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
- 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Schedule1, Part II

First protocol toptop

Article 1

Protection of property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.



U.S. Department of Justice

Executive Office for United States Trustees

Office of the General Counsel

20 Massachusetts Avenue, N W
Washington, D C 20530

Voice - (202) 307-1399
Fax - (202) 307-2397

December 12, 2002

Warren D Johnson, Jr
53225-004 / A-3
Federal Correctional
Complex, Coleman - Low
Coleman, Florida 33521

Dear Mr Johnson

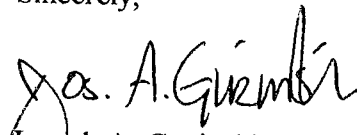
This responds to your letter dated May 8, 2002, requesting information regarding the appointment and responsibilities of Soneet Kapila, the Chapter 7 Trustee assigned to administer your bankruptcy case. The United States Trustee Program is a component of the Department of Justice responsible for supervising the administration of bankruptcy cases and trustees 28 U.S.C. § 586

Chapter 7 trustees are private individuals, not federal government employees. They are appointed to a panel of private trustees by the United States Trustee and are reappointed annually. Section 704 of the Bankruptcy Code, at 11 U.S.C. § 704, sets forth the duties of a trustee (copy enclosed). Mr. Kapila reports to and is supervised by the United States Trustee in Atlanta, through the Assistant United States Trustee in Miami. The current reappointment of Mr. Kapila, which is effective January 1, 2002 through December 31, 2002, is enclosed along with a copy of the letter informing Mr. Kapila of his reappointment, which describes some of the responsibilities of the trustee.

With regard to your question about representation, the trustee represents the estate and has fiduciary responsibilities to the estate, the creditors, including taxing authorities, and to the debtor. The trustee does not represent the Government, or any arm thereof, or any specific creditor individually, or the debtor individually.

I trust this information is of use to you.

Sincerely,


Joseph A. Guzinski
General Counsel

Enclosures



362 Richard Russell Building
75 Spring Street SW
Atlanta, GA 30303

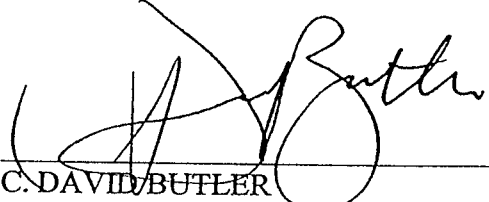
(404) 331-4437
FAX (404) 331-4464

**REAPPOINTMENT TO THE
PANEL OF CHAPTER 7 TRUSTEES**

I hereby reappoint Soneet R. Kapila to the panel of chapter 7 trustees for the Southern District of Florida. The trustee is designated to be the presiding officer at Section 341 meetings and has the authority to examine debtors under oath. FRBP 2003(b). This appointment commences on January 1, 2002 and ends on December 31, 2002, but may be terminated anytime at the discretion of the United States Trustee.

By accepting appointments in bankruptcy cases filed under chapter 7 of the Bankruptcy Code, the trustee agrees to allow the United States Trustee access to any and all files and records maintained on behalf of any bankruptcy estate under the trustee's administration, including, but not limited to, files maintained on the estate's behalf by an attorney for the trustee.

Dated: December 26, 2001


C. DAVID BUTLER

United States Trustee for Region 21,
the Judicial Districts Established for
the States of Georgia, Florida and for
the Commonwealth of Puerto Rico and
the Virgin Islands of the United States

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 98-8039-CR-RYSKAMP

UNITED STATES OF AMERICA,

Plaintiff,

v.

WARREN D. JOHNSON, JR.,

Defendant.

VERIFIED PETITION FOR MANDATORY JUDICIAL NOTICE OF
GOVERNMENT'S FAILURE TO RESPOND TO 12/14/2002 FILING
AND THE FAILURE OF THE GOVERNMENT TO PROVIDE A
TRUE, CORRECT AND COMPLETE "TRANSCRIPT" IN
ANSWER TO PETITIONER'S SQUARE CHALLENGE TO THE
COURT'S JURISDICTION WITH INCORPORATED
MEMORANDUM OF LAW

COMES NOW Warren Douglas Johnson, Jr., Petitioner, Sui
Juris and In Propria Persona, and petitions this honorable
Court to take Mandatory Judicial Notice under the Federal
Rules of Evidence (FRE) Rule 201(d) of the facts contained
herein and under the Southern District of Florida Local
Rules (S.D.Fla.L.R.) Rule 7.1 and requests an Order or hearing
on the matter referenced herein within ten (10) days and as
good cause therefore sets forth the following:

BACKGROUND

1. Petitioner filed with the Court a "VERIFIED EMERGENCY
PETITION WITH MEMORANDUM OF LAW to arrest Judgment for lack
of Subject Matter Jurisdiction" recorded on 10/22/02 as Docket
Entry 197. This Jurisdiction Petition was filed under Federal
Rules of Criminal Procedure (F.R.Crim.P.) Rule 52(b) and/or

Federal Rules of Civil Procedure (F.R.Civ.P.) Rules 12(H)(3) and/or 60(b)(4).

2. In the Government's "ANSWER TO PETITIONER'S SUPPLEMENTAL MOTION TO VACATE, SET ASIDE, OR CORRECT SENTENCE" recorded on 11/08/02 as Docket Entry 202, the Government attempts to recharacterize the Petitioner's "VERIFIED EMERGENCY PETITION WITH MEMORANDUM OF LAW" (Docket Entry 197) as a supplemental motion under Title 28 U.S.C. § 2255.

3. Petitioner filed a "RESPONSE in Opposition to motion response by the Government (Docket Entry 16)" which was recorded on 11/21/02 as Docket Entry 17 and followed-up by a "VERIFIED OBJECTION TO GOVERNMENT'S ANSWER" to Petitioner's VERIFIED EMERGENCY PETITION WITH MEMORANDUM OF LAW" which was recorded on 12/18/02 as Docket Entry 18 under the wrong case number and responded to the Government's recharacterization with an Objection to said recharacterization and Objections to the Government's RESPONSE which was recorded in the wrong case number and included a purported "certified transcript" of a purported **INDICTMENT RETURN BEFORE MAGISTRATE JUDGE ANN E. VITUNAC** allegedly held on March 24, 1998. See attached copy of filing as Exhibit CR-C-01.

4. Neither the Court nor the Government has made any reply to the allegations made in the Petitioner's last two filings into Court which are approximately 90 days old.

5. Petitioner has given the Court every courtesy as to a reasonable amount of time to discover, as radio news commentary Paul Harvey would say - the rest of the story, concerning the Government's misleading and erroneous response. See pages 2 and 3 of the Jurisdictional Petition, particularly paragraphs A, B, D and E.

6. As the Court's jurisdiction in this case now turns on the purported "Indictment Return" hearing allegedly evidenced by the Government as occurring on Tuesday, March 24, 1998, the Petitioner needs to have "the rest of the story" specifically:

1. On what day did the purported "hearing" actually occur?
2. At what time did the purported "hearing" occur and when did it end?
3. Was the Court "in session" at that time or was the Court "in recess" or had it not begun or was the Court adjourned when the purported "hearing" took place? The Court's record will need to be examined to determine if the Court was **in session** at the particular time the purported "indictment" was allegedly returned.
4. In what room, courtroom, or location did the purported "hearing" take place?
5. Where were the Grand Jury members during the purported "hearing"?
6. Why didn't the Grand Jury members sign the concurrence form?
7. Whose name is represented by the words "JOHN DOE" on the cover page of the transcript that shows the date of Tuesday, March 24, 1998?
8. Why doesn't the indictment show "sealed" by the Clerk of the Court on the docket?
9. How many Indictments were purportedly presented by the Foreperson at the proceedings? Why weren't the others read into Court?

10. Why isn't the "Transcript" prepared by Catherine Villwock, RPR, a "complete" record of the purported Indictment Return before Magistrate Judge Ann E. Vitunac?
11. Where is the original record (tape) of the purported hearing? What is the tape number?
12. Why have the purported shorthand notes of the purported Indictment Return not made available by the Prosecution to the Petitioner and to the Court? Title 28 U.S.C. §753b.

There appears to be contradictory information on the record and many unanswered questions. It is apparent that this transcript of the Indictment Return is innaccurate and not authentic and could have been created for the purposes of deceiving the Court.

7. Since the Court has recognized the Jurisdictional Petition as somewhat similar to a Habeas Corpus petition, certainly Title 28 U.S.C. § 2243's time limitations should govern this matter, that being 72 hours or within 3 days, as specified in the WHEREFORE Clause of the Jurisdictional Petition that was recorded on 10/22/02. The Court should also take note of United States v. Peter, 310 F.3d 709 (11th cir. 2002) because jurisdictional defects cannot be procedurally defaulted. United States v. Cotton, 122 S.Ct. 1781.

8. In the event the Court does not have jurisdiction, the Petitioner expects his immediate and unconditional release and reasonable compensation for over the 50 months he has spent incarcerated at Palm Beach County Jail, F.D.C. Miami, and FCC Coleman Low.

9. It now appears and Petitioner can only presume that the Court and Prosecution are acting in Bad Faith, with unclean hands, in an attempt to prolong Petitioner's unconstitutional incarceration.

10. Petitioner, therefore, places this honorable Court on Notice that as of 5 or 6 P.M. on the third day following the Court's receipt of this instant Petition, as evidenced by the date on the U.S. Mail return receipt card, if the Court does have the answers to the above questions and "answers" to those in the OBJECTION Petition, Petitioner will claim the compensatory damages at the rate established in Trezevant v. City of Tampa, 741 F.2d 336 (11th cir. 1984), which is \$25,000 for every twenty-three minutes of further unlawful deprivation of liberty.

11. There is obvious deception upon the Court. The Indictment is against WARREN D. JOHNSON, JR. and the Court proceedings state Warren Johnson, Junior which was not before the Court.

WHEREFORE, Petitioner requests the Court to issue an Order to AUSA Carolyn Bell to:

1. Under penalty of perjury, provide a true, **correct, and complete** response to each and every accusation in the Petitioner's OBJECTION Petition (Docket Entry 18), questions raised in the RESPONSE filing (Docket Entry 17), and in the instant Petition and use (include) the words "in open court" when alleging that the purported indictment "was properly returned;"

2. Provide a forensic test of the original shorthand notes of Catherine Villwock, RPR, to confirm that the paper and ink are around 4 years old; and,


3. Place the evidence of the forensic test and AUSA Bell's answers on the Court's record, and, in the event either the "original record" is found to be a fraud or AUSA Bell's true, correct, and complete record now indicates the purported indictment was not returned in **open court** as required under the strictures of F.R.Crim.P. Rule 6(f) declare the purported

indictment against WARREN D. JOHNSON, JR. was **Void ab initio** for lack of Jurisdiction and Order and effect the immediate and unconditional release of Warren D. Johnson, Jr. from incarceration no later than 4 P.M. on the 28th day of March, 2003.

OATH

I, Warren Douglas Johnson, Jr., hereby declare that I am of age and competent to be a witness, that the facts contained herein are true, correct, complete and not misleading to the best of my first hand knowledge under penalty of perjury under the Laws of The United States of America, the Laws of Florida and my unlimited commercial liability, this 17th day of March, 2003.

Respectfully submitted,




Warren Douglas Johnson, Jr.
#53225-004 / A-3 (Citrus)
Federal Correctional Complex-Low
P.O. Box 1031
Coleman, Florida 33521-1031

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing is true and correct and a copy of this document was mailed by First Class Mail on 17th day of March, 2003 to: Carolyn Bell, Assistant United States Attorney, 500 S. Australian Boulevard, Suite 400, West Palm Beach, Florida 33401-6235.

BY:



Warren D. Johnson, Jr.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 98-8039-CR-RYSKAMP

UNITED STATES OF AMERICA,

Plaintiff,

v.

WARREN D. JOHNSON, JR.,

Defendant.

VERIFIED OBJECTION TO GOVERNMENT'S ANSWER
TO PETITIONER'S SUPPLEMENTAL MOTION
TO VACATE, SET ASIDE, OR CORRECT SENTENCE
PURSUANT TO TITLE 28, UNITED STATES CODE,
SECTION 2255; AND THE UNITED STATES'
LACK OF RESPONSE TO DOCKET NO. 204 FILED 11/18/2002

COMES NOW Warren Douglas Johnson, Jr., Petitioner, Sui
Juris and In Propria Persona, and objects to the Government's
Response dated the 18th day of November for the following
reasons done with good cause and in good faith:

1. AUSA Carolyn Bell attempted to classify Petitioner's
Verified Emergency Petition to Arrest Judgment for Lack of Subject
Matter Jurisdiction with Incorporated Memorandum of Law dated the
13th day of October, 2002 and received by the Court on October
22, 2002 (Dkt. 197) as a Motion under Title 28 U.S.C. & 2255
and the Government responded on the 18th day of November, 2002
with its answer and one Exhibit.

2. Petitioner objects to AUSA Bell's Answer that attempted
recharacterization of his Petition in his Defendant's Response
to Government's Answer to Petitioner's Supplemental Motion to
Vacate, Set Aside, or Correct Sentence Pursuant to Title 28

U.S.C. § 2255 and further Objects to the document that AUSA Carolyn Bell is using to attempt to mislead the Court for the following reasons:

A. The purported "certified transcript" of Indictment was allegedly returned. This is no small consequence as the only place an indictment can be lawfully returned is **in open court** at a time when the Court is in session.

There is an indication in the "transcript" that the Return Hearing was held in a Courtroom. The hearing could have taken place (if it took place at all) in the magistrate judge's chambers, in the grand jury room, in a lunchroom or at Tony's Bar & Grill.

Next there is no time on front of the "transcript" and the Return Hearing could have been at 6 P.M., a time when the Court was not open to the general public.

B. The purported transcript offered by the United States as of November 8, 2002 that was submitted by Catherine Villwock was faxed November 7, 2002 and not only violates 47 U.S.C. 227(d)(2); but, it is physically impossible to fax a certified document the day before it is certified; and, Petitioner objects to this fraud and deception on the Court as a forged and altered instrument to mislead the Court.

C. The "Answer" does not specifically state on Page 3 or on Page 4 that the purported "indictment" was **returned in open Court** and uses inuendo to make it look like it was. See paragraph 1 on Page 3. Adding the three words "in open court" to the third sentence would have negated this point, especially since only the foreperson was present in this purported hearing.

D. The authenticity of the "notes" or whatever "original record" is being used to "transcribe" the "transcript" are also objected to as the Clerk of the Court was not in possession of them as documents required under 28 U.S.C. § 753(b), and unless and until it is confirmed by forensic tests on both the paper and ink that they are both over 4 years old, Petitioner objects to the authenticity of the purported notes.

E. The amended Judgment signed by Judge Ryskamp (Dkt. 173) states:

"X was found guilty ... of the Indictment on 11/23/1998."

Therefore, the purported transcript certified from the purported shorthand notes of November 24, 1998 would logically be fraud on the Court and conflicting with the Judge's own signed Order properly recorded and docketed with the Clerk of the Court.

WHEREFORE, Petitioner thus Objects to the authenticity, accuracy, and completeness of the purported "transcript" and requests the Court to ascertain the time and place (specific room) wherein the alleged Indictment Return hearing took place within 72 hours of the receipt of this filing; and in the event the "hearing" was not held or was not held **in open Court** that the Court issue an Order for the immediate and unconditional release of WARREN D. JOHNSON, JR. from incarceration forthwith and provide Petitioner all other relief that is just and appropriate.

I, Warren Douglas Johnson, Jr., hereby swear that the foregoing information is true, correct and complete and not misleading under penalty of perjury under the Laws of The United States of America and under the Laws of the State

of Florida on this 14th day of December, 2002.

Respectfully submitted,

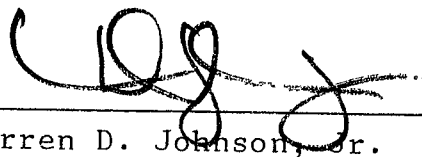


Warren Douglas Johnson, Jr.
#53225-004 / A-3 (Citrus)
Federal Correctional Complex-Low
P.O. Box 1031
Coleman, Florida 33521-1031


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing is true and correct and a copy of this document was mailed by First Class Mail on 14th day of December, 2002 to: Carolyn Bell, Assistant United States Attorney, 500 S. Australian Boulevard, Suite 400, West Palm Beach, Florida 33401-6235.

BY:


Warren D. Johnson, Jr.

Docket #18 (12/18/02) 02 CIV 80353 / 98-8039 CR RYSKAMP.

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none">■ Complete items 1, 2, and 3 Also complete item 4 if Restricted Delivery is desired■ Print your name and address on the reverse so that we can return the card to you■ Attach this card to the back of the mailpiece, or on the front if space permits		<p>A Signature  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>X <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C O D</p>	
1 Article Addressed to Clerk of the Court United States District Court Southern District of Florida 701 Clematis Street West Palm Beach, FL 33401		B Received by (Printed Name) _____ C Date of Delivery _____	
2 Article Number (Transfer from service label) 7000-1530-0002-1062-0700		D Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below <input type="checkbox"/> No	
PS Form 3811, August 2001		4 Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	

Domestic Return Receipt

102595 02 M 1035

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,
Plaintiff,

CASE NO. : 98-8039-CR-RYSKAMP

v.

WARREN D. JOHNSON, JR.
Defendant-Petitioner.

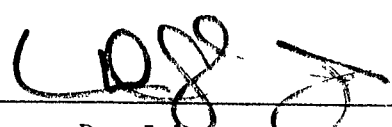
NOTICE OF FILING ADDITIONAL DOCUMENTATION AS EXHIBIT B
PAGES B-58 to B-64 IN SUPPORT OF DEFENDANT'S PREVIOUS FILING OF A
COMBINED MOTION AND JUDICIAL NOTICE UNDER 201 (d) F.R.E.

COMES NOW, Petitioner Warren D. Johnson, Jr., In Propria
Persona and Sui Juris, and hereby files into this Court the
following:

1. EXHIBIT B, pages B-58 to B-65, attached herein as an
addition to the existing EXHIBIT B, pages B-1 to B-57 on file
in this case.

RESPECTFULLY submitted this 6th day of March, 2003.

Respectfully submitted,


Warren D. Johnson, Jr.
53225-004 A-3 Low
Federal Correction Complex
P.O. Box 1031
Coleman, Florida 33521-1031

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing is true and correct and
a copy of this document was mailed by First Class Mail on the
6th day of March, 2003 to: Carolyn Bell, AUSA, 500 South
Australian Blvd., West Palm Beach, Florida 33401-6235.

BY: 
Warren D. Johnson, Jr.

207 3-15-03

AFFIDAVIT OF JEFFREY A. JOHNSON

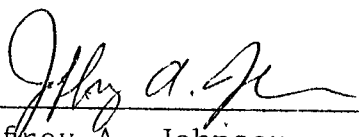
UPON BEING DULY SWORN, I the undersigned, Jeffrey A. Johnson say the following, which is true and correct, under penalty of perjury and based on my knowledge and belief:

1. I filed an Affidavit for this case, 98-8039-CR-RYSKAMP, which was notarized March 19, 2002; and, entered into the record of the case as EXHIBIT B, pages B-1 to B-57. The facts contained in that Affidavit are undisputed.

2. I have further supplied a document, GOVERNMENT IMPROPRIETIES REGARDING THE TRIAL OF WARREN D. JOHNSON, JR.- Chronological Business History of Warren D. Johnson, Jr. along with the government's misrepresentation and lies regarding the facts, which document has been supplied to the Congressional Investigation of government misconduct, and the Inspector General Glen A. Fine's investigation, which opened October 2002.

3. I now affirm the aforesaid document under oath, and add same as pages B-58 to B-64 to my previous Affidavit.


FURTHER, AFFIANT SAYETH NAUGHT.



Jeffrey A. Johnson
12118 East Yates Road
Lyndonville, New York 14098

STATE OF NEW YORK
COUNTY OF ORLEANS

The foregoing instrument was acknowledged before me this 25th day of February, 2003, by Jeffrey A. Johnson, who is personally known to me or who has produced identification and who took an oath/affirmed.



Notary Public

B-58

NOTARY PUBLIC
for the State of New York
in the COUNTY of ORLEANS
My Commission Expires: Jun 30, 2006

Government Improprieties Regarding the Trial of Warren D. Johnson, Jr.

Case # 98-8037-CR-RYSKAMP

Chronological Business History of Warren D. Johnson, Jr. along with the government's misrepresentation and lies regarding the facts.

A) Warren D. Johnson, Sr. Trustee (Father of the defendant) purchases a piece of property on Jupiter Island, Florida from E. J. Lavino and Company from Philadelphia, Pennsylvania. The property was subdivided into lots and sold by Warren, Sr. The net gain on the sale of the Jupiter Island lots as reported on Warren, Sr.'s income taxes are as follows:

1978 Schedule D \$58,219 net gain

1979 Schedule D \$187,581 net gain

1980 Schedule D \$388,948 net gain from Warren, Sr.'s sale of oceanfront home on Jupiter Island.

Government lies at trial:

- 1) Warren Sr. (Father) was Warren Johnson Jr.'s nominee.
- 2) Jupiter Island lots were sold for 20 million dollars.
- 3) The 20 million dollars was placed in trust for Mark and Kelly Johnson, the son and daughter of Warren D. Johnson Jr.

Documents exposing the lies

- 1) Warren D. Johnson, Sr.'s Income Tax Returns from 1978-80
- 2) Contract between Warren, Sr. and E. J. Lavino and Company
- 3) Signed and executed contracts between Warren, Sr. and all the buyers of the lots on Jupiter Island that came to be called "Blowing Rocks Subdivision" that show that the gross receipts on the sale of all the lots was a small fraction of the 20 million dollars the government claimed.
- 4) That Mark and Kelly Johnson were paid \$9,000.00 respectively for each of their individual trusts as reflected on Warren, Sr.'s 1979 Income Tax Return Schedule "E"

It is important to note at this time that Warren D. Johnson, Jr. had gone through bankruptcy and was discharged in 1979. Because of the 1979 bankruptcy the government prosecutor and FBI agent lied also to Warren, Jr.'s probation officer, Patricia Borah. By feeding Ms. Borah false information about the Jupiter Island deal, Ms. Borah represented to the court for sentencing purposes that Warren, Jr. had a history of hiding assets from the bankruptcy court. (Totally False) Because of Ms. Borah's report Warren, Jr. received a lateral movement from a civil conviction to a criminal conviction with an upward movement of 2 points. This virtually doubled Warren, Jr.'s sentence. All based on the biased information supplied by the prosecutor and the FBI per Patricia Borah's own words.

B) On October 18, 1983 Warren Johnson, Sr. loans 261,250.00 to Linkous Corporation a Florida Contractor for the purpose of installing the roads, sewer, and water lines in a land development project called Bay Pointe. (Warren, Sr. took a note from Linkous Corporation signed by the President, Jerry Linkous)

Document on record: Note between Warren, Sr. and Linkous Corporation

C) In 1984, Dr. Walter Harber along with his wife Becky purchased lots 11 and 12 in Bay Pointe from Linkous Corporation under a "Resolution of Agreement for Deed" This means that Dr. Harber need only pay the interest on the value of the two lots and not have to pay any principle until he sells the lots. A "Resolution of Agreement for Deed" is used as a selling tool for real estate speculators. Lots were valued at \$250,000.00 (The selling price to Harber) each per Martin County, Florida records. Dr. Harber paid Linkous Corporation \$50,000.00 each year for 5 years (10% interest on \$500,000.00)

Documents on record:

- 1) Signed Resolution for Agreement for Deed between Linkous Corp. and Walter Harber.
- 2) Bate Stamps from Martin County Records showing purchase value of lots 11 and 12 at \$250,000.00 each

FBI Violations: Dr Harber's income tax returns showing the payments of \$50k each year for 5 years as interest payments. The FBI had Harber's Income tax returns but did not supply them to Warren, Jr. or his defense counsel. FBI Special Agent Michael McBride interviewed Dr. Walter Harber and Jerry Linkous. When a FBI Agent interviews someone the agent has to fill out a 302-field report. No 302-field reports were supplied to Warren Johnson, Jr.'s defense counsel. It was post trial that I Jeffrey A. Johnson conducted a taped (With the interviewee's permission)

conversation with Dr. Harber and Jerry Linkous. They stated to me that they had told the FBI that Warren, Jr. was innocent of the issues he was charged with and they supplied the FBI with documentation to prove Warren's innocence. If the 302-field reports had have been given to Warren's defense counsel, Warren would never have been convicted. This is a clear legal violation whereby evidence was withheld or destroyed by the government and would have proven Warren, Jr 's innocence.

D) Around the year 1990 Warren Johnson, Jr. owned an option to purchase an adjacent piece of property to Bay Pointe. Warren Johnson, Jr. did not have sufficient funds to close on the property, so Warren sold his option to Dr. Walter Harber, James Lindsey, and Adam Brown for 80 some thousand dollars. (Adam Brown is Warren, Jr.'s son-in-law and was recognized as the top real estate salesman in South Florida)

Note: Warren D. Johnson, Jr. declares bankruptcy and is discharged in 1991

Harber, Lindsey, and Brown developed the property and in early 1994 sold a lot to a man named Dexter Yeager for \$550,000.00. Harber paid Linkous Corporation \$250,000.00 as a principle payment on his lots in Bay Pointe (See category C). Linkous Corporation then paid Warren D. Johnson, Sr. the \$250,000.00 to satisfy the note (See category B). Warren D. Johnson, Sr. accepted the 250k as payment in full and forgave the balance and interest not yet received.

Warren, Sr. a few weeks later sent down a series of 3 checks totaling \$225,000.00 made payable to Dianne Johnson, Warren, Jr.'s wife. One check for \$28,000.00 was to pay for a new 1994 GMC conversion van that I, Jeff Johnson, had purchased from Warren, Jr. and Dianne. I then paid the money back to my father, Warren, Sr. a few weeks later.

Warren, Jr. and Dianne used the \$225,000.00 to pay off accumulated bills, assist a business partner financially (George Janke), and start a new business in the road de-icing field.

Synopsis: Warren Johnson, Jr. was charged and found guilty of hiding an asset from his 1991 Bankruptcy. The asset in question was the \$225 k from the sale of the lot to Dexter Yeager (See category D). Warren, Jr. then laundered the money through Linkous Corp., through his father Warren Johnson, Sr., then back to Dianne, Warren, Jr.'s wife.

Issues of substance that caused an unwarranted guilty verdict:

1. Upon indictment all of Warren, Jr.'s assets were frozen. Warren could not afford an attorney of his choice so he was forced to take a public defender (Robert Adler).
2. Mr. Adler because of his caseload, only met with Warren once a week for a couple hours.
3. Because the trial took place just before Thanksgiving, Judge Ryscamp only gave the prosecution and defense a total of 8 days for the trial. Judge Ryscamp did not want to sequester the jury over Thanksgiving. The prosecution took the first 5 days leaving only 3 days for the defense and for the closing arguments.
4. Because of the time constraints and per Mr. Adler, "The lack of money", no witnesses were called to testify for the defense. Only Warren, Jr. testified.
5. All evidence was read into the records for the defense. (This is very important and you'll see why)
6. Dr. Walter Harber was kept in a windowless room in the courthouse for 3 days by the prosecution waiting to testify. After the 3 days Dr. Harber was told to "Go get lost" by FBI agent McBride. (Harber was kept under wraps by the prosecution and they knew they weren't going to let him testify because Harber knew the truth and held the key to Warren's innocence.)
7. In closing arguments the prosecution laid out a mild closing statement. The defense laid out in their closing statements that the prosecution had not proved one thing against his client (Warren, Jr.). That all testimony was hearsay and most irrelevant to the issues being tried. In our judicial system the prosecution gets one more crack at the jury in closing and this is where Prosecutor Carolyn Bell did her damage. Ms. Bell proceeded to tell the jury that Warren Johnson, Jr. is a liar. Not just once but more than 10 times. Ms. Bell then told the jury "If all these people wanted to testified to Warren's innocence, why weren't they called to the stand". Then Ms. Bell questioned the jury by saying "Why did Warren, Jr. read the evidence into the record? How do we know he wasn't reading from a blank sheet of paper? I didn't see it did you?"
8. All the evidence in Harber's tax returns that would have shown the 250k was truly owed to Linkous. The 302-field reports on Harber and Jerry Linkous and God knows how much other evidence was destroyed or hidden from the defense by the government prosecutor and FBI.

ADDENDUM TO REPORT BY JEFFREY A. JOHNSON

In case no. 98-8039-CR-RYSCAMP there was no money laundering as the government claimed, but only legitimate payments from Dr. Walter Harber to Linkous Corporation for the principle payment on a riverfront lot in Bay Pointe. This is a legitimate cash-flow and not money laundering.

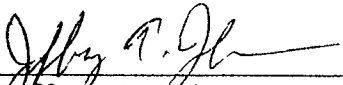
Dr. Harber could not remember if his payments were interest or principle, and was in error as to the interest rate being ten (10%) percent. Upon investigation we have now determined that Dr. Harber in fact payed Linkous Corporation eighteen (18%) percent interest from 1982 to 1986 on a Resolution for an Agreement for Deed. The principle amount was \$275,000.00 originally. Dr. Harber brought Dr. Jack Williams into the same deal, who also paid eighteen (18%) percent interest on the purchase of Lots 8 & 9 under a similar Resolution for an Agreement for Deed at a slightly higher principle amount. Dr. Harber's principle amount was re-negotiated and reduced to \$250,000.00. Dr. Williams sold his Lots back to Linkous Corporation and received a capital gain on his tax returns plus interest deductions for payments in the previous years.

These facts are well known to the United States and can be verified by the tax returns of both Dr. Williams & Dr. Harber, along with their testimony. The testimony of Helen, who was both their loan officer and banker, and could possibly confirm this with greater detail.

Dr. Harber told the F.B.I. and Assistant United States Attorney Bell, "that the \$250,000.00 was a principle payment for a lot." Dr. Harber called Adam Brown after his call from the F.B.I. and prosecutor Bell, and told Adam Brown that "they were screaming at him (Harber) for telling them the \$250,000.00 was principle for a riverfront lot." Harber could have stiffed Linkous on that payment, and been a tax cheat, but made the payment for HIS benefit. Linkous then did the honorable thing by paying off his loan to Warren D. Johnson, Sr.

In closing I say this, an innocent man has been incarcerated in Florida for the past 46 months. Almost 4 years of his life wasted at the taxpayer expense for something he was innocent of. Free Warren Johnson, Jr. or give him a new trial. I've got enough evidence and history in this case to now, without a doubt, prove Warren, Jr.'s innocence.

Sincerely



Jeffrey A. Johnson

Prosecutors See Limits to Doubt In Capital Cases

By ADAM LIPTAK

Judge Laura Denvir Stith seemed not to believe what she was hearing.

A prosecutor was trying to block a death row inmate from having his conviction reopened on the basis of new evidence, and Judge Stith, of the Missouri Supreme Court, was getting exasperated. "Are you suggesting," she asked the prosecutor, that "even if we find Mr. Amrine is actually innocent, he should be executed?"

Frank A. Jung, an assistant state attorney general, replied, "That's correct, your honor."

That exchange was, legal experts say, unusual only for its frankness.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,
Plaintiff,

CASE NO.: 98-8039-CR-RYSKAMP

v.

WARREN D. JOHNSON, JR.,
Defendant-Petitioner.

NOTICE OF FILING ADDITIONAL DOCUMENTATION AS EXHIBIT Z
PAGES 66 to 71 IN SUPPORT OF DEFENDANT'S PREVIOUS FILING OF A
COMBINED MOTION AND JUDICIAL NOTICE UNDER 201 (d) F.R.E.

COMES NOW, Petitioner Warren D. Johnson, Jr., In Propria
Persona and Sui Juris, and hereby files into this Court the
following:

1. Exhibit Z, pages 66 to 71, attached herein as an addition
to the existing Exhibit Z, pages 1 to 65 on file in this case.
The Court shall take Judicial Notice of PORIOSEL- The Royal
Johnson Family- Declaration of Sovereignty and Treaty with
the UNITED STATES, under the Convention de La Haye du 5
october 1961, No. 2003-661 on the Ninth day of January, A.D.
2003.
2. Exhibit Z, pages Z-19 to Z-57, list \$ 41.00 Billion U.S.
in six (6) GUARANTY BONDS and are filed in this case. The
Court shall take Judicial Notice that the six (6) GUARANTY
BONDS are recorded with Dean Heller, Secretary of State for
the State of Nevada, under the UNIFORM COMMERCIAL CODE
No. 2002021788-9; 2002021789-1; 2002021790-4; 2002021791-6;
2002021792-8; and 2002021793-0 filed in Carson City, Nevada
on August 14, 2002 at 1:10 P.M.

RESPECTFULLY submitted this

19th

day of February, 2003.

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

Respectfully submitted,

7001 2510 0008 7204 4441

~~53225-004~~ 53225-004

W. Johnson
A-3 Postage \$ 1.06

Certified Fee \$ 2.38
Return Receipt Fee (Endorsement Required) \$ 1.75

Restricted Delivery Fee (Endorsement Required) \$ 5.21

Total Postage & Fees \$ 9.45

Sent To
Clerk of the Court
Street Apt No
or PO Box No UNITED STATES DISTRICT CT.
City State ZIP+4 Southern District of Fl.
701 Clematis-WEST PALM, FL 33401

PS Form 3800, January 2001 See Reverse for Instructions

(10-8-03)

Warren D. Johnson Jr.
#53225-004/ A-3 (Citrus)
Federal Correction Complex-Low
P.O. Box 1031
Coleman, Florida 33521-1031

STATE OF SERVICE

I HEREBY CERTIFY that the foregoing is true and correct and a copy of this document was mailed by First Class Mail on the 19th day of February 2003 to: Carolyn Bell, Assistant United States Attorney, 500 S. Australian Blvd., Suite 400, West Palm Beach, Florida 33401-6235.

BY:

(10-8-03)
Warren D. Johnson, Jr.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3 Also complete Item 4 if Restricted Delivery is desired
- Print your name and address on the reverse so that we can return the card to you
- Attach this card to the back of the mailpiece, or on the front if space permits

1 Article Addressed to

Clerk of the Court
United States District Ct.
Southern District of Fl.
701 Clematis Street
West Palm Beach, Fl. 33401

COMPLETE THIS SECTION ON DELIVERY

A Received by (Please Print Clearly) B Date of Delivery

C Signature

X

☐ Agent
☒ Addressee

D Is delivery address different from item 1?

If YES, enter delivery address below

☐ Yes
☒ No

3 Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C O D

4 Restricted Delivery? (Extra Fee)

☐ Yes

2 Article Number (Copy from service label)

7001 2510 0008 7204 4441

OFFICE OF THE SECRETARY
Office of International Relations
Division of Elections
Division of Corporations
Division of Cultural Affairs
Division of Historical Resources
Division of Library and Information Services
Division of Licensing
Division of Administrative Services



State Board of Education
Trustees of the Internal Improvement Trust Fund
Administration Commission
Florida Land and Water Adjudicatory Commission
Siting Board
Division of Bond Financing
Department of Law Enforcement
Department of Highway Safety and Motor Vehicles
Department of Veterans Affairs

FLORIDA DEPARTMENT OF STATE
Ken Detzner
Secretary of State

MEMORANDUM

To: The Royal Johnson Family
Portosel
12118 East Yates Road
Lyndonville, NY 14098-4098

From: Notary Certification/Apostille Section

Date: January 9, 2003

As requested in a letter dated December 17, 2002, we have certified the following:

<u>Document</u>	<u>Copies</u>	<u>Certificate Type</u>	<u>Name</u>
Notarized document	1	Apostille	Ricardo Miro

This will acknowledge receipt of payment for the cost(s) shown below

<u>Payment</u>	<u>Amount</u>	<u>Purpose</u>
Check #1572	\$10 00	Certificates

If we can be of further assistance, please let us know.

Enclosures
Reference ID: 162939

OFFICE OF INTERNATIONAL AFFAIRS
NOTARY COMMISSIONS AND CERTIFICATIONS SECTION
The Capitol • Room 1902 • Tallahassee, Florida 32399-0250 • (850) 921-5268 or (850) 413-9732
FAX: (850) 488-2225 • WWW Address <http://www.dos.state.fl.us> • E-Mail intrel@mail.dos.state.fl.us

State of Florida



Department of State

APOSTILLE

(Convention de La Haye du 5 octobre 1961)

1. Country: United States of America

This public document

2. has been signed by Ricardo Miro

3. acting in the capacity of Notary Public of Florida

4. bears the seal/stamp of Notary Public, State of Florida

Certified

5. at Tallahassee, Florida

6. the Ninth day of January, A.D., 2003

7. by Secretary of State, State of Florida

8. No. 2003-661

9. Seal/Stamp:

10. Signature:



CR2EO22 (1-03)

Ken Detzner
Ken Detzner
Secretary of State

PORTOSEL)	
)	
The Royal Johnson Family	) ss.	Declaration of the
	)	Sovereignty of the
Joyce Lucille Johnson	)	Principality of Orange
Warren Douglas Johnson, Jr.	)	Reorganized To Operate
Sharon Lynn Johnson Pratt	)	Subject to Emir de
Patricia Ann Johnson Wellspeak	)	Vittel's Law of Nations;
Paul Richard Johnson	)	Nature's Law; and God's
Jeffrey Alan Johnson	)	Law
and Their Heirs in All)	
Future Generations	)	(Hereinafter PORTOSEL)
)	
In Sumter County, Florida	)	re: TESTAMENTARY EXISTANCE
In The United States of	)	OF TREATY BETWEEN PORTOSEL
America	)	AND THE UNITED STATES
)	

KNOW ALL BY THESE PRESENTS: That PORTOSEL, pursuant to the Law of Nations, and history from the 11th century, has established its family heritage with a religious and pious conscience and unalienable rights to reorganized it ancient sovereign principality, which secures the undersigned's legal rights, title and privileges and gives rise to this APOSTILLE of a public document to the United States and to all other sovereign nations and principalities.

The undisputed and recorded history of the Royal Johnson Family - PORTOSEL does far exceed all rights to blood, title and land recognized for Indian tribes as set forth in 41 AM JUR 2d, §§55 to 57; and, is copiously documented in the public records of the United States; United States District Court, Southern District of Florida in case no. 98-8039-CR-RYSKAMP.

The United States is a sovereign and subject only to its own constitution and the Law of Nations. See Supreme Court Case Choctaw Nation v. United States, 119 U.S. 1, 7 S.Ct. 75, 30 L.Ed 306; Hilton v. Guvat, 159 U.S. 163, 16 S.Ct. 139, 40 L.Ed 95 (NY 1895). And PORTOSEL is, in fact, a sovereign and relies on the following:

1. The Holy Bible
2. The Magna Carta of June 15, 1215
3. The Mayflower Compact of November 11, 1620
4. The Law of Nations by Emir de Vittel of 1758 edition
5. The Convention de La Haye du 5 Octobre 1961
6. Vienna Convention 18 April 1961, U.N.T.S. Nos. 7310-7312 vol. 500, pp. 95-239

7. The Ordinance for the Territory North and West of the River Ohio, 1 Stat. 51 52, July 13, 1787
8. International Organizations Immunities Act, 9 December 1945
9. The Vienna Convention on the Law of Treaties U.N. Doc A/Conf. 39/27 (1969), 63 A.J.I.L. 876 (1969) at Article 2, section 1(a), (b), and (g), and Article II for "limited accession" per TIAS 10072 33 U.S.T. 883, 527 U.N.T.S. 189
10. The Convention on Rights and Duties of States, 49 Stat. 3097, T.S. 881, 165 L.N.T.S. 19, 3 Bevans 145, done at Montevideo, Uruguay on December 26, 1934, @ Art. 2-3 Id. est. "sovereign ecclesiastical State"
11. Convention on the Conflict of Laws Relating to the Form of Testamentary Dispositions, concluded October 5, 1961, #11, et seq., Conflict of Laws (1993)
12. Vienna Convention on Consular Relations and Optional Protocols done at Vienna 24 April 1963, U.N.T.S. Nos. 8638-8640 vol. 596, pp. 262-512
13. Vienna Convention on the Law of Treaties, signed at Vienna 23 May 1969, U.N.T.S., Entry into Force: 27 January 1980

The Royal Johnson Family - PORTOSEL does hereby state that its family members are not 14th Amendment citizens of the District of Columbia but have, in fact, founded and/or ruled over and developed and have been landowners in the area of land known as the state of Massachusetts since 1620; the state of Rhode Island since 1638; and, the New Netherlands which is know known as the state of New York since 1624; and, its ancestors and the current Royal family have been, and in fact are citizens of PORTOSEL inhabiting within the states of New York and Florida.

A contract with the Royal Johnson Family - PORTOSEL is a treaty. The United States has dealt with the Royal Johnson Family - PORTOSEL as a family tribe or band; and Warren D. Johnson, Jr., individually and with power of attorney for each of his brothers and sisters can assert the rights of PORTOSEL. The United States of America has breeched its fiduciary contract, capacity and responsibility and has taken advantage of the Royal Johnson Family - PORTOSEL through the vendettas turned religious wars which have been documented and reported to various Federal agencies and departments of the United States over the last thirteen years. Those agencies and departments so notified were the Federal Bureau of Investigation (F.B.I.); the Judiciary Committee of the United States Congress; the Federal courts; the Police; the Judiciary Committee of the United States Senate; the Department of Justice; the Attorney General of the United States; and the Secretary of State of the United States.

As we progress in case no. 98-8039-CR-RYSKAMP and future cases based on future claims under the rule of Postliminium, the Treaty between our two sovereign entities will be forged for all future posterity.

PORTOSEL urges the Congress of the United States to identify and prosecute the violations of the Law of Nations outlined in the aforesaid mentioned case and to use care in order to avoid taking advantage of PORTOSEL; let the United States generously recognize its full obligations to protect the interests of the Royal Johnson Family - PORTOSEL; and to order its enemies to cease and desist all extortion threats, duress, and misusing the Federal courts to oppress PORTOSEL with superior skills of lies and deceits in order to deny the Royal Johnson Family - PORTOSEL justice and continue to violate its religious conscience.

Under 41 AM JUR 2d, § 55, these tactics that continue to occur are illegal in dealing with those whose rights preceded the United States of America of 1789; be it American Indian nations, tribes, bands or PORTOSEL.

The members of the Royal Johnson Family - PORTOSEL, descending from the band of Pilgrims, may in fact be "Diplomatic Agents" or described as "Ambassadors" or "Public Ministers" to the United States on behalf of PORTOSEL, with all rights established in the aforesaid 13 documents listed herein, constitutions, Laws and Treaties; and, any other contract, treaty, document or instrument of Law that does in fact recognize, acknowledge and treat the Royal Johnson family - PORTOSEL with Justice, righteousness and truth.

IN FAITHFUL WITNESS WHEREOF; Joint-Heir-Declarant states the above is true, correct and complete, and not misleading under the Law of the almighty God and His son Jesus Christ; and, under International Law as espoused in the Law of Nations, the Laws of PORTOSEL, and under my unlimited commercial liability, so help me God.

FURTHERMORE; all powers stated herein and the right standing of descendency and all commitments binding to the Royal Johnson Family - PORTOSEL.


Warren Douglas Johnson, Jr.

SUBSCRIBED and AFFIRMED to before me, a Notary Public in Sumter County, the State of FLORIDA, the above Signator, Warren Douglas Johnson, Jr. appeared, identified himself, and affixed his signature hereto, this 6th day of December, 2002.


Notary Public



APOSTILLE

(Convention de La Haye du 5 octobre 1961)

1. Country: United States of America

This public document PORTOSEL - The Royal Johnson Family
Declaration of Sovereignty and Treaty with United States

2. has been signed by Ricardo Miro... #DD.094019

3. acting in the capacity of Notary Public of Florida

4. bears the seal/stamp of Notary Public, State of Florida

Certified

5. at Tallahassee, Florida

6. the

7. by Secretary of State, State of Florida

8. No.

9. Seal/Stamp:

10. Signature:



Secretary of State

DSDE 99 (1-99)

This document contains an artificial watermark on REVERSE. Hold at 45°. DO NOT ACCEPT UNLESS VIEWED.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 98-8039-CR-RYSKAMP

UNITED STATES OF AMERICA,

Plaintiff,

v.

WARREN D. JOHNSON, JR.,

Defendant.

_____/

VERIFIED OBJECTION TO GOVERNMENT'S ANSWER
TO PETITIONER'S SUPPLEMENTAL MOTION
TO VACATE, SET ASIDE, OR CORRECT SENTENCE
PURSUANT TO TITLE 28, UNITED STATES CODE,
SECTION 2255; AND THE UNITED STATES'
LACK OF RESPONSE TO DOCKET NO. 204 FILED 11/18/2002

COMES NOW Warren Douglas Johnson, Jr., Petitioner, Sui
Juris and In Propria Persona, and objects to the Government's
Response dated the 18th day of November for the following
reasons done with good cause and in good faith:

1. AUSA Carolyn Bell attempted to classify Petitioner's
Verified Emergency Petition to Arrest Judgment for Lack of Subject
Matter Jurisdiction with Incorporated Memorandum of Law dated the
13th day of October, 2002 and received by the Court on October
22, 2002 (Dkt. 197) as a Motion under Title 28 U.S.C. & 2255
and the Government responded on the 18th day of November, 2002
with its answer and one Exhibit.

2. Petitioner objects to AUSA Bell's Answer that attempted
recharacterization of his Petition in his Defendant's Response
to Government's Answer to Petitioner's Supplemental Motion to
Vacate, Set Aside, or Correct Sentence Pursuant to Title 28

U.S.C. § 2255 and further Objects to the document that AUSA Carolyn Bell is using to attempt to mislead the Court for the following reasons:

A. The purported "certified transcript" of Indictment was allegedly returned. This is no small consequence as the only place an indictment can be lawfully returned is **in open court** at a time when the Court is in session.

There is an indication in the "transcript" that the Return Hearing was held in a Courtroom. The hearing could have taken place (if it took place at all) in the magistrate judge's chambers, in the grand jury room, in a lunchroom or at Tony's Bar & Grill.

Next there is no time on front of the "transcript" and the Return Hearing could have been at 6 P.M., a time when the Court was not open to the general public.

B. The purported transcript offered by the United States as of November 8, 2002 that was submitted by Catherine Villwock was faxed November 7, 2002 and not only violates 47 U.S.C. 227(d)(2); but, it is physically impossible to fax a certified document the day before it is certified; and, Petitioner objects to this fraud and deception on the Court as a forged and altered instrument to mislead the Court.

C. The "Answer" does not specifically state on Page 3 or on Page 4 that the purported "indictment" was **returned in open Court** and uses inuendo to make it look like it was. See paragraph 1 on Page 3. Adding the three words "in open court" to the third sentence would have negated this point, especially since only the foreperson was present in this purported hearing.

D. The authenticity of the "notes" or whatever "original record" is being used to "transcribe" the "transcript" are also objected to as the Clerk of the Court was not in possession of them as documents required under 28 U.S.C. § 753(b), and unless and until it is confirmed by forensic tests on both the paper and ink that they are both over 4 years old, Petitioner objects to the authenticity of the purported notes.

E. The amended Judgment signed by Judge Ryskamp (Dkt. 173) states:

"X was found guilty ... of the Indictment on 11/23/1998."

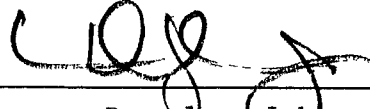
Therefore, the purported transcript certified from the purported shorthand notes of November 24, 1998 would logically be fraud on the Court and conflicting with the Judge's own signed Order properly recorded and docketed with the Clerk of the Court.

WHEREFORE, Petitioner thus Objects to the authenticity, accuracy, and completeness of the purported "transcript" and requests the Court to ascertain the time and place (specific room) wherein the alleged Indictment Return hearing took place within 72 hours of the receipt of this filing; and in the event the "hearing" was not held or was not held **in open Court** that the Court issue an Order for the immediate and unconditional release of WARREN D. JOHNSON, JR. from incarceration forthwith and provide Petitioner all other relief that is just and appropriate.

I, Warren Douglas Johnson, Jr., hereby swear that the foregoing information is true, correct and complete and not misleading under penalty of perjury under the Laws of The United States of America and under the Laws of the State

of Florida on this 14th day of December, 2002.

Respectfully submitted,

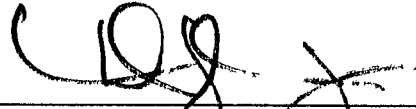


Warren Douglas Johnson, Jr.
#53225-004 / A-3 (Citrus)
Federal Correctional Complex-Low
P.O. Box 1031
Coleman, Florida 33521-1031

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing is true and correct and a copy of this document was mailed by First Class Mail on 14th day of December, 2002 to: Carolyn Bell, Assistant United States Attorney, 500 S. Australian Boulevard, Suite 400, West Palm Beach, Florida 33401-6235.

BY:



Warren D. Johnson, Jr.

Docket #18 (12/19/02) 02 CIV 80353 / 98-8039 CR RYSKAMP.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 98-8039-CR-RYSKAMP

v.

WARREN D. JOHNSON, JR.,

Defendant,

DEFENDANT'S EMERGENCY MOTION TO
EXTORTION, THREATS, DURESS AND
BREACH OF CONTRACT BY THE UNITED
STATES GOVERNMENT AND ITS AGENTS

COMES NOW, Warren D. Johnson, Jr., In Propria Persona and Sui Juris and states the following:

1. On November 18, 2002 the Department of Justice, Bureau of Prisons, Coleman Low, Coleman, Florida 33521 received a FAX from FAX 305-530-7195 United States Attorney's Office that demanded restitution from Defendant in the amount of a Total of \$ 4,888,957.27 to be collected by the Department of Justice, Bureau of Prisons. Defendant was subsequently threatened by a Counselor Jackson, who demanded that Defendant sign an agreement, whereby Defendant would make monthly payments on said restitution; or, Defendant would lose his right to purchase commissary at the \$ 290 per month currently allowed Defendant, as well as other threats and duress. (See EXHIBIT "A" ATTACHED)

2. These threats are clearly intended to stop Defendant from purchasing Copy Cards, Type-writer Ribbons, Office Supplies and other items necessary for Defendant to exercise his rights.

3. The Government well knows that Defendant is not required to pay restitution under the UNITED STATES v. Cobbs 967 F.2d 1555 1556 (11 th. CIR 1992; UNITED STATES v. HOOSHMAND 931 F.2d 725, 737 (11 th. CIR 1991); and, UNITED STATES v. MYAT MAUNG nos. 00-10296 and 00-14669 (a Sept 25, 2001 11 th CIR. case), since the restitution order of March 26, 2001 is over (90) days after sentencing and therefore VOID.

4. This denial of Defendant's civil and constitutional rights was noticed to Judge Ryskamp on January 20, 2001 by a letter that informed the court of Extortion and Duress by Patrick Scott. (See EXHIBIT "B" ATTACHED, which was included with the letter of January 20, 2001, a copy of which is attached to a April 19, 2002 Combined Motion...-See EXHIBIT V , Pages V-50 to V-52.) These criminal violations against Defendant have continued since January of 2001 to present.

5. At the signing of a 16 February 2001 Agreement. Defendant put the court on notice that he was signing under "U.C.C.1-207- without prejudice" and preserved his rights to justice under the UNIFORM COMMERCIAL CODE (U.C.C.); BIVENS v. 6 Unknown Agents; and the FEDERAL TORT CLAIM LAWS. After the hearing, it was reported to Defendant that AUSA Carolyn Bell was yelling to Patrick Scott, "Let him sue the Federal Government, they have lots of money."

6. Patrick Scott breeched his Fiduciary Duty in the 16 February, 2001 Agreement, page 2, 1. CONSIDERATION 1.05, which states " In any event, if all approvals and a preliminary acceptance order in the Criminal Case are not entered by **all courts prior to March 7, 2001**, all documents and funds **shall be**

released to the parties who provided them,..." Since the Docket in CASE # 99-CV-8228 in JOHNSON, et al. v. ICE BAN AMERICA, INC. et al. that the "all approvals" was well beyond "March 7, 2001" , the 16 February, 2001 Agreement was clearly breeched,"since all documents and funds" have not yet been returned. (SEE EXHIBIT "D") This breech is clearly supported by the letter from Dr.M.G. Robertson's attorney on August 20, 2002 and also attached and Marked EXHIBIT "D".

(THE 16 February 2001 AGREEMENT IS FILED AS DOCKET ITEM #173, with the aforesaid references on page 2 and page 9- 1.27)

7. The CURRENT EXTORTION THREAT was made this date in person by a Counselor Jackson and Miss Howard and set forth in EXHIBIT "C" as well as the EXHIBIT "A" FAX itself.

WHEREFORE, DEFENDANT requests the Court to acknowledge that the 16 February 2001 Agreement has been breeched, and order all documents and funds returned to the parties who provided them, ..." as per contract law; and, order all collateral, property, projects, lawsuits, and any asset whatsoever destroyed by the said breech to be repayed to the ROYAL JOHNSON FAMILY-PORTOSEL and other parties so damaged by all parties responsible for said acts; and, order the Department of Justice of the UNITED STATES GOVERNMENT to restore the ROYAL JOHNSON FAMILY-PORTOSEL under the Law of Nations Rule of Postliminium; and, order the immediate unconditional release of Defendant from the Bureau of Prison's incarceration and extortion, threats and duress; and, any and all other relief justice requires and the law allows.

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

7001 2510 0004 8781 8642

53225-004		LOW COLEMAN FACILITY MAILROOM	
Johnson	Postage	\$	1.52
A-3	Certified Fee		2.38
	Return Receipt Fee (Endorsement Required)		1.75
	Registered Delivery Fee (Endorsement Required)		
Total Postage & Fees		\$	5.57

Postmark: NOV 19 A 7:15

Sent To: Clerk of the Court- UNITED STATES DIST.
 Street Apt No COURT S.DISTRICT OF FLORIDA
 or PO Box No
 City, State Zip+4 701 Clematis Street
 West Palm Beach, Florida 33401

PS Form 3800, January 2001 See Reverse for Instructions

Respectfully submitted

LDJ

Warren D. Johnson, Jr.
 53225-004 A-3 (Citrus)
 Federal Correction Complex
 P.O. Box 1031
 Coleman, Florida 33521-1031

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this foregoing document has been furnished to AUSA Carolyn Bell, 500 Australian Ave, Suite 400, West Palm Beach, Florida 33401.

LDJ 11-18-2002

Warren D. Johnson, Jr. Date

United States District Court
Southern District of Florida
 WEST PALM DIVISION

UNITED STATES OF AMERICA
 V.
 WARREN D. JOHNSON, JR.

AMENDED JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: 98-8039-CR-RYSKAMP

Counsel For Defendant: James Eisenberg, Esq.

Counsel For The United States: Carolyn Bell, Esq.

Court Reporter: Criss Bertling

FILED by D.C.

MAR 26 2001

Date of Original Judgment: 6/24/1999
 (or Date of Last Amended Judgment)

Reason for Amendment:

- ☐ Correction of Sentence on Remand (Fed. R. Crim. P. 35(a))
- ☐ Reduction of Sentence for Changed Circumstances (Fed. R. Crim. P. 35(b)(1) 35(b))
- ☐ Correction of Sentence by Sentencing Court (Fed. R. Crim. P. 35(c))
- ☐ Correction of Sentence for Clerical Mistake (Fed. R. Crim. P. 36)

- ☐ Modification of Supervision Conditions (18 U.S.C. § 3583(e))
- ☐ Modification of Imposed Term of Imprisonment for Personal and Compelling Reasons (18 U.S.C. § 3582(c)(1))
- ☐ Modification of Imposed Term of Imprisonment for Retroactive Amendment(s) to the Sentencing Guidelines (18 U.S.C. § 3582(c)(2))
- ☐ Direct Motion to District Court Pursuant to ☐ 28 U.S.C. § 2255
- ☐ 18 U.S.C. § 3559(c)(7), or

X Modification of Restitution Order (18 U.S.C. § 3664)**THE DEFENDANT:**

X Was found guilty on count(s) One through Seven of the Indictment on 11/23/1998
 after a plea of not guilty.

Title & Section**Number(s)****Nature of Offense****Date Offense****Concluded****Count**

18 U.S.C. § 152(1)

Bankruptcy Fraud

3/29/1993

1

18 U.S.C. § 1014

Loan Application Fraud

4/17/1991

2

18 U.S.C. § 1957

Money Laundering

4/01/1996

3 - 7

The defendant is sentenced as provided in pages 2 through 6 Of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s)

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

Defendant's Soc. Sec. No.: 054-34-8545

Defendant's Date of Birth: 10/06/42

Defendant's USM Number: 53225-004

Defendant's Residence Address:

511 SW Baypointe Circle
 Palm City, FL 34990

Defendant's Mailing Address:

511 SW Baypointe Circle
 Palm City, FL 34990

3/26/01

Date of Imposition of Judgment

Signature of Judicial Officer

KENNETH L. RYSKAMP

UNITED STATES DISTRICT JUDGE

Date:

3/26/01

173
AR

DEFENDANT: JOHNSON, JR., WARREN
CASE NUMBER: 98-8039-CR-RYSKAMP

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 97 months. This term consists of 60 months as to Count One and 97 months as to Counts Two through Seven, all counts to run concurrently. The defendant shall be given credit for time served.

☒ The Court makes the following recommendations to the Bureau of Prisons:

The court recommends the defendant be designated to an institution as close to family as possible.

☒ The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district.

At _____ A.m. / p.m. on _____
as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:.

Before 2:00 p.m. on _____
as notified by the United States Marshal.

As notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ To _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

DEFENDANT: JOHNSON, JR., WARREN
CASE NUMBER: 98-8039-CR-RYSKAMP

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of five (5) years.

The defendant shall report to the probation office in the district in which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994.

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter.

The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse.

X The defendant shall not possess a firearm, destructive device, or any other dangerous weapon.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below).

X The defendant shall also comply with the additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each Month;
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) The defendant shall support his or her dependents and meet other family responsibilities;
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other Acceptable reasons;
- 6) The defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer and controlled Substance or any paraphernalia related to any controlled substance, except as prescribed by a physician;
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a Felony unless granted permission to do so by the probation officer;
- 10) The defendant shall permit a probation officer to visit him or her at anytime at home or elsewhere and shall permit confiscation of any Contraband observed in plain view of the probation officer;
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the Permission of the court;
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal Record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the Defendant's compliance with such notification requirement.

DEFENDANT: JOHNSON, JR., WARREN**CASE NUMBER: 98-8039-CR-RYSKAMP****SPECIAL CONDITIONS OF SUPERVISION**

- 1) The defendant shall maintain full-time, legitimate employment and not be unemployed for a term of more than 30 days, unless excused by the U.S. Probation Officer. Further, the defendant shall provide documentation, including but not limited to, pay stubs, contractual agreements, W-2 Wage and Earnings Statements, and any other documents requested by the U.S. Probation Office.
- 2) The defendant shall obtain prior approval from the United States Probation Office before entering into any self-employment.
- 3) The defendant shall submit to a search of his person or property conducted in a reasonable manner and at a reasonable time by the United States Probation Officer.
- 4) The defendant shall not incur any further debt, included but not limited to loans, lines of credit or credit card charges, either as a principal or cosigner, as an individual or through any corporate entity, without first obtaining permission from the United States Probation Officer.
- 5) The defendant shall provide complete access to financial information, including disclosure of all business and personal finances, to the United States Probation Officer.

DEFENDANT: JOHNSON, JR., WARREN
CASE NUMBER: 98-8039-CR-RYSKAMP

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 5, Part B.

Totals:	Assessment \$350.00	Fine \$	Restitution \$ See below
----------------	--------------------------------------	--------------------------	---

The determination of restitution is deferred until entered after such determination.

An Amended Judgment in a Criminal Case (AO 245C) will be

☒ The Court orders restitution to be paid to the victims listed on Exhibit 2 to this Judgment and Commitment Order in the amounts and by the terms and manner provided for in the Settlement Agreement and Mutual Release and related documents attached as Exhibit 1 to this Judgment and Commitment Order.

The Court acknowledges that the defendant incurred fees in the amount of \$31,119 for services rendered by the Federal Public Defender on his behalf. The Court orders that these fees be waived and that any funds which would otherwise have been distributed to the Federal Public Defender as part of the Settlement Agreement attached as Exhibit 1, be made part of the distribution to the victims listed on Exhibit 2.

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid in full prior to the United States receiving payment.

Name of Payee	** Total Amount of Loss	Amount of Restitution Ordered	Priority Order Or Percentage of Payment
See Exhibits 1 and 2 attached to the Judgment and Commitment Order			

Totals: \$ \$

If applicable, restitution amount ordered pursuant to plea agreement. \$

The defendant shall pay interest on any fine or restitution of more than \$2,500, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. 3612(f). All of the payment options on Sheet 5, Part 8 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

The interest requirement is waived for the fine and/or restitution.

The interest requirement for the fine and/or restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18, United States Code, for offenses committed on or after September 13, 1994 but before April 23, 1996.

DEFENDANT: JOHNSON, JR., WARREN
CASE NUMBER: 98-8039-CR-RYSKAMP

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

A b Lump sum payment of \$ Due immediately, balance due

Not later than , or
In accordance with C, D, or E below; or

B ☒ Payment to begin as stated in the Settlement Agreement attached as Exhibit 1.

C Payment in (E.g., equal, weekly, monthly, quarterly) installments of \$ Over a period of (E.g., months or years), to commence (E.g., 30 to 60 days) after the date of this judgment; or

D Payment in (E.g., equal, weekly, monthly, quarterly) installments of \$ Over a period of (E.g., months or years), to commence (E.g., 30 to 60 days) after release from imprisonment to a term Of supervision; or

E Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the Clerk of the Court, unless otherwise directed by the court, the probation officer, or the United States attorney.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several
Defendant Name, Case Number, and Joint and Several Amount:

The defendant shall pay the cost of prosecution.

The defendant shall pay the following court cost(s):

The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) community restitution, (6) fine interest, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Allowable Claims of Creditor/Victims

Apex Municipal Fund, Inc., et al. (bondholders)	\$3,929,114.31
Washington Mutual (fmly. Great Western Bank)	\$ 307,178.49
FDIC-Royal Palm Savings (Seminole County foreclosure)	\$ 177,659.61
FDIC-Coral Coast Savings	\$ 156,294.42
Richard J. Agar (fmly. First Union National Bank)	\$ 180,000.00
Value Recovery Group (fmly. RTC-Royal Palm Orange County foreclosure)	\$ 97,494.65
Ray Loesche	\$ 15,000.00
First USA Bank	\$ 8,000.00
Republic National Bank	\$ 6,000.00
Gary Dytrych & Ryan, P.A.	\$ 3,731.94
Chase Visa	\$ 3,019.93
Executive Equipment Leasing, Inc.	\$ 3,000.00
Masterlooms	\$ 1,875.00
Texaco, Inc.	\$ 500.00
Orange County Tax Assessor	\$ 88.92

TOTAL:

\$ 4,888,957.27

Exhibit 2

WARREN D JOHNSON, JR.
#53225-004)

CASE NO 98-8 039 CR. RM/Stamp.

1. DENIED ACCESS to LAW LIBRARY & typewriter
1-22-2000 (Miami, FDC.)

2. STAMPS WERE TAKEN AWAY FROM ME BY
FEDERAL MARSHAL ROBERT KELLY, ALONG WITH A
RELIGIOUS CATALOG AND BOOK.
SEE ATTACHED COMPLAINT.

3. MY LEGAL MAIL WAS OPENED, BREACHING MY
ATTORNEY CLIENT PRIVILEGE. IT WAS NOTED IN THE
LOG BOOK (FDC Miami) BY OFFICER C.O. LOPEZ, JR
ON 1/4/2001 - SEE COPIES OF TWO ENVELOPES
WITH NOTATIONS BY OFFICER LOPEZ.

4. I WAS DENIED STAMPS TWICE AT PALM BEACH
COUNTY JAIL ON 1/18/2001 AND 1/25/2001
SEE CANTEEN SERVICES INVOICES.

5. I WAS DENIED AN ATTORNEY/CLIENT PRIVILEGED
CALL ON 1/17/2001 - SEE INMATE REQUEST FORM.

THESE ARE VIOLATIONS OF MY CIVIL RIGHTS
AND CONSTITUTIONAL RIGHTS.

NOVEMBER 18, 2002

IF WARREN DOUGLAS JOHNSON, JR. DOES NOT AGREE TO PAY THE AMOUNT OF \$4,888,957.27 IN MONTHLY PAYMENTS TO THE DEPARTMENT OF JUSTICE (BUREAU OF PRISONS), THEN HE WILL NOT BE ALLOWED TO PURCHASE COMMISSARY IN THE AMOUNT OF \$290— EACH MONTH, FOR ITEMS SUCH AS COPY CARDS, TYPEWRITER RIBBONS, OFFICE SUPPLIES, FOOD ITEMS AND EXTRA CLOTHING.

IN A-3 (CITRUS) - COUNSELORS ROOM -

AT 3:43 PM NOVEMBER 18, 2002 MR JACKSON AND MISS HOWARD BOTH AGREED THESE THREATS WOULD BE CARRIED OUT, PLUS I WOULD LOSE MY BED, THEY REFUSED TO SIGN for ABOVE per BOP POLICY.

Robertson Asset Management, Inc.

977 Centerville Turnpike, SHB 202, Virginia Beach, VA 23463 Phone: 757-226-2794 Fax: 757-226-2793

August 20, 2002

VIA FACSIMILE

Frank C. Simone, Esq.
Sherman Law Offices, Chartered
Suite 310
1000 Corporate Drive
Ft. Lauderdale, Florida 3334

Re: Jeff Johnson

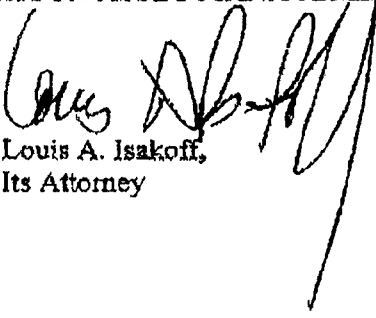
Dear Frank:

Thank you for your letter of August 14, 2002 and for your friendly reminder. It was good to hear from you. Unfortunately, I think your reminder is just a little premature. The second payment to Jeff Johnson was due 18 months after finality. I have not made an extensive review of the file, but enclosed please find an order of July 30, 2001 in the Warren Johnson bankruptcy case, confirming the settlement. There must have been later orders or other reasons for delay, because I note that our records reflect that the wire transfer of \$125,000 to you for Johnson and \$25,000 check to Robert Crichton were transmitted on September 27, 2001. Therefore, I can only conclude that the other \$150,000 is not due before March 27, 2003.

Thank you again for bringing this to our attention. Please update your calendar and contact me again shortly before the March 27 due date. Best regards.

Very truly yours,
ROBERTSON ASSET MANAGEMENT, INC

By:


Louis A. Isakoff,
Its Attorney

Cc: Dr. M.G. Robertson

EXHIBIT "D"

to plaintiff's motion for reconsideration of court's order of 12/1/00 (rn) [Entry date 12/15/00]

12/20/00 249 STIPULATION to stay all proceedings and extend all deadlines pending completion of final settlement agreement by Dianne Johnson, Jeffrey Johnson, Lynne Johnson, Paul Johnson, Patricia Wellspeak, Sharon Pratt, Lawrence Pratt, Warren Johnson Sr., IBAC Corporation (rn) [Entry date 12/21/00]

12/28/00 250 ORDER granting [249-1] stipulation; this matter is stayed until 1/20/01 (Signed by Judge Joan A. Lenard on 12/28/00) CCAP [EOD Date: 12/29/00] (rn) [Entry date 12/29/00]

2/7/01 251 ORDER TO SHOW CAUSE for parties to file all papers related to settlement; Response to Order to Show Cause due 4:30 2/23/01 (Signed by Judge Joan A. Lenard on 2/7/01) CCAP [EOD Date: 2/7/01] (rn)

2/14/01 252 RESPONSE to [251-1] Order to Show Cause by Dianne Johnson, Jeffrey Johnson, Lynne Johnson, Paul Johnson, Patricia Wellspeak, Sharon Pratt, Lawrence Pratt, Warren Johnson Sr. (rn)

2/15/01 253 RESPONSE to [251-1] Order to Show Cause by IBAC Corporation, Carmen Janke (rn) [Entry date 02/16/01]

3/6/01 254 STIPULATION for Order adopting settlement and dismissing case with prejudice by Dianne Johnson, Jeffrey Johnson, Lynne Johnson, Paul Johnson, Patricia Wellspeak, Sharon Pratt, Lawrence Pratt, Warren Johnson Sr., IBAC Corporation, Carmen Janke (rn) [Entry date 03/07/01]

3/12/01 255 ORDER approving [254-1] settlement dismissing all claims with prejudice (Signed by Judge Joan A. Lenard on 3/12/01) CCAP [EOD Date: 3/13/01] (rn) [Entry date 03/13/01]

3/12/01 -- CASE CLOSED. Case and Motions no longer referred to Magistrate. (rn) [Entry date 03/13/01]

Case Flags:

BLG

CLOSED

BLG

END OF DOCKET: 9:99cv8228

PACER Service Center

460

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION
CASE NO. 98-8039-CR-RYSKAMP

UNITED STATES OF AMERICA,

Plaintiff,

v.

WARREN D. JOHNSON, JR.,

Defendant.

DEFENDANTS RESPONSE TO GOVERNMENT'S
ANSWER TO PETITIONER'S SUPPLEMENTAL
MOTION TO VACATE, SET ASIDE, OR COR-
RECT SENTENCE PURSUANT TO TITLE 28,
UNITED STATES CODE, SECTION 2255

COMES NOW Warren Douglas Johnson, Jr., Sui Juris and
in Propria Persona, in good faith and with clean hands,
and states the following:

1. The Defendant was ordered by Magistrate Judge Ann
Vitunac to **not talk to anyone who might be a witness in this
case.** On May 18, 1998 assistant public defender, Robert Adler,
filed a notice to the court, which in effect silenced Defendant
in any proceedings, regardless of the Subject Matter.
(See Docket # 30) Defendant was denied access to the court
between May 18, 1998 to approximately November 16, 2001.

2. Attorneys who stood before the court in this case
no. 98-8039-CR-RYSKAMP, did so in violation of Local Rule 11.1
(D), since Defendant never consented to, or endorsed the
required authorization for APPEARANCE BY ATTORNEY, " which is

required under said rule to be signed and filed with the clerk of the court."

3. From approximately November 16, 2001 on, Defendant has properly filed numerous motions and Petitions with the court, that clearly show the clear and convincing evidence that no reasonable factfinder would have found the Defendant guilty of the offenses charged; and, the government's actions violated the Constitution and laws of the United States. Only from November 16, 2001 has Defendant been able to talk to indispensable parties to this case and compile the newly discovered evidence, that the government had concealed at trial to misled the court.

4. In an ORDER AND NOTICE of a pending case No. 1:01-0007, which is before Chief Judge Charles H. Haden II in the 4TH Circuit, Judge Haden only allows the Defendant (Smith's) motion to be **RE-CHARACTERIZED** as a 28 U.S.C. §2255 only **" if he wishes his pending motion to be RE-CHARACTERIZED"**; or "if the defendant does not agree the motion should be Reconstrued, the court will rule **on the merits of the motion filed.**" (See EXHIBIT "A" attached)

DEFENDANT does not want his Motions or Petitions RE-CHARACTERIZED as 28 U.S.C. §2255 and has repeatedly told the court so.

5. If AUSA Bell did not file her answer in this Criminal Case No 98-8039-CR-RYSKAMP, she violated Judge Ryskamp's orders of October 24 & 29, 2002, and she should now be time barred from filing any other answer. If her answer is accepted by the court, it should be noted that the answer appears to be misleading.

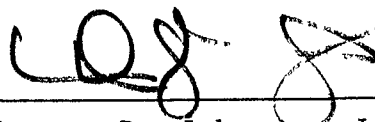
AUSA Bell never confirms whether she was in the Grand Jury room, which is **not open court**; or, the Magistrate Judge Ann Vitunac's private chambers; or, where she, Magistrate Vitunac and the Foreperson of the Grand Jury did meet on March 24, 1998; and, the time of the meeting. In hearings before Magistrate Judge Ann Vitunac on April 22, 1998; April 24, 1998; April 27, 1998 and May 14, 1998, the court reporter clearly identified the hearing room as "Rm. 317", which is missing from AUSA Bell's alleged hearing transcript. (See Attached EXHIBITS "B", "C", "D" & "E") The alleged transcript of the hearing **does not certify** that the notes came from the Clerk of the Court, all of which are required to be created pursuant to 28 U.S.C. 753(b) and held by the Clerk of the Court for a minimum of ten years in their original sealed form. It is also evident from the alleged transcript, that the Grand Jury Foreperson used a concurrence form, which was not acceptable under F.R.Cr.P. Rule 6 (f) until the year 2000. This is not harmless error, and AUSA Bell should have told the court that in Breese & Dickerson v. United States, the Grand Jury itself was in the adjoining room to the Magistrate Judge's open court and the door was open between them. There is no evidence that this was the case on March 24, 1998 between the Grand Jury room and wherever the hearing might have been held.

6. The court was informed at trial that AUSA Bell "... **made misrepresentations to the jury ...**" Judge Ryskamp stated **" If you can establish later on that the Government has withheld evidence or misled the jury, that's a pretty serious accusation and I will deal with that later on."** (See Trial Transcript page 1173 lines 4 to 6 & page 1179 lines 2 to 5)

7. Justice demands that we now examine the undisputed facts properly filed in Defendant's Motions and Petitions, which Defendant was promised by the Honorable Judge Ryskamp if it could be "...established later on ...", that " I will deal with that later on."

WHEREFORE, Defendant request the court to issue a further order to the Court Reporter, requiring the Court Reporter to disclose the exact location of the room, where the alleged hearing was held; the time of the hearing; and, whether the Grand Jury was present in the adjoining room with the door open; and, whether the Court Reporter retrieved the certified and sealed **original record** of the alleged March 24, 1998 hearing from the Clerk of the Court, in order to make the November 8, 2002 copy of the transcript that was faxed on November 7, 2002. The Court Reporter needs to explain to the court and Defendant how it was faxed a day before it was Certified.

Respectfully submitted,



Warren D. Johnson, Jr.
53225-004 A-3 (Citrus)
Federal Correction Complex (Low)
P.O. Box 1031
Coleman, Florida 33521-1031

November 15, 2002

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been served upon the following by placing a copy of same in the United States Mail on this 15 th day of November 2002.

Carolyn Bell
Assistant U.S. Attorney
500 Australian Avenue, Suite 400
West Palm Beach, Florida 33401

**U.S. Postal Service
CERTIFIED MAIL RECEIPT**

(Domestic Mail Only; No Insurance Coverage Provided)

53225-004		FCC COLEMAN	
Johnson		LOW FACILITY	
A-3		MAILROOM	
Postage	\$ 1.29	Postmark	2002 NOV 15 A 7:15
Certified Fee	2.30		
Return Receipt Fee (Endorsement Required)	1.75		
Restricted Delivery Fee (Endorsement Required)			
Total Postage & Fees	\$ 5.34		

BY:

Warren D. Johnson, Jr.

Sent To
Clerk of the Court- United State
District Ct- S. Dist. of Fl.
Street Apt No
or PO Box No
City State, ZIP+4
701 Clematis Street
West Palm Beach, Florida 33401

PS Form 3800, January 2001

See Reverse for Instructions

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
BLUEFIELD DIVISION

ENTERED
NOV - 7 2-
SAMUEL L. KAY, CLERK
United States District Court

UNITED STATES OF AMERICA,

Plaintiff,

v.

Criminal No. 1:01-00007

RODNEY EUGENE SMITH,

Defendant.

ORDER AND NOTICE

Pending is Defendant's "Verified Emergency Motion In Arrest of Judgment for Lack of Subject Matter Jurisdiction." It appears to the Court Defendant's motion should be re-characterized as a motion under 28 U.S.C. § 2255.

United States v. Emmanuel, 288 F.3d 644 (4th Cir. 2002), holds that when a district court proposes to construe a post-conviction motion as a movant's first collateral attack, it is required to notify the movant of the restrictions and limitations under § 2255. Id. at 649.

Defendant is **NOTICED** that Section 2255 provides a time limit on filing such motions:

A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of —

(1) the date on which the judgment of conviction becomes final;

(2) the date on which the impediment to making a

EXHIBIT "A"

466

219

motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

Section 2255 also limits a movant's ability to file second or successive motions:

A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain —

(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.

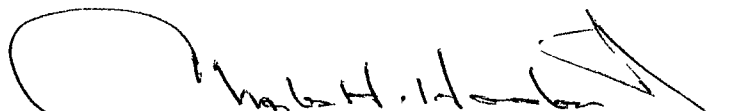
Defendant should consider this situation and determine if he wishes his pending motion to be recharacterized as a motion under § 2255 to vacate, set aside, and correct sentence. Defendant should inform the Court in writing by **December 6, 2002** whether he wishes to have the motion reconstrued or ruled upon as pending. If Defendant files no response, the Court will consider the motion as

filed under § 2255.

If Defendant agrees the motion shall be considered under § 2255, he may amend the motion to the extent permitted by law. See United States v. Pittman, 209 F.3d 314 (4th Cir. 2000)(holding that amendments to a § 2255 motion made after expiration of the one-year statute of limitations do not relate back to the original motion and are therefore untimely). If Defendant does not agree the motion should be reconstrued, the Court will rule on the merits of the motion as filed.

The Clerk is directed to send a copy of this Order to counsel of record, to the United States Marshal and to the Probation Office of the Court.

ENTER: November 7, 2002



Charles H. Haden II, Chief Judge

REC'D by _____ D.C.
APR 30 1998
CARLOS JUENKE
CLERK U.S. DIST. CT.
DISTRICT COURT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

FILED by _____ D.
CT. REP.
APR 20 1998
CARLOS JUENKE
CLERK U.S. DIST. CT.
S.D. OF FLA. MIAMI

UNITED STATES OF AMERICA,

No: 98-8039-CR-RYSKAMP

Plaintiff,

West Palm Beach, FL

April 22, 1998

v.

WARREN D. JOHNSON, JR.,

Defendant (s).

TRANSCRIPT OF HEARING RE STATUS OF COUNSEL
BEFORE THE HONORABLE ANN E. VITUNAC,
UNITED STATES MAGISTRATE JUDGE.

APPEARANCES:

For the Plaintiff:

CAROLYN BELL,
Asst. U. S. Attorney
701 Clematis Street
Room 317
West Palm Beach, FL 33401

For the Defendant:

Transcriber:

F. Levy

50
Jack Besoner & Associates
Suite 220
172 West Flagler Street
Miami, Florida 33130

EXHIBIT "B"

REC'D by _____ D.C.
APR 30 1998
CARLOS JUFENKE
CLERK U.S. DIST. CT.
S.D. OF FLA. - W.P.B.

FILED by _____ D.C.
CT. REP. _____
APR 29 1998
CARLOS JUFENKE
CLERK U.S. DIST. CT.
S.D. OF FLA. MIAMI

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

UNITED STATES OF AMERICA,

No: 98-8039-CR-RYSKAMP

Plaintiff,

West Palm Beach, FL
April 24, 1998

v.

WARREN D. JOHNSON, JR.,

Defendant (s).

TRANSCRIPT OF HEARING RE STATUS OF COUNSEL
BEFORE THE HONORABLE ANN E. VITUNAC,
UNITED STATES MAGISTRATE JUDGE.

APPEARANCES:

For the Plaintiff:

CAROLYN BELL,
Asst. U. S. Attorney
701 Clematis Street
Room 317
West Palm Beach, FL 33401

For the Defendant:

Transcriber:

F. Levy

Jack Besoner & Associates
Suite 220
172 West Flagler Street
Miami, Florida 33130

REC'D by _____ D.C.

APR 30 1998

CARLOS JUFENKE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

FILED by _____ D.C.
CT. REP.

APR 29 1998

CARLOS JUFENKE
CLERK U.S. DIST. CT
S.D. OF FLA. MIAMI

UNITED STATES OF AMERICA,

No: 98-8039-CR-RYSKAMP

Plaintiff,

West Palm Beach, FL

April 27, 1998

v.

WARREN D. JOHNSON, JR.,

Defendant (s).

RIGHT

TRANSCRIPT OF HEARING RE STATUS OF COUNSEL
BEFORE THE HONORABLE ANN E. VITUNAC,
UNITED STATES MAGISTRATE JUDGE.

APPEARANCES:

For the Plaintiff:

CAROLYN BELL,
Asst. U. S. Attorney
701 Clematis Street
Room 317
West Palm Beach, FL 33401

For the Defendant:

Transcriber:

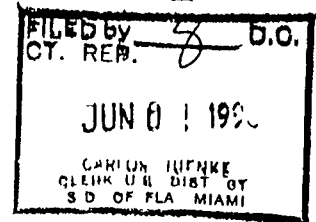
F. Levy

Jack Besoner & Associates
Suite 220
172 West Flagler Street
Miami, Florida 33130

EXHIBIT "D"

471

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA
3 WEST PALM BEACH DIVISION
4



5 UNITED STATES OF AMERICA,

No: 98-8039-CR-RYSKAMP

6 Plaintiff,

May 14, 1998

West Palm Beach, Florida

7 v.

8 WARREN D. JOHNSON,

9 Defendant(s).
10 _____/ ORIGINAL

11
12 TRANSCRIPT OF ARRAIGNMENT HEARING
13 BEFORE THE HONORABLE ANN E. VITUNAC,
14 UNITED STATES MAGISTRATE JUDGE.

15 APPEARANCES:

16 For the Plaintiff:

CAROLYN BELL
Asst. U.S. Attorney
701 Clematis St., Rm. 317
West Palm Beach, FL 33401

19 For the Defendant(s):

ROBERT ADLER, ESQ.

21 Transcriber:

E. Lawton

22
23
24
25
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Jack Besoner & Associates
Suite 220
172 West Flagler Street
Miami, Florida 33130

EXHIBIT "E"

472
40/10

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 98-8039-CR-RYSKAMP

UNITED STATES OF AMERICA,

Plaintiff,

v.

WARREN D. JOHNSON, JR.,

Defendant.

EMERGENCY VERIFIED PETITION TO STAY ORDER

COMES NOW Warren D. Johnson, Jr., In Propria Persona and Sui Juris (Petitioner) and hereby objects to, and requests the Court Stay its Order of October 29, 2002, as the GOVERNMENT'S MOTION FOR EXTENSION OF TIME TO RESPOND TO DEFENDANT'S PRO SE PETITION TO ARREST JUDGEMENT FOR LACK OF SUBJECT MATTER JURISDICTION _____ was made in bad faith and with unclean hands and is disingenuous and meant solely for delay and to keep Petitioner in prison for an additional two weeks, without any lawful authority and in support thereof Petitioner states the following:

1. On April 13, 2002 Petitioner filed a "COMBINED MOTION UNDER F.R.E. RULE 201(d), PETITION FOR A WRIT OF HABEAS CORPUS, AND FILING OF A CRIMINAL COMPLAINT UNDER F.R.Cr.P. RULE 3, AGAINST F.B.I. SPECIAL AGENT MICHAEL McBRIDE, ATTORNEY PATRICK SCOTT, RASHID "REG" BODHANYA, ET AL...." in the above referenced case, attached thereto was EXHIBIT D- Page D-5, which placed the Court on mandatory judicial notice that the purported "Indictment", allegedly creating this case was invalid and void Ab Initio.

A copy of EXHIBIT D- Page D-5 is attached hereto and incorporated herein by reference, as if printed herein in its entirety and labeled EXHIBIT A. Thus, AUSA Carolyn Bell was placed on notice **no later** than April 19 of this issue as a true, correct and complete copy of the above referenced motion, including all exhibits, was sent to her also on April 13, 2002.

2. Between April 13, 2002 and April 19, 2002 the Court construed Petitioner's "COMBINED MOTION UNDER F.R.E. RULE 201(d), PETITION FOR A WRIT OF HABEAS CORPUS, AND FILING OF A CRIMINAL COMPLAINT UNDER F.R.Cr.P. RULE 3,..." as a motion under Title 28 U.S.C. § 2255, with a new civil case No. 02-80353 CIV-RYSKAMP/SORRENTINO, and the UNITED STATES MAGISTRATE JUDGE SORRENTINO ordered the Government to respond.

3. In the Government's response dated 26 September 2002, AUSA Carolyn Bell stated the following:

"On March 24, 1998, a federal grand jury in the Southern District of Florida returned an eight count indictment against petitioner, ..." (page 2- lines 3 & 4.)

"...an indictment was properly returned ..."

"As this court is aware, the return of an indictment, not the filing of a complaint, is the procedure necessary to instigate criminal charges against an individual." (page 16- lines 2 thru 5)

These words by AUSA Bell affirmatively state that

(A) There was an 8 Count indictment **returned** by a federal grand jury on March 24, 1998, and (B) AUSA Bell made the Court aware that it is " the return of an indictment ..." which is " the procedure necessary to instigate criminal charges...", clearly indicating her knowledge of and assurance to the Court that the requirement procedure under F.R.Cr.P. Rule 6(f) had in fact

been met by the Grand Jury and that she had reviewed such evidence in making her response. AUSA Bell is clearly aware of the "necessary procedure" to assure the Court of both Subject Matter and Personal (In Personam) jurisdiction in order to prosecute her case.

4. Now, however, on October 28, 2002 AUSA Bell does not know the name of the court reporter, who supposedly attended the Open Court hearing, wherein the purported "Indictment" was **returned**, doesn't know a audio tape number of the original record of the alleged hearing, and gives the Court no assurance whatsoever that it even exists! AUSA Bell's statements are not just disingenuous, they are in fact Prosectorial Misconduct and most reasonable people would have to construe her conflicting statements of September 26 and October 28 as perjurious and worthy of sanctions for fraud upon the Court.

5. Carolyn Bell, as AUSA on the instant case from its inception, knows or should have known the day and time, if the Grand Jury, as a body, with the foreperson, appeared in **open court** and **returned** the indictment as required under F.R.Cr.P. 6(f). These facts should be in her case file. The record of the hearing should be easily obtained from the Clerk of the Court who, under Title 28 U.S.C. § 753(b), is **required to maintain such original record** for "not less than 10 years."

6. Failure of AUSA Bell to act in good faith and with clean hands and inform the Court that she had **not** obtained the original tape from the Clerk of the Court, and had **not** ordered its expedited transcription, is further evidence that no such record exists; and, petitioner should be immediately and unconditionally released from incarceration.

WHEREFORE, Petitioner requests the Court to Stay its Order of October 29, 2002, acknowledge that the UNITED STATES has failed to respond appropriately (in that there being no official original record of an **Open Court Hearing** wherein the "indictment" creating the instant case was properly returned and the **record held by the Clerk of the Court**); order and effect the immediate and unconditional release of Petitioner from incarceration by calling, or e-mailing or faxing an Order releasing Petitioner on the day the Court receives this Petition. Sanction AUSA Bell for her fraud upon the Court, and grant Petitioner any and all other relief justice requires or allows.

Respectfully submitted,

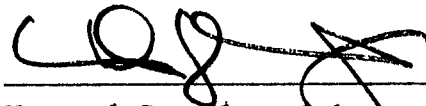


Warren D. Johnson, Jr.
53225-004 A-3 (Citrus)
Federal Correction Complex (Low)
P.O. Box 1031
Coleman, Florida 33521-1031

November 5, 2002

OATH

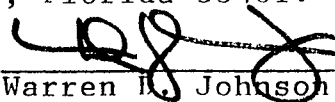
I, Warren Douglas Johnson, Jr. hereby declare that I am competent to be a witness, that the facts contained herein are true, correct, complete and not misleading to the best of my first hand knowledge under penalty of perjury to the Laws of The United States of America and the Laws of the State of Florida this November 5, 2002.



Warred Douglas Johnson, Jr.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this foregoing document has been furnished to AUSA Carolyn Bell, 500 Australian Avenue, Suite 400, West Palm Beach, Florida 33401.



-4-

Warren D. Johnson, Jr. date

11-6-2002

C. INEFFECTIVE ASSISTANCE OF COUNSEL FOR NOT OBJECTING TO GRAND JURY'S FAILURE TO RETURN THE INDICTMENT IN OPEN COURT.

Rule 6(f) F.R. Crim. P. states:

Finding and Return of Indictment. An indictment may be found only upon the concurrence of 12 or more jurors. The indictment shall be returned by the grand jury to a federal magistrate judge in open court.

Rule 6(f) is the codification of **Renigar vs. United States**, 172 F2d 646, 650 (4th Cir. 1909), which held, "It is essential to the validity of an indictment that it be presented in open court and in the presence of the grand jury." **Renigar** held the failure to return an indictment in open court was a jurisdictional defect. **Renigar** defined return in open court as follows: "When the grand jury has found its indictments, it returns them into open court, going personally in a body." Id. at 648.

The failure to return an indictment in open court in the presence of the grand jury is a jurisdictional defect, the failure to make an appropriate and timely objection to the defective return of the indictment is a fairly obvious case of ineffective assistance.

In **Williams**, the Supreme Court stated that a claim of ineffectiveness requires a showing of (a) deficient performance and (b) the loss of a substantive or procedural right attributable to the ineffective assistance. There is no indication that counsel's failure to object was a strategic decision made after a thorough investigation of the facts and the law. There is no indication that the failure to object was a reasonable choice.

If counsel had made an appropriate and timely objection, the indictment would have been dismissed, which establishes the loss of the substantive or procedural rights required by **Williams**.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 98-8039-CR-RYSKAMP

UNITED STATES OF AMERICA,

Plaintiff,

v.

WARREN D. JOHNSON, JR.,

Defendant.

PETITIONER'S RESPONSE TO GOVERNMENT'S MOTION
FOR EXTENSION OF TIME TO RESPOND TO
DEFENDANT'S PRO SE PETITION TO ARREST
JUDGMENT FOR LACK OF SUBJECT MATTER JURISDICTION

COMES NOW Warren D. Johnson, Jr., In Propria Persona and Sui Juris (Petitioner) and hereby objects to A.U.S.A. Carolyn Bell's motion to extend time for an answer as it is merely a delay tactic to illegally keep Defendant in prison. This delay violates Defendant's unalienable and constitutionally secured rights, the rule of Law in America, and violates the Law of Nations.

Petitioner's motion to the court demanded a copy of the true, original, correct and certified transcript of the hearing held in open court that is required by law to be maintained by the Clerk of the Court for not less than "ten years"; and must be a part of the record, open for inspection by any Party to the action at any time. See F.R.Cr.P. Rule 6(c); also see United States v. Bullock, 448 F.2d 728 (5th Cir. 1971); and Title 28 U.S.C. § 753(B).

On September 23, 2002 Defendant sent a certified letter to Catherine Wade, Executive Service Administrator, United States District Court, which is attached as Exhibit A and made part of this Response. No response has been received by the Defendant,

which was demanded only if the record existed. The lack of response is clear evidence that no such record exists.

On October 14, 2002 the Defendant filed a Verified Emergency Petition to Arrest Judgment for Lack of Subject Matter Jurisdiction with Incorporated Memorandum of Law requesting conclusive evidence that the requirements of the Federal Rules of Criminal Procedure had been met in this instant case. The motion was docketed on October 22, 2002 as Docket Entry 197, and a true and correct copy was forwarded to A.U.S.A. Carolyn Bell on the date of the mailing. The government has had more than ample time to give the Court a verified statement of where she was on or before March 24, 1998, relative to any knowledge she had concerning the requirements of F.R.Cr.P. Rule 6(f) having been met. Her motion for an extension is merely a smoke screen to chase down a phantom Court Reporter on a phantom date, which is a further cover-up and violation of Defendant's aforesaid rights and is an admission to the Court that the Clerk of the Court does not have said record in violation of said Rule of Law.

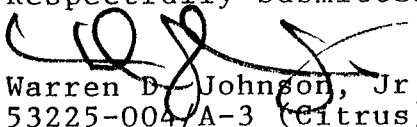
If the required documents under F.R.Cr.P. Rule 6(f) existed, Carolyn Bell and the Clerk of the Court would have provided them immediately. The religious war against the Royal Johnson family - PORTOSEL, the firing of Jeffrey Johnson and the Bankruptcy of Ice Ban America, Inc., as well as the vendetta against the Defendant have greatly damaged America; and continue to do so minute by minute. See Trazevant v. City of Tampa, 741 F.2d 336 (11th Cir. 1989).

WHEREFORE, Petitioner requests the Court to immediately issue an Order to the Clerk of the Court to immediately, as of this day, to produce a true, correct and complete original record of the Return of Indictment Hearing held in open court with a magistrate

judge as required and demanded by Defendant on September 23, 2002 in a letter sent certified mail #7001-2510-0008-7204-1723; (see attached Exhibit A); and, play the original tape or read the original record into the Court record of this case and place on the docket.

In the event that a true, correct and complete original record of the aforesaid hearing is not immediately produced as required by F.R.Cr.P. Rule 6(f), with over 30-days having now passed since the Defendant's demand on the clerk, Petitioner hereby demands partial justice in his immediate unconditional release from incarceration, with an Order forthwith faxed to Warden Paul C. Laird at the Federal Correctional Complex, Coleman-Low in Coleman, Florida on or before midnight this day received in order to save additional damages to America.

Respectfully submitted,


Warren D. Johnson, Jr.
53225-004/A-3 (Citrus)
Federal Correctional Complex-Low
P.O. Box 1031
Coleman, Florida 33521-1031

November 2, 2002

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this foregoing document has been furnished to Carolyn Bell, Assistant United States Attorney, 500 Australian Avenue, Suite 400, West Palm Beach, Florida 33401.

BY:


Warren D. Johnson, Jr.

11-2-2002
date

September 23, 2002

Catherine Wade
Executive Services Administrator
United States District Court
Southern District of Florida
301 North Miami Avenue
Miami, Florida 33128-7788

RE: JURISDICTION OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA (OR) LACK THEREOF
DUE TO THE GRAND JURY NOT RETURNING AN INDICTMENT
IN OPEN COURT WHICH LED TO CASE NO. 98-8039-CR-RYSKAMP.

Dear Ms. Wade;

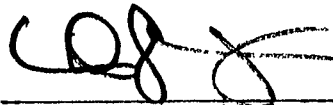
I need to obtain from you a true, correct, and complete transcript of the Return of Indictment Hearing held in open Court with a Magistrate Judge on or around March 24, 1998 creating this case no. 98-8039-CR-RYSKAMP as required under the Federal Rules of Criminal Procedure (F.R.Cr.P.) in Rule 6(f) Finding and Return of Indictment. The Indictment was docketed in this case on March 24, 1998 and the Return of Indictment Hearing would have been before Magistrate Judge Ann Vitunac in her West Palm Beach division Courtroom. In the event that a record of this Hearing does not exist, please notify me of this finding on your letterhead and with your signature.

In the event that you do locate the record, please disclose this to me immediately.

A lack of response within five business days will be construed to mean that the Finding and Return of Indictment was not returned in open court by the Foreperson and a total of twelve (12) members of the Grand Jury as required by Law under F.R.Cr.P. Rule 6(f), which therefore denies Jurisdiction to the District Court.

I look forward to hearing from you.

Best Regards,



Warren Douglas Johnson, Jr.
53225-004 / A-3 Low
Federal Correctional Complex
P.O. Box 1031
Coleman, Florida 33521-1031

Received: Sept. 26, 2002

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 98-8039-CR-RYSKAMP

UNITED STATES OF AMERICA,

Plaintiff,

v.

WARREN D. JOHNSON, JR.,

Defendant.

VERIFIED EMERGENCY PETITION TO ARREST JUDGMENT
FOR LACK OF SUBJECT MATTER JURISDICTION
WITH INCORPORATED MEMORANDUM OF LAW

COMES NOW Warren Douglas Johnson, Jr., Sui Juris and In Propria Persona, in good faith, under the Federal Rules of Civil Procedure (Fed.R.Civ.P.) Rules 12(h)(3) and or 60(b)(4), and under Federal Rules of Criminal Procedure (Fed.R.Cr.P.) Rule 52(b) pursuant to Castro v. United States, 277 F.3d 1300, 1305 (11th Cir. 2002) to hereby move the Court to arrest its Judgment of June 24, 1999 against WARREN D. JOHNSON, JR. and for good cause shown therefore states as follows:

BACKGROUND

On March 24, 1998 an 8-count "indictment" was filed with the Clerk of Court of the UNITED STATES DISTRICT COURT for the SOUTHERN DISTRICT OF FLORIDA, WEST PALM BEACH DIVISION, which created Case No. 98-8039-CR-RYSKAMP, which went to trial on November 9, 1998 and concluded on November 16, 1998 with Petitioner's incarceration. The Defendant, WARREN D. JOHNSON, JR., was subsequently sentenced to 97 months. Petitioner is currently incarcerated at Federal Correctional Complex, Coleman - Low.

Constitutional Rights Violations

Petitioner contends that he has been deprived of his Fifth, Six, Seventh, Ninth, and Tenth Amendment rights, secured by the Constitution for the United States of America of 1789 A.D. (the Constitution), and/or the requirements of good faith, fair dealing and full disclosure under commercial law; and that the Court committed plain error when it allowed the above captioned case to go to trial on an invalid indictment.

Petitioner contends that the grand jury never **returned** a valid indictment because neither the grand jury, as a body, nor the foreperson or deputy foreperson appeared **in open court** and returned the indictment to a federal magistrate judge as required under Fed.R.Cr.P. Rule 6(f).

Under the 5th Amendment to the Constitution, Petitioner has the right not to be tried. See Midland Asphalt v. United States, 489 U.S. 794, 103 L.Ed.2d 879, 109 S.Ct. 1494 (1989), quoted in United States v. Deffenbaugh Industries, 957 F.2d 749 (10th Cir. 1992). This right can only be overcome by a grand jury, having found an indictment, **returning** the indictment **in open court** in order to transfer jurisdiction from the People to the Court in the manner set forth in common Law¹ from time immemorial in England and in Florida, and for the last 93 years statutorially under Renigar v. United States, 172 F. 646, 650 (4th Cir. 1909) and subsequent case law.

Since there is no official record on the docket or in the Clerk of Court's files of a **return of indictment hearing** having been held in open court, therefore, there is no **valid indictment**.

¹ The grand jury's lineage is outlined in Hurtado v. California, 110 U.S. 516, 4 S.Ct. 111 (1884) and dates back to at least 1164. Id. at 529, 4 S.Ct. at 117-18.

Under Deffenbaugh, supra, failure of the Court to address this issue renders the **right not to be tried** meaningless.

Petitioner has the rights, under the Fifth, Ninth, and Tenth Amendments to the Constitution, to not be compelled to bear the cost and disruption and/or destruction of his name, reputation, livelihood and/or way of life; all of which can be caused by a trial, unless and until a duly empaneled grand jury of his peers finds probable cause that he committed the violation of a Law(s) of the United States and 12 or more of the jurors concur in that finding and an indictment is **returned in open court** which lawfully transfers jurisdiction from the People to the government for prosecution.

Petitioner contends that plain error occurred when Fed.R.Cr.P. 6(f) was violated and the **return of indictment in open court** requirement in the presence of a federal magistrate judge was by-passed by the grand jury and prosecutor in the instant case and the Court failed to assure itself that the indictment had been properly **returned** in order to insure that the Court had lawfully acquired subject matter jurisdiction **before** proceeding to trial.

Subsequently, the judgment of the Court is void ab initio and the sentence imposed is illegal.

State of the Law

Federal Rules of Criminal Procedure Rule 6(f), progeny of Renigar, currently states:

"Finding and Return of Indictment. A grand jury may indict only upon the concurrence of 12 or more jurors. The indictment shall be returned by the grand jury, or through the foreperson or deputy foreperson on its behalf, to a federal magistrate judge in open court." (See Footnote 2)

² The 2000 amendment to Fed.R.Cr.P. Rule 6(f) did not relieve the grand jury of the requirement of **returning** the indictment **in open court** and have it made part of the official public record of the Court.

Rule 6(f) Fed.R.Cr.P. (pre-2000) states:

"Finding and Return of Indictment. An indictment may be found only upon the concurrence of 12 or more jurors. The indictment shall be returned by the grand jury to a federal magistrate judge in open court."

Fed.R.Cr.P. Rule 6(f) (pre-2000) required that all jurors comprising a quorum and finding an indictment to appear **in open court** as a body and **return** the indictment to a magistrate judge. This rule insures a good faith, lawful transfer of jurisdiction from the People to the Court.

Renigar, supra holds that, "It is essential to the validity of an indictment that it be presented **in open court** and **in the presence of the grand jury**." (Emphasis added)

Renigar, supra defined "returned in open court" as follows:

"When the grand jury had found its indictments, it returns them into open court, going personally in a body." Id. at 648.

Renigar, supra further held that the failure of the grand jury to return an indictment **in open court** was a jurisdictional defect. Such a defect strikes at the very heart of the jurisdictional safeguards and good faith, rendering at the very least the appearance of bad faith, voiding what could otherwise be a valid indictment.

The requirement that the **return** of the indictment be **in open court** has never been overturned and is still mandated under Fed.R. C.P. Rule 6(f). The 11th Circuit holds the position stated in Renigar, supra as can be seen in Glenn v. United States, 303 F.2d 536, 539 (5th Cir. 1962).³ The Glenn case clearly addressed the importance of the proper **return** of the indictment by **ordering** the record corrected to reflect the fact that it had been done, Id. at 539.

³ Fifth Circuit decisions before 1981 are binding on the 11th Circuit. See City of Prichard v. Bonner, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc).

Even considering the exception carved out in Breese v. United States, 221 U.S. 1, 33 S.Ct. 1, 57 L.Ed. 98 (1912) that the failure of the grand jury, **as a body**, to return the indictment in open court was insufficient reason to dismiss the indictment. There is no excuse for the foreperson or deputy foreperson not to appear in **open court** and in good faith with a signed, sworn **concurrence form** showing 12 or more jurors' signatures who voted to indict and to **return** the indictment and concurrence form to the federal magistrate judge for and to be placed on the record of the Court in compliance with Fed.R.Cr.P. Rule 6(f).

In United States v. Thompson, 287 F.3d 1244, 1251 Note 4 (10th Cir. 2002) on April 16, 2002, the 10th Circuit concurred with the 4th, 5th, and 11th Circuits with the Court stating:

"The government acknowledge at oral argument, and this court agrees, that an indictment is not **valid** until its return in open court." (Emphasis Added)

and by citing Renigar.

The Laws of Florida apply to Petitioner. As this Court is seated in Florida, the principle espoused in Title 18 U.S.C. § 13, that the Laws of States have been adopted for areas within federal jurisdiction apply. Under Florida case law cited in Goodson v. State, 29 Fla. 511, 10 South. 738, Am. St. Rep. 135 it states:

"The only recognized manner in which the findings of the grand jury can be authoritatively presented is in **open court**. Were the rule otherwise, it would render it possible for a designing and revengeful foreman of a grand jury to ruin any citizen by surreptitiously filing with the clerk in his office an indictment manufactured by himself alone upon which his fellow jurors had taken no action." (Emphasis Added)

Therefore, Fed.R.Cr.P. Rule 6(f), the 4th Circuit, the 11th Circuit, (formerly the 5th Circuit), and most recently the 10th Circuit, all agree that an indictment must be **returned in open court** in order to be a lawful valid indictment.

In United States v. Deffenbaugh, 957 F.2d 749, 756 (10th Cir. 1992), the Court held that where there may be grounds for a dismissal of the indictment an in camera inspection of the grand jury record is required when the 12 or more vote requirement is questioned; also see United States v. Bullock, 448 F.2d 728 (5th Cir. 1971), where the Fifth Circuit held a brief opinion and remanded with instruction that the defendant be allowed to inspect the voting record required by Rule 6(c) for purposes of a motion to dismiss. Petitioner places this honorable Court on judicial notice pursuant to Federal Rules of Evidence Rule 201, that there is no showing on the Court record of the proceedings required under Fed.R.Cr.P. Rule 6(c) and Rule 6(f) that allegedly took place.

Rules 6 and 7 of Fed.R.Cr.P. provide for a triple authentication process for confirming grand jury indictments: 1) the signature of the grand jury foreperson, 2) and the signature of the United States Attorney must also appear on the indictment, and 3) the return of the indictment by the grand jury foreperson or deputy foreperson must be presented to a federal magistrate judge in open court.

The absence of the foreperson's signature on the indictment may not be fatal, but the absence of either the United States Attorney's signature on the indictment or the absence of the proceedings of the

return of the indictment by the grand jury foreperson or deputy foreperson to a federal magistrate judge in open court are fatal and render the indictment **void**.

Petitioner contends that the alleged "return" of the indictment in this matter was not conducted in compliance with the mandate of Fed.R.Cr.P. Rule 6(f). Further, Petitioner believes the indictment was drafted by the United States Attorney and was seen and was signed only by the foreperson of the grand jury and that 12 or more grand jurors may not have concurred in the finding and returning of the indictment as required by Fed.R.Cr.P. Rule 6(f). In United States v. Bullock, supra and Gaither v. United States, 413 F.2d 1061 (D.C. Cir. 1969), the Clerk of the Court nor the court reporter were able to provide the transcripts of the Fed.R.Cr.P. Rule 6(f) proceedings. These proceedings that are held in open court are required to be delivered to the requesting party upon his request. See Fed.R.Cr.P. Rule 6(c) and Title 28 U.S.C. § 753(b).

Petitioner raises a challenge to his imprisonment which collaterally attacks a void indictment due to the fraud on the court, which acted without subject matter jurisdiction because no valid indictment was returned by the grand jury foreperson or deputy foreperson. The record reflects the procedures pursuant to Fed.R.Cr.P. Rules 6(c) and 6(f) were not followed.

SUBJECT MATTER JURISDICTION MAY BE RAISED AT ANY TIME

Petitioner raised the issue of the lack of subject matter jurisdiction to this Court. It is a well established principle of Law that subject matter jurisdiction cannot be waived or created and may be raised for the first time on appeal or even raised by a court sua sponte. See United States v. Harris, 149 F.3d 1304 (11th

Cir. 1998). In fact, a federal court not only has the power, but also the obligation to inquire into jurisdiction **whenever** the possibility that jurisdiction does not exist. See Harris, supra citing Philbrook v. Glodgett, 421 U.S. 707 (1975); also see City of Kenosha v. Bruno, 412 U.S. 507 (1973). Thus whenever it appears, by suggestions of the parties or otherwise, that the Court lacks jurisdiction of subject matter, the Court shall dismiss the action. See Blue Cross & Blue Shield of Alabama v. Sanders, 138 F.3d 1347 (11th Cir. 1998); also see United States v. Suescun, 237 F.3d 1284, 1287 (11th Cir. 2001) wherein it posits that a district court lacks jurisdiction to entertain a criminal case if it appears that the government "lacked power to prosecute the defendant." This, afortiori, holds true even after a decision on the merits. See Casio Inc. v. S.M. & R. Co., Inc., 755 F.2d 528 (7th Cir. 1985) as to the application of this principle in the **returning** of a valid indictment by the grand jury. See also United States v. Chambers, 944 F.2d 1253 (6th Cir. 1991).

It is fundamental that the grand jury must transfer jurisdiction over a "criminal matter" from the People to the government in order to invoke the trial process against a fellow citizen. Petitioner contends that neither the grand jury, as a body, nor the grand jury foreperson or deputy foreperson ever **returned** a valid indictment **in open court** on the record thereof in order to transfer subject matter jurisdiction to the Court and allow the government to pursue litigation.

In Stirone v. United States, 361 U.S. 212, 80 S.Ct. 270, 4 L.Ed.2d 252, 253 (1960), the Supreme Court held that it was the **return of the indictment** that sets the court's jurisdiction and only then can the court hear the specific charge(s) included in the

indictment. The Court cannot amend the indictment and the defendant has a substantial right to be tried only on the charges presented in a valid indictment that has been **returned** by the grand jury in **open court** to a federal magistrate judge. Stirone, supra then states:

"Deprivation of such a basic right is **far too serious** to be treated as nothing more than a variance and then dismissed as harmless error." (Emphasis Added)

Consequently, this case against the Defendant went to trial on false or fictitious jurisdictional facts and lacks the integrity of good faith. It is impermissible to use a fiction to establish judicial power where, as a matter of fact, it does not exist. See Insurance Corp. of Ireland, Ltd., et al. v. Compagnie Des Bauxities de Guinea, 456 U.S. 694, 703, 72 L.Ed.2d 492, 102 S.Ct. 2099 (1982).

Under the Fifth Amendment to the Constitution, the People expressly reserved jurisdiction over criminal matters to themselves. The grand jury, according to the Handbook given to jurors at the commencement of their service indicates that it serves two useful purposes:

1. The grand jury serves as a sword to put people who are found to have possibly committed a crime (probable cause) to the rigors of a trial, and; (in good faith)
2. The grand jury also acts as a shield to protect people who are (presumed) innocent from the monetary and emotional expense and the exposure to the awesome power and force of government.

In Wood v. Georgia, 370 U.S. 375, 8 L.Ed.2d 569, 82 S.Ct. 1364 (1962), it states:

"Historically, this body [grand jury] has been regarded as a primary security to the innocent against hasty, malicious and oppressive persecution; it serves the invaluable function in our society of standing between the accuser and the accused, whether the latter be an individual, minority group, or other, to determine whether a charge is founded upon reason or was dictated by an intimidating power or by malice and personal ill will."

Federal courts are courts of **limited jurisdiction** which cannot derive jurisdiction from the consent of the parties. They must, whenever it appears that there might be a lack of subject matter jurisdiction, assure themselves of jurisdiction even if the parties failed to raise the issue. See Fed.R.Civ.P. Rule 12(h)(3). Additionally, "... jurisdictional defects are non-waivable." Harris, Id. at 1308.

The Indictment

The docket in the instant criminal case fails to identify any information about a **return of indictment hearing**. There is no statement or reference anywhere on the docket, Exhibit A, contained herein and made part of this motion that shows the indictment had been **returned** in a hearing **in open court**. There is no identification on the docket of an audio tape of the hearing nor a written record of a Court Reporter's name attending and creating a record or any evidence that a Court Reporter recorded by shorthand, or otherwise, in an open court hearing wherein the indictment was allegedly returned. Petitioner would object to the authenticity and accuracy of **any and all records** proffered to the Court other than an original, true, correct, and complete certified transcript of the Return of Indictment Hearing as required under Fed.R.Cr.P. Rule 6(f) which would have lawfully created the instant case.

Petitioner sent a letter on September 23, 2002 to Catherine Wade, Executive Services Administrator for the Southern District of Florida, Exhibit B, contained herein and made part of this motion in which she failed to show that there was a Return of Indictment Hearing held in the instant case.

Title 28 U.S.C. § 753(b) specifies that a record of all criminal proceedings be created by an appointed Court Reporter and turned over to and maintained by the Clerk of Court "for not less than ten

years." These records, audio tapes and transcripts are to be made available to **any party** to any proceeding during this period of time. The "indictment" was allegedly returned on or about March 24, 1998.

Although Fed.R.Cr.P. Rule 6(e)(4) allows for a federal magistrate judge to seal an indictment, should the Prosecution move for the "sealing" of the indictment, the hearing for the **return of indictment** to take place **in open court** must be open to the general public as indicated in United States v. Layton, 509 F.Supp. 212 (N.D. Cal. 1981) which states:

"United States Attorney should not cause the courtroom doors to be locked when an indictment is being returned, barring extraordinary circumstances, and need to have the indictment sealed is not sufficient ground."

In this instant case, there were no extraordinary grounds which would allow for secrecy regarding the **return of the indictment** hearing, thus the indictment return hearing and its original record, audio tapes, shorthand notes and the transcripts thereof, are public information and must be docketed and made part of the Clerk of Court records.

A signed copy of the indictment by the grand jury foreperson is not evidence of a valid indictment returned to a magistrate judge in open court.

CONCLUSION

From time immemorial (at least from 1164 A.D.), the grand jury has been required to **return** its indictments **in open court** in order for the indictment to be valid. This is not a new rule or a complicated procedure which can be excused as being burdensome or irrelevant. The record of the instant case must show conclusive evidence proving that the indictment creating the instant criminal case was, in fact, **returned**

by the grand jury foreperson or deputy foreperson **in open court**. --
If it does not, then there is no valid "indictment" entered into
Court and the UNITED STATES DISTRICT COURT for the SOUTHERN DISTRICT
OF FLORIDA had no subject matter jurisdiction on which to try the
Defendant.

Petitioner can think of no better way to conclude this Petition
for relief then to recite an excerpt from the last paragraph of
Renigar, supra in which the Court states in its findings that:

"Nothing is more clear than that the "established mode of
procedure" is for the grand jury to make its presentments
publically in open court all of the grand jurors being present
and answering to their names. It follows that a paper purporting
to be an indictment handed by the foreman to the clerk when
the court is not in session, and in the absence of the grand
jury, **is no indictment.**" (Emphasis Added)

"This is not a question of irregularity, but a substantive law,
based upon the direct terms of the constitutional guaranty
that no man shall be "held to answer" for an infamous offense
except on an indictment by a grand jury. The indictment --
and that means of course a **valid indictment** found and presented
according to the settled usage and established mode of procedure
-- is a prerequisite to the jurisdiction of the court to try
the person accused, an indispensable condition and requirement,
the absence of which renders the proceedings not simply voidable,
but absolutely void." (Emphasis Added)

RELIEF SOUGHT BY PETITIONER

WHEREFORE, Petitioner requests the Court, within 72 hours
of the Court's receipt of this petition, to Order the Clerk of
Court to produce for Petitioner proof of the Hearing for the
return of the indictment in open court before a federal magistrate
judge by obtaining from the Court a true, correct and complete
certified transcript of the hearing wherein the indictment created
the instant case by the grand jury as set forth in Fed.R.Cr.P. Rule
6(f) and the transcript showing that the foreperson or deputy
foreperson of the grand jury appeared in **open court**, whereby the Court
Reporter or an audio tape created a **transcript** duly filed with the
Clerk of Court.

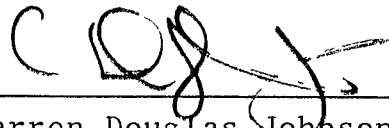
If it is found that no such transcript or audio tape of the hearing filed with the Clerk of Court **returning the indictment**, Petitioner requests the Court to issue the immediate and unconditional release of Warren D. Johnson, Jr. from imprisonment at Federal Correctional Complex, Coleman - Low for the lack of subject matter jurisdiction and arresting the judgment of the Court against WARREN D. JOHNSON, JR. or, in the alternative, schedule an emergency "supplementary adversary hearing", see United States v. Bullock, 448 F.2d 728 (5th Cir. 1971), to place for and on the Court's record the conclusive evidence showing that the requirements of Fed.R.Cr.P. Rule 6(f) were, as required, met in establishing a valid indictment.

Petitioner further requests any and all other relief that the Law allows or requires in this matter.

OATH

I, Warren Douglas Johnson, Jr. hereby declare that I am competent to be a witness, that the facts contained herein are true, correct, complete and not misleading to the best of my first hand knowledge under penalty of perjury to the Laws of The United States of America and the Laws of the State of Florida this 13th day of October, 2002.

Respectfully submitted this 13th day of October, 2002.



Warren Douglas Johnson, Jr.
#53225-004 / A-3 (Citrus)
Federal Correctional Complex - Low
P.O. Box 1031
Coleman, Florida 33521-1031

501 331 6 03
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 United States Fish and Wildlife Service
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DOCKET PROCEEDINGS

DATE	DOCKET ENTRY
3/21/98 1	INDICTMENT re to Warren D. Johnson Jr. (Entry date 03/21/98)
3/21/98	Magistrate identification: Magistrate Judge Ann E. Vitunac (Entry date 03/21/98)
3/24/98 2	CRIMINAL (E3) issued to Warren D. Johnson Jr. before Magistrate Ann E. Vitunac (Entry date 03/24/98)
3/24/98	NOTICE of temporary appearance for Warren D. Johnson Jr. by Attorney David L. B. (Entry date 03/24/98)
3/25/98 4	Minute of bond, hearing and initial hearing held on 3/25/98 before Magistrate Ann E. Vitunac as to Warren D. Johnson Jr., Court Reporter Name: Page # AEV 98-28-493 (kw) [Entry date 03/25/98]
3/25/98 6	CRIMINAL Initial Appearance as to Warren D. Johnson Jr. Bond set at \$100,000.00 (B. Arrangement set for 30 4 2/98, Report to counsel set for 30 4 2/98, before Magistrate Ann E. Vitunac, (Entry date 03/25/98) (AP) (kw) [Entry date 03/25/98]
3/26/98 5	REPORT Commencing Criminal Action as to Warren D. Johnson Jr. DOP: 10/6/97, Iriscene # 53 25 001 (kw) [Entry date 03/26/98]
3/26/98 7	CRIMINAL entered by Warren D. Johnson Jr. in Amount \$100,000.00 (Surety Information: Alleged: Mutual Casualty Comp., Michael Sandy, 3 8 Ranch Blvd West Palm Beach, FL) Approved by Magistrate Ann E. Vitunac (kw) [Entry date 03/30/98]
4/1/98 8	NOTICE of surrendered passport as to Warren D. Johnson Jr. by Federal Services (kw) [Entry date 04/01/98]
4/8/98 9	Minute of status in counsel and arraignment held on 4/8/98 before Magistrate Ann E. Vitunac as to Warren D. Johnson Jr. Page # AEV 98-28-493 (kw) [Entry date 04/08/98]
4/22/98 10	Minute of status in counsel not held on 4/22/98 before Magistrate Ann E. Vitunac as to Warren D. Johnson Jr. Page # AEV 98-28-2560 (kw) [Entry date 04/22/98]
4/24/98 11	CRIMINAL as to Warren D. Johnson Jr. for REPLEVISHMENT of Public Defender assigned by Magistrate Ann E. Vitunac on 4/25/98 (AP) (kw) [Entry date 04/24/98]
4/24/98 12	CRIMINAL setting aside order appointing Federal Public

http://pacer.tlsd.uscourts.gov/dc/cgi-bin/pacer/40.pl

06/09/2002

September 23, 2002

Catherine Wade
Executive Services Administrator
United States District Court
Southern District of Florida
301 North Miami Avenue
Miami, Florida 33128-7788

RE: JURISDICTION OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA (OR) LACK THEREOF
DUE TO THE GRAND JURY NOT RETURNING AN INDICTMENT
IN OPEN COURT WHICH LED TO CASE NO. 98-8039-CR-RYSKAMP.

Dear Ms. Wade;

I need to obtain from you a true, correct, and complete transcript of the Return of Indictment Hearing held in open Court with a Magistrate Judge on or around March 24, 1998 creating this case no. 98-8039-CR-RYSKAMP as required under the Federal Rules of Criminal Procedure (F.R.Cr.P.) in Rule 6(f) Finding and Return of Indictment. The Indictment was docketed in this case on March 24, 1998 and the Return of Indictment Hearing would have been before Magistrate Judge Ann Vitunac in her West Palm Beach division Courtroom. In the event that a record of this Hearing does not exist, please notify me of this finding on your letterhead and with your signature.

In the event that you do locate the record, please disclose this to me immediately.

A lack of response within five business days will be construed to mean that the Finding and Return of Indictment was not returned in open court by the Foreperson and a total of twelve (12) members of the Grand Jury as required by Law under F.R.Cr.P. Rule 6(f), which therefore denies Jurisdiction to the District Court.

I look forward to hearing from you.

Best Regards,



Warren Douglas Johnson, Jr.
53225-004 / A-3 Low
Federal Correctional Complex
P.O. Box 1031
Coleman, Florida 33521-1031

Received: Sept. 26, 2002

EXHIBIT B

496

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 02-80353-CIV-RYSKAMP/SORRENTINO
(98-8039-CR-RYSKAMP)

WARREN D. JOHNSON, JR.,

Petitioner,

v.

Judge Ryskamp
Magistrate Sorrentino

UNITED STATES OF AMERICA,

Respondent.

_____ /

PETITIONER'S RESPONSE TO
TO THE FILING OF
GOVERNMENT'S ANSWER TO PETITIONER'S
MOTION TO VACATE, SET ASIDE, OR CORRECT
SENTENCE PURSUANT TO TITLE 28, UNITED STATES
CODE, SECTION 2255

COMES NOW, Warren D. Johnson, Jr., Sui Juris and In Propria Persona, who properly filed a Combined Motion in case no. 98-8039-CR-RYSKAMP as a F.R.E. 201(d) of undisputed facts for Manditory Judicial Review as provided for in the F.R.Cr.P.; a Rule 3 Criminal Complaint against those individuals who lied, withheld information and had misled the Jury in the above referenced case; as well as a motion for a Writ of Habeas Corpus and hereby responds to the Government's Answer to petitioner's Motion to Vacate, Set Aside, or Correct Sentence pursuant to Title 28, United States Code, Section 2255, as follows:

1. Petitioner has preserved his future rights to file a Title 28 U.S.C. § 2255 motion at a later date and did not file such a motion relating to section 2255 of the United States Code at this time.

TCI-10-PG.8

2. Petitioner filed a 201(d) under the Federal Rules of Evidence to bring forth the true and correct and more complete facts that were not brought forth by the Government, public defender Adler or Appeals attorney Eisenberg. Due to their incompetence, misrepresentation and ineffective counsel, the Petitioner chose to proffer the Record and correct their inadequate proofs or lack of proof thereof concerning the violations of Petitioner's due process, civil and constitutional rights. Attorney Eisenberg did write a legal opinion which he signed, Exhibit A, and made herein as part of this Response that Petitioner can sue "Ms. Bell, Agent McBride, Kapilla, Scott and McCann," but Petitioner felt that the Truth must be put on the record.

3. Appeals attorney Eisenberg and Government's public defender Adler never ever obtained authorization in writing as required by Local Rule 11.1(D) to stand before the Court and they never challenged the fact that the indictment was not returned in open court by the grand jury as required by F.R.Cr.P. Rule 6(f), which denied Jurisdiction to this Court as there was no valid indictment.

4. Petitioner can go on for great lengths about the ineffective and incompetent counsel as brought forth in the Combined Motion, which would include the fact that due process violations included under F.R.Cr.P that there was no Rule 3 Criminal Complaint, there was no hearing before a federal magistrate judge to determine probable cause in a Bankruptcy Fraud case under Title 18 U.S.C. § 3057 Bankruptcy Investigations; based on Rule 5.1 Preliminary Examination, which never originated as designated by Title 18 U.S.C. § 3060 Preliminary Examination which was required by law to do so; and all the undisputed facts brought forth in the 123 pages covering the F.R.E. 201(d), Writ of Habeas Corpus, and

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TCI-10-PG.9

Rule 3 Criminal Complaint and supported by Exhibits A through Z contained therein, and in fact were never previously brought forth in this case. These would obviously be major issues in a Title 28 U.S.C. § 2255 motion against the attorneys forced on Petitioner against his will to represent the Defendant in violation of the Local Rules as well as Petitioner's civil and constitutional rights.

5. Carolyn Bell has not only failed to answer and dispute the facts contained in Exhibits A to Z in support of the F.R.E. 201(d), Writ of Habeas Corpus and Rule 3 Criminal Complaint, but in fact has admitted the F.R.Cr.P. Rule 3 Criminal Complaint in this case did not exist which further support the evidence of a criminal enterprise under RICO against the Petitioner. How could an investigation of this magnitude arise except as a vendetta from suing an F.B.I. Agent's sister and their powerful and corrupt co-conspirators like Merrill Lynch and Holland & Knight being the motor to drive it? Without the complaint, this is an additional crime to add to the Rule 3 Criminal Complaint and a further violation of Petitioner's due process constitutional rights.

6. Carolyn Bell offers only court cases and questions with no evidence to support her Answer filed on September 26, 2002.

7. The United States v. Maung case, 267 F.3d 1113 (11th Cir. 2001) is an extension of previous cases by the 11th Circuit Court of Appeals and clearly sets the 90-days from the Sentence Hearing as the absolute maximum for determining Restitution or there can be no Restitution under the Rule of Law. The law did not change because of the Maung case but had already existed prior to this time. Carolyn Bell has again lied to mislead the Court. This is 499 the very reason Patrick Scott and the tortfeasors resorted to threats

and extortion, since Patrick Scott admitted he could get nothing. The Johnson family members were all told of the extortion by several attorneys. That is why attorney Angela Morelock wrote her opinion and also stated that we could easily prove the extortion later on. Eisenberg wrote his opinion in long hand below Angela Morelock's opinion and stated in no uncertain terms who we would be able to sue for damages. Everyone well knew that Petitioner exposed the extortion to Palm Beach County Sheriff's deputies and to Judge Ryskamp in his letter to the Judge on January 20, 2001. See Exhibit B attached to the Combined Motion - pages B-55 to B-57.

SUMMARY

This criminal enterprise has allow Merrill Lynch, et al. to use the F.B.I. and Justice Department as its own private police force. Like the innocent people put in prison by F.B.I. agents in Boston, Massachusetts thirty years ago, Petitioner has always maintained his honor, integrity and innocence. It is never too late to establish the Truth and facts as in the case in Boston where F.B.I. agent John J. Connelly, Jr. was recently sentenced by the Court to 10 years in prison, while his victim has now filed his damage suit for \$100 million. We can no longer allow F.B.I. agent to get drunk, kill two blacks coming from church and have law enforcement buddies cover up and lie for the agent. Obviously when Robert Hansen spied for the Russians for 15 years this even alarmed the F.B.I. brass. The American people are getting fed up with the misconduct and crimes against law abiding citizens such as the Royal Johnson Family, under the color of authority and the color of law.

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Through this Writ of Habeas Corpus and the supporting facts, Petitioner is seeking immediate release from federal custody.

If the Court allows an innocent man to be held in prison where:

1. There was no Complaint.
2. There was no valid indictment as there was no indictment returned in open court by the grand jury.
3. Due process constitutional right were trampled.
4. The innocent man was not allowed his constitutional rights to defend himself.
5. F.B.I. 302 Field Reports were destroyed as evidenced in Jerry Linkous Affidavit by his statement he made to Carolyn Bell and agent McBride on September 14, 1998. See Exhibit B attached to the Combined Motion - pages B-34 to B-35.
6. The trial was a sham.
7. Lawful assets were extorted from members of the Royal Johnson Family. See Exhibits W and Z in support of the Combined Motion.
8. The religious conscience of the Royal Johnson Family was violated, which is an offense against the Law of Nations.
9. The Turks and Caicos Island's government was lied to by the Department of Justice.
10. A multi-billion dollar (U.S.) project was destroyed, that was a significant part of the economic plan of the Turks and Caicos Island's government.
11. Collateral was extorted from the Turks and Caicos project that had a future forward value of \$41 billion.
12. Ice Ban was bankrupted as a result of the criminal acts of the tortfeasors, which has now cost the United States of America billions of dollars in damages and thousands of lives lost as a result of this act.
13. The United States of America faces litigation in the


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International Court of Justice at the Hague, Netherlands under the rule of postliminium.

WHEREFORE, these actions by officials of the Justice Department and the final outcome may well strip the United States of its Sovereign Immunity; cost \$123 billion under RICO for triple-damages; and thus making our system of Justice a laughing stock.

For the foregoing reasons, plus the undisputed evidence, affidavits, exhibits and undisputed facts, the Petitioner requests the Court to hereby grant Petitioner's motions and relief requested.

Respectfully submitted this 7th day of October, 2002.

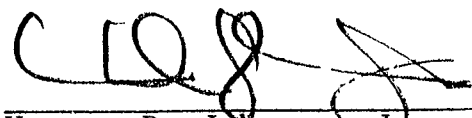


Warren Douglas Johnson, Jr.
c/o 53225-004 / A-3 (Citrus)
Federal Correctional Complex - Low
P.O. Box 1031
Coleman, Florida 33521-1031

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true, correct and complete copy of the foregoing has been provided by U.S. Mail as of this 7th day of October, 2002.

Carolyn Bell
Assistant United States Attorney
500 Australian Avenue
Suite 400
West Palm Beach, Florida 33401

BY: 

Warren D. Johnson, Jr.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 02-80353-CIV-RYSKAMP/SORRENTINO
(98-8039-CR-RYSKAMP)

WARREN D. JOHNSON, JR.,

Petitioner,

v.

Judge Ryskamp
Magistrate Sorrentino

UNITED STATES OF AMERICA,

Respondent.

PETITIONER'S MOTION TO STRIKE CAROLYN BELL'S
RESPONSE AS FRIVOLOUS, NON-RESPONSIVE, AND A FRAUD ON THE COURT

COMES NOW, Warren D. Johnson, Jr., Sui Juris and In Propria Persona, who properly filed a Combined Motion in case no. 98-8039-CR-RYSKAMP as a F.R.E. 201(d) of undisputed facts for Mandatory Judicial Review as provided for in the F.R.Cr.P. This Combined Motion also included a Rule 3 Criminal Complaint against those individuals who lied, withheld information and had misled the Jury in the above referenced case, as well as a motion for a Writ of Habeas Corpus. Petitioner also filed a Verified Declaration and Petitions for Redress of Grievance, Injunctive Relief and Prospective Injunctive Relief in the above referenced case on May 14, 2002, which Declaration and Petitions were filed on May 8, 2002 in case no. 92-33339-BKC-SHF; since it addressed violations of Petitioner's due process rights under the United States Constitution and the F.R.Cr.P. The Verified Declaration is attached and the document speaks for itself.

#02-CV-80353

Dkt. 13 (10/07/02)

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When it appeared that the Court had recharacterized Petitioner's Combined Motion to a § 2255, Petitioner requested a current copy of the docket to determine:

"If there has been an Order signed by Judge Ryskamp to recharacterize the motions outstanding, including the Mandatory Judicial Notice of Adjudicative Facts under Rule 201(d) that was filed April 19, 2002, the Petitioner requests a copy of that entry on the Docket of this case, as well as a copy of the Order." [submitted 5/22/02]

No such Order by Judge Ryskamp to reclassify the Combined Motion was provided by Karen Eddy, Clerk of the Court and such an order by the Court would have violated the findings in Castro v. United States, 277 F.3d 1300, 1305 (11th Cir. 2002).

Petitioner further states that he filed a Verification of Combined Motion into the criminal case on May 30, 2002, sent to the Clerk of the Court by Certified Mail No. 7001-0360-0001-5143-7417 that stated:

"Petitioner did not authorize or request the Clerk of the Court or anyone else to file this Combined Motion into the Court on April 19, 2002 as a Title 28 U.S.C. § 2255 "Motion to vacate"."

The Petitioner's Combined Motion and Verified Declaration and Petitions, along with Exhibits A to Z filed into Court in support of these Motions and Petitions and made part of the record, copiously prove criminal acts against Petitioner and his family, violations of the United States Constitution, the Law of Nations, the Federal Rules of Criminal Procedure and the Court's local rules by Government officials operating under the color of authority and the color of Law.

On August 20, 2002 Carolyn Bell asked the Court in her motion to grant her a further extension of time beyond the time covered

in the local rules to answer Petitioner's "Writ of Habeas Corpus." Her Response was without merit, frivolous and not responsive since her answer was based on destroying a § 2255 motion, which the Petitioner has never filed with this Court and is totally non-responsive to the Writ of Habeas Corpus that Ms. Bell got an extension to answer.

Petitioner moves this honorable Court to strike Carolyn Bell's response as frivolous, non-responsive, and a fraud on the Court.

Since Ms. Bell has never responded to the Rule 3 Criminal Complaint or the Federal Rules of Evidence Rule 201(d) statement of indisputable facts which required Mandatory Judicial Review, she is now time barred and the facts stand as undisputed as stated in said Motion, Verified Declaration and Petitions and contained in the Exhibits A to Z filed in support of said Motions and Petitions. A copy of the Table of Contents for Exhibits A to Z is attach herein as Exhibit A and is made part of this motion.

A letter to the Clerk of the Court, Karen Eddy, on May 17, 2002 requested copies of the proper authorization forms for attorneys Robert Adler and James Eisenberg to appear before the Court as required by local rule 11.1(D). No such forms were signed by the Petitioner and as such she has not responded. (See Petitioner's Objections to Government's Motion for Extension of Time to Respond to Petitioner's Motion filed on August 24, 2002 and including attachments - specifically page 40 and pages 56 and 57).

The Court has been informed on several occasions concerning these hate crimes that comprise a "religious war" under Piety and Religion, Chapter XII of the Law of Nations. At the trial Judge

Ryskamp stated:

"If you can establish later on that the Government has withheld evidence or misled the Jury, that's a pretty serious accusation and I will deal with that later on." (See Exhibit J - Pgs. J-42, Pg. 1173 Ln. 4-6 & Pg. 1179 Ln. 2-5).


This was in response to the statement that Ms. Bell had "made misrepresentations to the Jury, ..." This Combined Motion and Verified Petitions are timely and are now the "... deal with that later on" as required by Justice and our rule of Law.

Our Royal Johnson Family - PORTOSEL has been criminally attacked by tortfeasors, D/B/A or acting in a capacity and manor as United States Attorney. Merrill Lynch, et al., Patrick Scott and U.S. Trustee Kapila have all committed numerous crimes and will be brought to Justice. Those co-conspirators who covered-up, lied and misused our system of Justice are listed in the presentment or indictment on pages 20 to 22 of the Verified Petition.

Petitioner will be filing another Motion and Brief in support of this Motion and a Response to the Government shortly if the Petitioner is not immediately released and granted relief sought in the Motions before the Court.

WHEREFORE, Petitioner requests the Court to strike the Government's response submitted by Carolyn Bell.

Respectfully submitted this 2ND day of October, 2002.


Warren Douglas Johnson, Jr.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. _ 98-8039-CR-RYSKAMP

v.

WARREN D. JOHNSON, JR.,

Defendant, Petitioner.

NOTICE OF FILING CORRECTIONS TO
"PETITIONER'S MOTION TO COMPEL THE
CONGRESS OF THE UNITED STATES OF AMERICA
TO PUNISH THE OFFENCES AGAINST THE LAW OF NATIONS"


COMES NOW, Warren D. Johnson, Jr., In Propria Persona
and In Sui Juris and hereby files with this honorable Court
the following changes as they relate to the recent filing of
PETITIONER'S MOTION TO COMPEL THE CONGRESS OF THE UNITED STATES
OF AMERICA TO PUNISH THE OFFENCES AGAINST THE LAW OF NATIONS:

1. On page 4 of 14 pages on line 5 Universal Commercial
Code is changed to Uniform Commercial Code (U.C.C.).

2. On page 4 of 14 pages on line 12 ab initio is changed
to VOID ab initio.

3. On pages 12, 13 & 14 of 14 pages, the date at the top
of the Eliot Spitzer letter should be changed to April 16, 2002.

RESPECTFULLY submitted this 31st day of August, 2002.




Warren D. Johnson, Jr.
FCC, Coleman - Low
P.O. Box 1031
Coleman, Florida 33521

CERTIFICATE OF SERVICE

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I CERTIFY that a true and complete copy of the foregoing has been
sent to Carolyn Bell, AUSA, as of this date by first class mail.



Dkt. 196 (09/05/02)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO.: 98-8039-CR-RYSKAMP

v.

WARREN D. JOHNSON, JR.,

Defendant-Petitioner.

/

PETITIONER'S OBJECTIONS TO GOVERNMENT'S MOTION
FOR EXTENSION OF TIME TO RESPOND TO PETITIONER'S MOTION

COMES NOW, Warren D. Johnson, In Propria Persona and In Sui Juris, hereby objects to Carolyn Bell, Assistant United States Attorney for the United States of America, requesting any extension of time in which to respond to Petitioner's motion and further states as follows:

1. Petitioner filed in this honorable Court a motion on April 13, 2002 identified as:

COMBINED MOTION UNDER F.R.E. RULE 201(d); PETITION FOR A WRIT OF HABEAS CORPUS; AND FILING OF A CRIMINAL COMPLAINT UNDER F.R.Cr.P. RULE 3 AGAINST F.B.I. SPECIAL AGENT MICHAEL McBRIDE, ATTORNEY PATRICK SCOTT, RASHID "REG" BODHAYNA, ET AL., AND ANY OR ALL AGENTS d/b/a OR ACTING AS UNITED STATES ATTORNEY WHOSE IDENTITIES ARE PRESENTLY UNKNOWN OR TO BE IDENTIFIED, AS DEFENDANTS. (herein after Combined Motion).

A true copy of the Combined Motion was sent to Carolyn Bell on April 15, 2002, which she acknowledged that she received on April 19, 2002 the 123 pages plus exhibits in support of the motion.

#02-CV-80353

Dkt. 11 (08/29/02)

Dkt. 195 (08/28/02)

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The local rules for the Southern District of Florida, 7 (C) 1. gave the Government ten days in which to respond. No response was filed with the court by April 29, 2002; and, no response was filed whereby the Government requested an extension of time within that ten day period. Over four (4) months have now passed and this motion is now due for a notice of Ripeness under Local Rule 7.1 (B) 3. A letter on August 6, 2002 was sent Certified Mail- receipt # 7002 0510 0003 8375 7750 to Catherine Wade, Executive Service Administrator for the United States District Court, Southern District of Florida, requesting said notice under Rule 7.1 (B) 3. (See page 41 of the Attached Documents)

2. Catherine Wade has issued a NOTIFICATION OF 90 DAYS EXPIRING AND RIPENESS FOR HEARING to Federal Judge Kenneth L. Ryskamp on May 24, 2002, with a second notice on July 18, 2002 for a motion filed November 21, 2001 and recorded under Docket # 188; and, the Government never responded to that motion either. (See pages 1 and 39 of the Attached Documents)

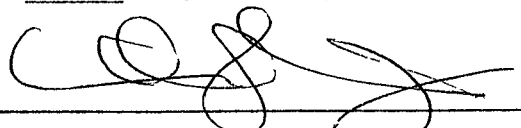
3. The Government has many attorneys, three of which at a minimum, have worked on this case, and they well know how to respond and comply with the Local Rules. I doubt that the personal medical problems affected the whole staff, and occurred after June 14, 2002, which is well after the response time of April 29, 2002 required under Rule 7 (C) 1.

4. The Sentencing, Status Conference and Restitution hearing transcripts are all over eighteen (18) months old. AMPLE TIME!!!

5. Extending this religious war and allowing these tortfeasors to postpone restoration under the Law of Nations, rule of postliminium, will cost America additional billions of dollars and cost multitude of lives as outlined in the letter of September 17, 2001 to Senator Charles E. Schumer. (See Exhibit V - pages V-54). Congress has the power to define and punish offenses against the Law of Nations, under Article 1, Section 8 of the United States Constitution.

6. This response is hereby supported by 57 pages of documents in support of Petitioner's Objections to the Court; and Petitioner prays for the Court to grant immediate relief by issuing an Order to deny the Prosecution's request for additional time to respond and to issue an Order declaring the Judgment in this cause, in case no. 98-8039-CR-RYSKAMP of the United States District Court for the West Palm Beach Division, to be VOID ab initio and release Warren D. Johnson, Jr. immediately and unconditionally from prison and custody of the United States Department of Justice.

RESPECTFULLY submitted this 24th day of August, 2002.


Warren Douglas Johnson, Jr.
53225-004 / A-3 Citrus
Federal Correctional Complex - Low
P.O. Box 1031
Coleman, Florida 33521

CERTIFICATE OF SERVICE

THIS CERTIFIES that this document along with its attachments will be logged into the prison mail system as Legal Mail duly recorded in Petitioner's case on August 24, 2002 and sent by Certified Mail No. 7001 2510 0004 8781 8888, return receipt requested, to the Clerk of the Court; and a copy sent this same day to Carolyn Bell, AUSA, and Magistrate Judge Charlene H. Sorrentino.

ATTACHMENTS

[57 Pages of Documents enclosed herein and made part of
Petitioner's Objections to Government's Motion
for Extension of Time to Respond to Petitioner's Motion]

Documents

Second Notification of 90 Days Expiring and Ripeness for Hearing (July 18, 2002)	1
Criminal Docket for Case #: 98-CR-8039 (11/21/01 - 07/01/02)	2
Letter to Catherine Wade (July 11, 2002).	3-4
Exhibit <u>C</u> (part of letter).	5-29
Exhibit <u>D</u> (part of letter).	30-36
Exhibit <u>E</u> (part of letter).	37-38
Notification of 90 Days Expiring and Ripeness for Hearing (May 24, 2002).	39
Letter to Clerk of the Court - Karen Eddy (May 17, 2002)	40
Letter to Catherine Wade (August 6, 2002).	41-42
Complaint filed with Inspector General, Glen A. Fine (June 2002)	43-45
USA TODAY Article - Bureau sets new priorities (May 30, 2002).	46
Letter to Senators Leahy, Schumer, Hatch, and Grassley (June 25, 2002)	47
Johnson's Motion for Clarification of Questions to District Court (June 25, 2002).	48-52
Johnson's Motion for Clarification of Questions t Bankruptcy Court (June 5, 2002).	53-55
Letter to Clerk of the Court - Karen Eddy (May 17,2002).	56-57

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,
Plaintiff,

CASE NO. 98-8039-CR-RYSKAMP

v.

WARREN D. JOHNSON, JR.,
Defendant/Petitioner.

NOTICE OF FILING ADDITIONAL DOCUMENTS
TO EXHIBIT X PREVIOUSLY FILED INTO THIS COURT

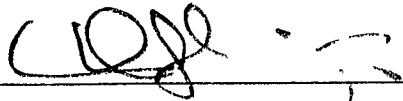
COMES NOW, Warren D. Johnson, Jr., in Sui Juris and In
Propria Persona, hereby files to the Court the following
Exhibits:

1. Exhibit X, Page X-6 - This document is a copy of Title
18 U.S.C. § 152(1) as shown in West's Federal Criminal Code and
Rules, including notations of acts enacted in 1978 and 1994.

2. Exhibit X, Page X-7 - This is a copy of the hand written
instructions that were signed and given to the Jury by Judge
Ryskamp on November 23, 1998 which relates to Count 2 of the
Indictment and has missing the elements of the word "knowingly"
and the aspect of materiality as it relates to determining
if there was any possibility of fraud committed.

3. Exhibit X, Page X-8 - This filing into the Bankruptcy
Court asks the Court for clarification of issues relating to
Bankruptcy that pertain to this case, and ending on Page X-10.

RESPECTFULLY submitted this 26th day of June, 2002.



Warren D. Johnson, Jr.
53225-004 / A-3 Low
Federal Correctional Complex
P.O. Box 1031
Coleman, Florida 33521

Dkt. 193 (07/01/02)

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and complete copy of this document was mailed this 26th day of June, 2002 to Carolyn Bell, Assistant United States Attorney, 500 Australian Avenue, Suite 400, West Palm Beach, Florida 33401.

BY: WDJ 6/26/2002
Warren D. Johnson, Jr. Date

EXHIBIT X

- Sec.
 151. Definition
 152. Concealment of assets, false oaths and claims; bribery.
 153. Embezzlement against estate
 154. Adverse interest and conduct of officers.
 155. Fee agreements in cases under title 11 and receiverships
 156. Knowing disregard of bankruptcy law or rule
 157. Bankruptcy fraud

§ 151. Definition

As used in this chapter, the term “debtor” means a debtor concerning whom a petition has been filed under Title 11.

(June 25, 1948, c 645, 62 Stat 689; Nov 6, 1978, Pub L 95-598, Title III, § 314(b)(1), 92 Stat 2676; Sept 13, 1994, Pub.L. 103-322, Title XXXIII, § 330008(5), 108 Stat. 2143)

HISTORICAL AND STATUTORY NOTES

Effective and Applicability Provisions

1978 Acts Amendment by Pub L 95-598 effective Oct 1, 1979, see section 402(a) of Pub L. 95-598, set out as a note preceding section 101 of Title 11, Bankruptcy

Savings Provisions

Amendment by section 314 of Pub. L 95-598 not to affect the application of this chapter to any act of any person (1) committed before Oct. 1, 1979, or (2) committed after Oct 1, 1979, in connection with a case commenced before such date, see section 403(d) of Pub L 95-598, set out preceding section 101 of Title 11, Bankruptcy

§ 152. Concealment of assets; false oaths and claims; bribery

A person who—

(1) knowingly and fraudulently conceals from a custodian, trustee, marshal, or other officer of the court charged with the control or custody of property, or, in connection with a case under title 11, from creditors or the United States Trustee, any property belonging to the estate of a debtor;

(2) knowingly and fraudulently makes a false oath or account in or in relation to any case under title 11;

(3) knowingly and fraudulently makes a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, in or in relation to any case under title 11;

(4) knowingly and fraudulently presents any false claim for proof against the estate of a debtor, or uses any such claim in any case under title 11, in a personal capacity or as or through an agent, proxy, or attorney;

(5) knowingly and fraudulently receives any material amount of property from a debtor after the filing of a case under title 11, with intent to defeat the provisions of title 11;

(6) knowingly and fraudulently gives, offers, receives, or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof for acting or forbearing to act in any case under title 11;

(7) in a personal capacity or as an agent or officer of any person or corporation, in contemplation of a case under title 11 by or against the person or any other person or corporation, or with intent to defeat the provisions of title 11, knowingly and fraudulently transfers or conceals any of his property or the property of such other person or corporation;

(8) after the filing of a case under title 11 or in contemplation thereof, knowingly and fraudulently conceals, destroys, mutilates, falsifies, or makes a false entry in any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor; or

(9) after the filing of a case under title 11, knowingly and fraudulently withholds from a custodian, trustee, marshal, or other officer of the court or a United States Trustee entitled to its possession, any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor,

shall be fined under this title, imprisoned not more than 5 years, or both.

(June 25, 1948, c 645, 62 Stat 689, June 12, 1960, Pub L 86-519, § 2, 74 Stat 217; Sept 2, 1960, Pub L 86-701, 74 Stat 753; Oct 18, 1976, Pub L 94-550, § 4, 90 Stat 2535, Nov 6, 1978, Pub L 95-598, Title III, § 314(a), (c), 92 Stat 2676, 2677; Nov 18, 1988, Pub L 100-690, Title VII, § 7017, 102 Stat 4395, Sept 13, 1994, Pub L 103-322, Title XXXIII, § 330016(1)(K), 108 Stat. 2147, Oct 22, 1994, Pub L 103-394, Title III, § 312(a)(1)(A), 108 Stat 4138; Oct 11, 1996, Pub L 104-294, Title VI, § 601(a)(1), 110 Stat 3498)

HISTORICAL AND STATUTORY NOTES

Effective and Applicability Provisions

1994 Acts Amendment by Pub L 103-394 effective on Oct 22, 1994, and not to apply with respect to cases commenced under Title 11 of the United States Code before Oct 22, 1994, see section 702 of Pub L 103-394, set out as a note under section 101 of Title 11, Bankruptcy

1978 Acts Amendment by Pub L. 95-598 effective Oct 1, 1979, see section 402(a) of Pub L 95-598, set out as a note preceding section 101 of Title 11, Bankruptcy

Separability of Provisions

If any provision of or amendment made by Pub L 103-394 or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remaining provisions of and amendments made by Pub L 103-394 and the application of such provisions and amendments to any person or circumstance shall not be affected thereby, see section 701 of Pub L 103-394, set out as a note under section 101 of Title 11, Bankruptcy

Savings Provisions

Amendment by section 314 of Pub L 95-598 not to affect the application of this chapter to any act of any person (1) committed before Oct 1, 1979, or (2) committed after Oct 1, 1979, in connection with a case commenced before such date, see section 403(d) of Pub L 95-598, set out preceding section 101 of Title 11, Bankruptcy

Members of the Jury,

In order to conduct under Court II, you must first beyond a reasonable doubt find:

- 1) the defendant requested an extension of the case, with no intention of delay,
- 2) the defendant truthfully made a false statement in furtherance of the case for an extension,
- 3) the defendant made the false statement with the intent to influence adversely the fact of the case.

It is not necessary for the government to prove that the defendant was extension of the loan was approved by the bank.

Please refer to the rest of the court's instructions in resolving this case.

Judge Ryeland

98-8039-CR-RYSKAMP
USA V. WARREN JOHNSON JR.

FILED NOV 23 1998

CARLOS JUENKE
CLERK U.S. DIST. CT.
S.D. OF FLA. - W.P.B.

DOCKET # 85

6th item of filing

X-7

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA

In re:

Case No.: 92-33339-BKC-SHF

WARREN D. JOHNSON, JR.,

Chapter 7

Debtor.

JOHNSON'S MOTION FOR CLARIFICATION OF QUESTIONS TO COURT

COMES NOW, Warren D. Johnson, Jr., in Sui Juris and In Propria Persona, appearing specially and not generally, hereby moves the honorable Court to provide clarification to the following questions:

1. Are the Debtor's Motions, filed with this Court since October 2001, in case no. 92-33339-BKC-SHF considered ex-parte, when the exact same Motions were also sent to the Clerk of the Court in case no. 98-8039-CR-KLR for Adjudication in the Southern District of Florida?
2. Are the United States Federal Bankruptcy Judges given broad powers under the local Federal rules?
3. Do you Judge Friedman or your Magistrate Judge qualify as a Judge with which a F.R.Cr.P. Rule 3. Criminal Complaint, given under oath, may be filed?
4. Did you as the Judge assigned to case no. 92-33339-BKC-SHF file a Complaint relating to Concealment of Assets of the accused WARREN JOHNSON, as required for a Criminal Investigation under Title 18 U.S.C. § 3057, Bankruptcy Investigations?
5. Did you as the Judge assigned to case no. 92-33339-BKC-SHF hold a Preliminary Examination in open Court under Title 18 U.S.C. § 3060, Preliminary Examination?
6. Did Title 18 U.S.C. § 152(1), which is part of Chapter 9:

Bankruptcy, exist as Law from September 16, 1992 to March 29, 1993?

7. Is Concealment of Assets an unlawful activity upon which the Government would be able to then Charge Money Laundering?

8. Did an F.B.I. Agent's sister, Corrine B. Calvasina and Ray Loesche have standing under Title 18 U.S.C. § 3057, Bankruptcy Investigations to file a Complaint for Bankruptcy Concealment of Assets?

9. Are not Corrine B. Calvasina and Raymond Loesche the very same individuals against whom Johnson had purchased the rights to sue in this Bankruptcy case on March 8, 1994? (Refer to Exhibit X - Pages X-1 and X-2).

10. Did not Johnson win the Adversary case no. 93-0020-BKC-RAM against Raymond Loeshe?

11. Has the Court and Judge reviewed the Extortion threats that are contained in an e-mail Wed. 14 February 2001 sent from attorney Patrick Scott to Assistant United States Attorney Carolyn Bell? (Refer to Exhibit Y - Pages Y-1 to Y-2).

12. Should the Extortion have exceeded \$250,000 that Carolyn Bell told Magistrate Judge Ann Vitunic and Johnson that was "the total amount of assets that the Government seeks to seize"? (Refer to Exhibit N - Page N-8).

13. Being designated as an Article III Judge under Title 28 U.S.C. § 152, with the original Jurisdiction in WARREN JOHNSON's Chapter 7 Bankruptcy, why can we, Johnson and Judge Friedman, not file the Verified Declaration and Verified Petitions in support of a Rule 3 Criminal Complaint within your Court?

14. Since the foundation for a criminal case before Judge

Ryskamp must fail under the statutes of Title 18 U.S.C. §§ 3057; 3060; and 152(1), how does the District Court under Judge Ryskamp have Jurisdiction over an alleged violation of Concealment that never happened and is clearly under the Jurisdiction of Judge Friedman?

15. Since Johnson was discharged Chapter 7 Bankruptcy on March 29, 1993 in case no. 92-33339-BKG-SHF, how could Ryskamp's Court claim to have Jurisdiction under Title 18 U.S.C. § 152(1) which became Law (20 months after Johnson's discharge) in November 1994?

16. What has the Court done to date with the filing of the Rule 3 Criminal Complaint?

Please find enclosed herein Exhibit Y for filing into this Court and to support the other Exhibits already filed. Johnson prays for relief in this Court and moves this Court for clarification of issues raised in the Motion and Johnson's previous Motion filed into this Court.

RESPECTFULLY submitted this 5th day of June, 2002.



Warren D. Johnson, Jr.
53225-004 / A-3
Federal Correctional
Complex, Coleman - Low
P.O. Box 1031
Coleman, Florida 33521

CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true copy of this Motion was mailed this 5th day of June, 2002 to Patrick Scott, 111 Southeast 12th Street, Suite B, Fort Lauderdale, FL 33316 along with Exhibit Y.

BY:



Warren D. Johnson, Jr.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,
Plaintiff,

CASE NO. 98-8039-CR-RYSKAMP

v.

WARREN D. JOHNSON, JR.
Defendant/Petitioner.

JOHNSON'S MOTION FOR CLARIFICATION OF QUESTIONS TO COURT

COMES NOW, Warren D. Johnson, Jr., in Sui Juris and In Propria Persona, appearing specially and not generally, hereby moves the honorable Court to provide clarification to the following questions:

1. Did Title 18 U.S.C. § 152(1), which is part of Chapter 9: Bankruptcy, exist as Law from September 16, 1992 to March 29, 1993?

2. Did Federal Bankruptcy Judge Steven H. Friedman, Chapter 7 Trustee Soneet Kapila or the Receiver in case no. 92-33339-SHF-BKC file a complaint relating to concealment of assets of the accused WARREN JOHNSON, prior to March 24, 1998 as required for a criminal investigation under Title 18 U.S.C. § 3057, Bankruptcy Investigations?

3. Was a Preliminary Examination in open Court held under Title 18 U.S.C. § 3060, Preliminary Examination, whereby the Bankruptcy Judge in case no. 92-33339-SHF-BKC found sufficient evidence to send it to a Grand Jury?

4. What is the name and address of the foreperson of the Grand Jury, who drafted the Indictment against WARREN JOHNSON

in this case?

5. What are the names and addresses of the twelve (12) members of the Grand Jury, the Jurors, who presented the Indictment against WARREN JOHNSON in open Court on March 24, 1998? (Refer to Exhibit D - Page D-5 filed in this case with the Clerk of the Court on April 13, 2002).

6. Is concealment of assets a misdemeanor in section 101 of Title 11, Bankruptcy between September 16, 1992 to March 29, 1993?

7. Is concealment of assets between September 16, 1992 to March 29, 1993 a basis under the Law to charge in the Indictment Counts 3 to 7 Money Laundering?

8. Since pages 14 to 74 of the Sentencing Hearing transcript on June 18, 1999 clearly show arguments related to approximate Bankruptcy loss on Count 1, why was 97-months given as the Sentence, whereby Count 2 was combined with Counts 3 to 7?

9. Why did the three Palm Beach County Sheriff's Deputies and the Court ignore the letter of January 20, 2001, which exposed the extortion threats and duress against the Johnson family by attorney Patrick Scott at that time?

10. In Docket Entry no. 190, being Affidavits by Warren D. Johnson, Sr. and Jeffrey A. Johnson, the nexus required under the Federal Rules of Criminal Procedure - Rule 32.2(b), Criminal Forfeiture, is clearly to 100,000 shares of Ice Ban America, Inc. common stock, which had a value at over \$600,000 at the time of Warren D. Johnson, Sr.'s video deposition. (See Exhibit Y - Page Y-3). Why did the Government seek an amount that exceeded

the \$250,000 maximum amount that Carolyn Bell told Magistrate Judge Ann Vitunic the Government would seek in Court? (See Exhibit N - Page N-8 sent to the Clerk of the Court for filing in case no. 98-8039-CR-RYSKAMP on April 13, 2002).

11. In the Pre-trial Hearing held before Magistrate Judge Ann Vitunic on April 22, 1998, was Warren D. Johnson, Jr. not assured by the Court that the maximum amount the Government would seek would be capped at \$250,000? Did not Warren D. Johnson, Jr. answer that "He understood"?

12. Does the Clerk of the Court have a "Notice of Appearance" filed with the Court duly signed by Warren D. Johnson, Jr. required by the local Rules for the Southern District of Florida as it pertains to Rule 11.1(D), Appearance by Attorney?

13. If the Court has any "Notice of Appearance" filings, for what attorneys?

14. Does the rulings of Law under the 11th Circuit cases U.S. v. Cobbs and U.S. v. Hooshmond not clearly ruled that Restitution had to be determined within 90-days of Sentencing?

15. What day did the Court sign the Modification of Restitution Order (Title 18 U.S.C. § 3664)?

16. Was this modification of Restitution Order (Title 18 U.S.C. § 3664) done within 90-days of the June 23, 1999 Sentencing?

17. Was this Modification of Restitution Order (Title 18 U.S.C. § 3664) signed prior to March 8, 2001?

18. Did an Order after March 7, 2001 not mandate attorney Patrick Scott, as escrow agent under I. Consideration § 1.05 of the 16th of February, 2001 Agreement to release all

"Documents and Funds" taken from Warren D. Johnson, Jr. and innocent third-party interests, who had rights under Rule 32.2(b), (c), (d) and Rule 56?

19. Did this breach of his Fiduciary duty by Patrick Scott not violate the property rights of Warren D. Johnson, Jr. and his family under the Amendments of the United States Constitution?

20. Since at least one case settled after March 7, 2001, would this not be proof that Patrick Scott, as escrow agent, did further "breach his Fiduciary duty to return" all "Documents and Funds" taken from Warren D. Johnson, Jr. and his innocent third-party family members?

21. Is there any Law related to this case that would mandate Warren D. Johnson, Jr. and his innocent third-party family members to give up their lawfully acquired property after 90-days from Sentencing?


22. Does the Prosecutor, Carolyn Bell, in pages 1652, 1658, 1659, 1696, 1697, 1698, 1700 and 1703 of the trial transcript not call Warren Johnson a liar approximately 17 times in Court?

23. Based on the fact that Carolyn Bell called Warren Johnson a liar in her Closing argument and injected her personal beliefs about the evidence in these Closing arguments, would this not be grounds for reversing the Conviction and reversible error? (See Bell v. Evatt, 72 F.3d. 421 - 4th Cir. 1995; U.S. v. Nickens, 955 F.2d. 112 - 1st Cir. 1992; U.S. v. Iglesias, 915 F.2d. 1524 - 11th Cir. 1990; U.S. v. Rosa, 17 F.3d. 1531 - 2nd Cir. 1994).

WHEREFORE, Warren D. Johnson, Jr. prays for relief in this

Court for clarification of Issues raised in this Motion and
Johnson's previous Motions and Petitions filed into this
Court.

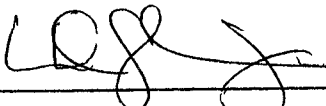
RESPECTFULLY submitted this 25th day of June, 2002.



Warren D. Johnson, Jr.
53225-004 / A-3 Citrus
Federal Correctional
Complex, Coleman - Low
P.O. Box 1031
Coleman, Florida 33521

CERTIFICATE OF SERVICE

This certifies that a true and complete copy of this Motion
has been sent to Carolyn Bell, Assistant United States Attorney,
500 Australian Avenue, Suite 400, West Palm Beach, FL 33401 by
First Class Mail.

BY:  6/25/2002

Warren D. Johnson, Jr. Date

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,

CASE NO.: 98-8039-CR-RYSKAMP

Plaintiff,

v.

WARREN D. JOHNSON, JR.,

Defendant-Petitioner.

NOTICE OF FILING EXHIBIT Y AND REQUEST OF DOCKET

COMES NOW, Petitioner Warren D. Johnson, Jr., appearing Sui Juris and In Propria Persona, and hereby requests the Court to send to the Petitioner a copy of the Docket Entries in this case, 98-8039-CR, from Dkt. #188, filed on 11/21/2001, through the current, including Exhibit Y which is attached and is noticed to the Court for filing in this case.

Petitioner has filed the following documents and has indicated by brackets the Legal Mail Registration Service for the U.S. Post Office at Coleman, Florida to verify said filings:

1. Combined Motion under F.R.E. Rule 201(d);
Petition for a Writ of Habeas Corpus;
and Filing of a Criminal Complaint under
F.R.Cr.P. Rule 3 against F.B.I. Special
Agent Michael McBride, attorney Patrick Scott,
Rashid "Reg" Bodhanya, et al., and any or
all Agents d/b/a or Acting as United States
Attorney whose Identities are presently Unknown
or to be Identified, as Defendants. [April 13, 2002]
2. Notice of Correction of Exhibit V-16 contained in the
Filing of Combined Motion Under F.R.E. Rule 201(d); Petition
for a Writ of Habeas Corpus; and Filing of a Criminal
Complaint under F.R.Cr.P. Rule 3 against F.B.I. Special
Agent Michael McBride, attorney Patrick Scott, Rashid "Reg"
Bodhanya, et al., and any or all Agents d/b/a or Acting
as United States Attorney whose Identities are presently
Unknown or to be Identified, as Defendants. [May 8, 2002]
3. Notice of Filing Additional Documentation in Support

of Defendant's Recent Filing of Combined Motion which contained 1. Exhibit X and 2. Notice of Consolidated Filing to this Court [United States Bankruptcy Court] for I. Verified Declaration in Support of this Complaint and Motion Filed in October 2001, Herein as Exhibit V - Pages V-7 through V-15; II. Verified Petition for Redress of Grievance; III. Verified Petition for Injunctive Relief; and IV. Verified Petition for Prospective Injunctive Relief [May 14, 2002]

Petitioner is filing Exhibit Y which contains a copy of an e-mail from attorney Patrick Scott to Carolyn Bell, attorney David Finegold, et al. which is an extortion threat by Patrick Scott against the Johnson family members to give up their lawful assets in violation of Rule 32.2 Criminal Forfeiture of the Federal Rules of Criminal Procedure which state under (b)(1): "The Court shall determine whether the Government has established the requisite nexus between the property and the offense."

The Affidavit of Jeffrey A. Johnson clearly shows the requisite nexus to 100,000 shares of Ice Ban America, Inc. issued to Warren D. Johnson, Sr. for a \$72,470.45 loan and \$225,000 paid for the franchise, which was the subject funds of the Government charges. See Exhibit B - Pgs. B-3 (I & J); B-4 (L); B-13; B-23; B-25; B-31; B-32; and B-33.

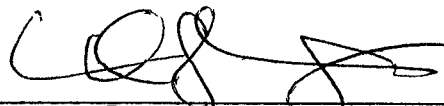
Warren Johnson, Sr. testified in his video deposition that the stock was worth \$600,000 at that time. This well exceeded the maximum amount of \$250,000 that Carolyn Bell told Magistrate Judge Ann Vitunic the Government would seek in Court. See Exhibit N - Pgs. N-8 of the Pre-trial Hearing held on April 22, 1998.

These are clear violations of innocent third party interests in their lawful property under Rule 32.2(b), (c), (d) and Rule 56; as well as violations of property rights under the Amendments of

the United States Constitution.

WHEREAS, the Petitioner is concerned that the recent filings into Court have not shown in the Docket of this case and requests a current copy of the docket in this case to reflect the recent filings into Court. If there has been an Order signed by Judge Ryskamp to recharacterize the motions outstanding, including the Mandatory Judicial Notice of Adjudicative Facts under Rule 201(d) that was filed April 19, 2002, the Petitioner requests a copy of that entry on the Docket of this case, as well as a copy of the Order.


RESPECTFULLY submitted this 22ND day of May, 2002.



Warren D. Johnson, Jr.
53225-004 / A-3
Federal Correctional
Complex, Coleman - Low
P.O. Box 1031
Coleman, Florida 33521

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Carolyn Bell, Assistant U.S. Attorney this 22ND day of May, 2002.

BY: 
Warren D. Johnson, Jr.

----- Forwarded message -----

From: "David Feingold" <feingoldkam@hotmail.com>
 To: jeffreyjon@juno.com, firefall@bigfoot.com
 Date: Wed, 14 Feb 2001 20:05:08
 Subject: Fwd: Johnson
 Message-ID: <F229eqoMIOGCvqQ7SzE000055cc@hotmail.com>

Dear Jeff and Richard,

Please circulate to the appropriate parties and advise me of your comments

>From: PScott1615@aol.com
 >To: <lclloyd@bdsllaw.com>, <jmccann@akerman.com>, <lou_isakoff@usa.net>,
 > <BigJimLaw@aol.com>, <feingoldkam@hotmail.com>,
 ><carolyn.bell@usdoj.gov>, <BCLCCRITTON@aol.com>, <MLUTTIER@aol.com>
 >Subject: Johnson
 >Date: Wed, 14 Feb 2001 11:04:00 EST
 >
 >
 >I have heard indirectly that Warren Johnson has found a lawyer who he is
 >confident can get his conviction overturned. If he does not sign the
 >settlement agreement and related documents by the commencement of the
 >hearing on Friday, I think there will be no turning back. We will
 >pursue
 >every asset, including Adam Brown and Kelly Brown's home, the Globenet
 >stock, and judgments against every family member who ever made a dollar
 >from selling Ice Ban America stock or IBAC stock. We will seek
 >nondischargeable judgments against several of them for conspiracy to
 >defraud.
 >
 >I am e-mailing to each of you a complete set of the current drafts of
 >all
 >documents, so that there will be no confusion over what the documents
 >are.
 >Note that the proposed bankruptcy court order approving the settlement,
 >and
 >a list of exhibits to the settlement agreement, are included among the
 >attached files by e-mail
 >
 >The only changes from the previous set that was e-mailed are.
 >
 >1) The signature date of all documents have been changed from "January
 >____" to "February ____";
 >
 >2) The references to February 2 and February 9 in the settlement
 >agreement
 >have been changed to March 16, and the reference to March 1 closing
 >deadline has been changed to March 7;
 >

>3) We have included a new document to fill an omission in the assignments:
> Adam's interest (and what we allege to be Warren's secret interest) in
>Bay Pointe Estates was to be assigned to the trustee per 1 12 of the
>settlement agreement, so we now have a separate assignment document for
>that;
>
>4) The proposed order has some stylistic changes as well as some new
>language in 2 and 3, all at the suggestion of Jim McCann or Lou Isakoff.
>
>I am including two versions of the settlement agreement which differ
>only
>in 1.10, 1.11, and 1.14 (having to do with whether the \$50,000 is put up
>now and later refunded). Either version is acceptable to the trustee,
>and
>the Johnson family must choose one. I remind you that the trustee is
>not
>amenable the waiving the \$50,000 escrow and paying \$50,000 to the
>Johnsons
>or their attorneys
>
>I will have clean copies of all documents at the hearing. But once the
>restitution hearing begins, there is no way to settle the case.
>
>
>
>
>
>
>
>010214pMemAllParties

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primary reason for extending that Rule to other hearings and proceedings rests heavily upon the compelling need for accurate information affecting the witnesses' credibility. While that need is certainly clear in a trial on the merits, it is equally compelling, if not more so, in other pretrial and post-trial proceedings in which both the prosecution and defense have high interests at stake. In the case of revocation or modification of probation or supervised release proceedings, not only is the defendant's liberty interest at stake, the government has a stake in protecting the interests of the community.

Requiring production of witness statements at hearings conducted under Rule 32.1 will enhance the procedural due process which the rule now provides and which the Supreme Court required in *Morrissey v Brewer*, 408 U.S. 471 (1972) and *Gagnon v Scarpelli*, 411 U.S. 778 (1973). Access to prior statements of a witness will enhance the ability of both the defense and prosecution to test the credibility of the other side's witnesses under Rule 32.1(a)(1), (a)(2), and (b) and thus will assist the court in assessing credibility.

A witness's statement must be produced only if the witness testifies.

HISTORICAL NOTES

Effective and Applicability Provisions

1986 Acts. Section 12(c)(2) of Pub. L. 99-646 provided that: "The amendments made by subsection (b) [to subd. (b) of this rule] shall take effect 30 days after the date of enactment of this Act [Nov. 10, 1986]."

Change of Name

United States magistrate appointed under section 631 of Title 28, Judiciary and Judicial Procedure, to be known as United States magistrate judge after Dec. 1, 1990, with any reference to United States magistrate or magistrate in Title 28, in any other Federal statute, etc., deemed a reference to United States magistrate judge appointed under section 631 of Title 28, see section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28.

Rule 32.2. Criminal Forfeiture

(a) **Notice to the Defendant.** A court shall not enter a judgment of forfeiture in a criminal proceeding unless the indictment or information contains notice to the defendant that the government will seek the forfeiture of property as part of any sentence in accordance with the applicable statute.

(b) Entry of Preliminary Order of Forfeiture: Post Verdict Hearing.

(1) As soon as practicable after entering a guilty verdict or accepting a plea of guilty or *nolo contendere* on any count in an indictment or information with regard to which criminal forfeiture is sought, the court shall determine what property is subject to forfeiture under the applicable statute. If forfeiture of specific property is sought, the court shall determine whether the government has established the requisite nexus between the property and the offense. If the government seeks a personal money judgment against the defendant, the court shall

determine the amount of money that the defendant will be ordered to pay. The court's determination may be based on evidence already in the record, including any written plea agreement or, if the forfeiture is contested, on evidence or information presented by the parties at a hearing after the verdict or finding of guilt.

(2) If the court finds that property is subject to forfeiture, it shall promptly enter a preliminary order of forfeiture setting forth the amount of any money judgment or directing the forfeiture of specific property without regard to any third party's interest in all or part of it. Determining whether a third party has such an interest shall be deferred until any third party files a claim in an ancillary proceeding under Rule 32.2(c).

(3) The entry of a preliminary order of forfeiture authorizes the Attorney General (or a designee) to seize the specific property subject to forfeiture; to conduct any discovery the court considers proper in identifying, locating, or disposing of the property; and to commence proceedings that comply with any statutes governing third-party rights. At sentencing—or at any time before sentencing if the defendant consents—the order of forfeiture becomes final as to the defendant and shall be made a part of the sentence and included in the judgment. The court may include in the order of forfeiture conditions reasonably necessary to preserve the property's value pending any appeal.

(4) Upon a party's request in a case in which a jury returns a verdict of guilty, the jury shall determine whether the government has established the requisite nexus between the property and the offense committed by the defendant.

(c) Ancillary Proceeding; Final Order of Forfeiture.

(1) If, as prescribed by statute, a third party files a petition asserting an interest in the property to be forfeited, the court shall conduct an ancillary proceeding but no ancillary proceeding is required to the extent that the forfeiture consists of a money judgment.

(A) In the ancillary proceeding, the court may, on motion, dismiss the petition for lack of standing, for failure to state a claim, or for any other lawful reason. For purposes of the motion, the facts set forth in the petition are assumed to be true.

(B) After disposing of any motion filed under Rule 32.2(c)(1)(A) and before conducting a hearing on the petition, the court may permit the parties to conduct discovery in accordance with the Federal Rules of Civil Procedure if the court determines that discovery is necessary or desirable to resolve factual issues. When discovery

ends, a party may move for summary judgment under Rule 56 of the Federal Rules of Civil Procedure.

(2) When the ancillary proceeding ends, the court shall enter a final order of forfeiture by amending the preliminary order as necessary to account for any third-party rights. If no third party files a timely claim, the preliminary order becomes the final order of forfeiture, if the court finds that the defendant (or any combination of defendants convicted in the case) had an interest in the property that is forfeitable under the applicable statute. The defendant may not object to the entry of the final order of forfeiture on the ground that the property belongs, in whole or in part, to a codefendant or third party, nor may a third party object to the final order on the ground that the third party had an interest in the property.

(3) If multiple third-party petitions are filed in the same case, an order dismissing or granting one petition is not appealable until rulings are made on all petitions, unless the court determines that there is no just reason for delay.

(4) An ancillary proceeding is not part of sentencing.

(d) Stay Pending Appeal. If a defendant appeals from a conviction or order of forfeiture, the court may stay the order of forfeiture on terms appropriate to ensure that the property remains available pending appellate review. A stay does not delay the ancillary proceeding or the determination of a third party's rights or interests. If the court rules in favor of any third party while an appeal is pending, the court may amend the order of forfeiture but shall not transfer any property interest to a third party until the decision on appeal becomes final, unless the defendant consents in writing or on the record.

(e) Subsequently Located Property: Substitute Property.

(1) On the government's motion, the court may at any time enter an order of forfeiture or amend an existing order of forfeiture to include property that:

(A) is subject to forfeiture under an existing order of forfeiture but was located and identified after that order was entered; or

(B) is substitute property that qualifies for forfeiture under an applicable statute.

(2) If the government shows that the property is subject to forfeiture under Rule 32.2(e)(1), the court shall:

(A) enter an order forfeiting that property, or amend an existing preliminary or final order to include it; and

(B) if a third party files a petition claiming an interest in the property, conduct an ancillary proceeding under Rule 32.2(c).

(3) There is no right to trial by jury under Rule 32.2(e).

(Added Apr 17, 2000, eff Dec 1, 2000)

ADVISORY COMMITTEE NOTES

2000 Adoption

Rule 32.2 consolidates a number of procedural rules governing the forfeiture of assets in a criminal case. Existing Rules 7(c)(2), 31(e) and 32(d)(2) are also amended to conform to the new rule. In addition, the forfeiture-related provisions of Rule 38(e) are stricken.

Subdivision (a). Subdivision (a) is derived from Rule 7(c)(2) which provides that notwithstanding statutory authority for the forfeiture of property following a criminal conviction, no forfeiture order may be entered unless the defendant was given notice of the forfeiture in the indictment or information. As courts have held, subdivision (a) is not intended to require that an itemized list of the property to be forfeited appear in the indictment or information itself. The subdivision reflects the trend in caselaw interpreting present Rule 7(c). Under the most recent cases, Rule 7(c) sets forth a requirement that the government give the defendant notice that it will be seeking forfeiture in accordance with the applicable statute. It does not require a substantive allegation in which the property subject to forfeiture, or the defendant's interest in the property, must be described in detail. See *United States v. DeFries*, 129 F.3d 1293 (D.C. Cir. 1997) (it is not necessary to specify in either the indictment or a bill of particulars that the government is seeking forfeiture of a particular asset, such as the defendant's salary; to comply with Rule 7(c), the government need only put the defendant on notice that it will seek to forfeit everything subject to forfeiture under the applicable statute, such as all property "acquired or maintained" as a result of a RICO violation). See also *United States v. Moffitt, Zwerling & Kemler, P.C.*, 83 F.3d 660, 665 (4th Cir. 1996), *affg* 846 F.Supp. 463 (E.D. Va. 1994) (*Moffitt I*) (indictment need not list each asset subject to forfeiture; under Rule 7(c), this can be done with bill of particulars); *United States v. Voigt*, 89 F.3d 1050 (3rd Cir. 1996) (court may amend order of forfeiture at any time to include substitute assets).

Subdivision (b). Subdivision (b) replaces Rule 31(e) which provides that the jury in a criminal case must return a special verdict "as to the extent of the interest or property subject to forfeiture." See *United States v. Saccoccia*, 58 F.3d 754 (1st Cir. 1995) (Rule 31(e) only applies to jury trials; no special verdict required when defendant waives right to jury on forfeiture issues).

One problem under Rule 31(e) concerns the scope of the determination that must be made prior to entering an order of forfeiture. This issue is the same whether the determination is made by the court or by the jury.

As mentioned, the current rule requires the jury to return a special verdict "as to the extent of the interest or property subject to forfeiture." Some courts interpret this to mean only that the jury must answer "yes" or "no" when asked if the property named in the indictment is subject to forfeiture under the terms of the forfeiture statute—e.g. was the property used to facilitate a drug offense? Other courts also ask the jury if the defendant has a legal interest in the forfeited property. Still other courts, including the Fourth Circuit, require the jury to determine the *extent* of the defendant's

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,

CASE NO. 98-8039-CR-RYSKAMP

Plaintiff,

v.

WARREN D. JOHNSON, JR.,

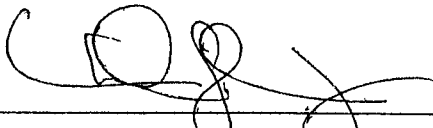
Defendant-Petitioner.

VERIFICATION OF COMBINED MOTION
FILED IN THIS CRIMINAL CASE

Pursuant to Title 28 U.S.C. § 1746, I, Warren Douglas Johnson, Jr., being of age and of sound mind do hereby declare to the best of my personal first hand knowledge and best evidence and under penalty of perjury under the Laws of The United States of America and the Laws of Florida that the facts stated in the Motion entitled Combined Motion under F.R.E. Rule 201(d); Petition for a Writ of Habeas Corpus; and Filing of a Criminal Complaint under F.R.Cr.P Rule 3 against F.B.I. Special Agent Michael McBride, attorney Patrick Scott, Rashid "Reg" Bodhanya, et al., and any or all Agents d/b/a or Acting as United States Attorney whose Identities are presently Unknown or to be Identified, as Defendants, including the facts stated in Exhibits A through Y, filed into Court on or around April 13, 2002 in the United States District Court for the Southern District of Florida into Case No. 98-8039-CR-RYSKAMP, and which I have failed to verify therein, is true, correct, complete, and not misleading under my full commercial liability this 30th day of May, 2002.

Petitioner, Warren D. Johnson, Jr., in Sui Juris and In Propria Persona, further states that the Petitioner did not authorize or request the Clerk of the Court or anyone else to file this Combined Motion into the Court on April 19, 2002 as a Title 18 § 2255 "Motion to Vacate."

Respectfully submitted this 30th day of May, 2002.


Warren D. Johnson, Jr.
53225-004 / A-3 (Citrus)
Federal Correction
Complex, Coleman - Low
P.O. Box 1031
Coleman, Florida 33521

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Carolyn Bell, Assistant U.S. Attorney this 30th day of May, 2002.

BY: 

Warren D. Johnson, Jr.

SENDER: COMPLETE THIS SECTION

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U.S. District Court
Southern District of FL
701 Clematis Street
West Palm Beach, Florida
33401

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA

In re:

Case No.: 92-33339-BKC-SHF

WARREN D. JOHNSON, JR.,

Chapter 7

Debtor.

JOHNSON'S MOTION FOR CLARIFICATION OF QUESTIONS TO COURT

COMES NOW, Warren D. Johnson, Jr., in Sui Juris and In Propria Persona, appearing specially and not generally, hereby moves the honorable Court to provide clarification to the following questions:

1. Are the Debtor's Motions, filed with this Court since October 2001, in case no. 92-33339-BKC-SHF considered ex-parte, when the exact same Motions were also sent to the Clerk of the Court in case no. 98-8039-CR-KLR for Adjudication in the Southern District of Florida?

2. Are the United States Federal Bankruptcy Judges given broad powers under the local Federal rules?

3. Do you Judge Friedman or your Magistrate Judge qualify as a Judge with which a F.R.Cr.P. Rule 3. Criminal Complaint, given under oath, may be filed?

4. Did you as the Judge assigned to case no. 92-33339-BKC-SHF file a Complaint relating to Concealment of Assets of the accused WARREN JOHNSON, as required for a Criminal Investigation under Title 18 U.S.C. § 3057, Bankruptcy Investigations?

5. Did you as the Judge assigned to case no. 92-33339-BKC-SHF hold a Preliminary Examination in open Court under Title 18 U.S.C. § 3060, Preliminary Examination?

6. Did Title 18 U.S.C. § 152(1), which is part of Chapter 9:

Bankruptcy, exist as Law from September 16, 1992 to March 29, 1993?

7. Is Concealment of Assets an unlawful activity upon which the Government would be able to then Charge Money Laundering?

8. Did an F.B.I. Agent's sister, Corrine B. Calvasina and Ray Loesche have standing under Title 18 U.S.C. § 3057, Bankruptcy Investigations to file a Complaint for Bankruptcy Concealment of Assets?

9. Are not Corrine B. Calvasina and Raymond Loesche the very same individuals against whom Johnson had purchased the rights to sue in this Bankruptcy case on March 8, 1994? (Refer to Exhibit X - Pages X-1 and X-2).

10. Did not Johnson win the Adversary case no. 93-0020-BKC-RAM against Raymond Loeshe?

11. Has the Court and Judge reviewed the Extortion threats that are contained in an e-mail Wed. 14 February 2001 sent from attorney Patrick Scott to Assistant United States Attorney Carolyn Bell? (Refer to Exhibit Y - Pages Y-1 to Y-2).

12. Should the Extortion have exceeded \$250,000 that Carolyn Bell told Magistrate Judge Ann Vitunic and Johnson that was "the total amount of assets that the Government seeks to seize"? (Refer to Exhibit N - Page N-8).

13. Being designated as an Article III Judge under Title 28 U.S.C. § 152, with the original Jurisdiction in WARREN JOHNSON's Chapter 7 Bankruptcy, why can we, Johnson and Judge Friedman, not file the Verified Declaration and Verified Petitions in support of a Rule 3 Criminal Complaint within your Court?

14. Since the foundation for a criminal case before Judge


Ryskamp must fail under the statutes of Title 18 U.S.C. §§ 3057; 3060; and 152(1), how does the District Court under Judge Ryskamp have Jurisdiction over an alleged violation of Concealment that never happened and is clearly under the Jurisdiction of Judge Friedman?

15. Since Johnson was discharged Chapter 7 Bankruptcy on March 29, 1993 in case no. 92-33339-BKC-SHF, how could Ryskamp's Court claim to have Jurisdiction under Title 18 U.S.C. § 152(1) which became Law (20 months after Johnson's discharge) in November 1994?

16. What has the Court done to date with the filing of the Rule 3 Criminal Complaint?

Please find enclosed herein Exhibit Y for filing into this Court and to support the other Exhibits already filed. Johnson prays for relief in this Court and moves this Court for clarification of issues raised in the Motion and Johnson's previous Motion filed into this Court.


RESPECTFULLY submitted this 5th day of June, 2002.



Warren D. Johnson, Jr.
53225-004 / A-3
Federal Correctional
Complex, Coleman - Low
P.O. Box 1031
Coleman, Florida 33521

CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true copy of this Motion was mailed this 5th day of June, 2002 to Patrick Scott, 111 Southeast 12th Street, Suite B, Fort Lauderdale, FL 33316 along with Exhibit Y.

BY: 

Warren D. Johnson, Jr.

EXHIBIT AA (1 of 2)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,

Plaintiff,

v.

WARREN D. JOHNSON, JR.,

Defendant-Petitioner.

CASE NO.: 98-8039-CR-RYSKAMP
Magistrate Judge Vitunac

COMBINED MOTION UNDER F.R.E. RULE 201(d);
PETITION FOR A WRIT OF HABEAS CORPUS;
AND FILING OF A CRIMINAL COMPLAINT UNDER
F.R.Cr.P. RULE 3 AGAINST F.B.I. SPECIAL
AGENT MICHAEL McBRIDE, ATTORNEY PATRICK SCOTT,
RASHID "REG" BODHANYA, ET AL., AND ANY OR
ALL AGENTS D/B/A OR ACTING AS UNITED STATES
ATTORNEY WHOSE IDENTITIES ARE PRESENTLY UNKNOWN
OR TO BE IDENTIFIED, AS DEFENDANTS.

COMES NOW Petitioner, Warren D. Johnson, Jr, pro se, and hereby demands of the court to be released from prison, as the sentencing court was without jurisdiction to convict anyone. Several violations of the law, including Constitutional due process rights and equal protection, deprived the sentencing court of jurisdiction. The following contains an accurate statement of the facts of this case depicting the events that precipitated the "conviction."

This conviction has been an exercise in deceit and theft, terrorizing the petitioner, his family, friends, business associates and acquaintances, defaming his character and reputation in a massive conspiracy in violation of Title 18 U.S.C. § 241, and unlawfully stealing real estate and a myriad of other assets by

the Government for conversion to its own use in violation of his Constitutional freedom and rights.

Though rather lengthy, this compendium of facts accurately identifies the heinous acts against an actual innocent and his family, rendering judicial practice fantasy. This show several violations of law, but the most all encompassing is the voluminous due process violations. The Fifth Amendment says:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in militia, when the actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put jeopardy of life or limb; nor shall be compelled in any crime case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

This case makes a mockery of our Constitution.

In Green v. Abrams, 984 F.2d 41 (2nd Cir. 1993) and Escobar v. O'Leary, 943 F.2d 711 (7th Cir. 1991) the court indicated that 1) Writ of "habeas corpus" functions to grant relief from unlawful custody or imprisonment. 2) A writ of habeas corpus may be granted to person being held in custody in violation of the Constitution or the laws of the United States.

In Capps v. Sullivan, 13 F.3d 350 (10th Cir. 1993) it states the "effect of writ of habeas corpus is to vacate conviction and release petitioner from custody." And habeas petitioner's claims must be construed liberally when he appears pro se as according to Osborn v. Shillinger, 998 F.2d 1324 (10th Cir. 1993) and Cuadra v. Sullivan, 837 F.2d 56 (2nd Cir. 1988).

The Petitioner files this criminal Complaint against F.B.I. Special Agent Michael McBride, Attorney Patrick Scott, Rashid "Reg" Bodhanya, et al, and including any or all Agents D/B/A or acting as United States Attorney whose identities are presently unknown or to be identified, as Defendants. The Petitioner in filing this claim states the following facts constituting the offenses that have been charged. The activities started as a vendetta against the Petitioner, followed by threats and undo duress, etc. followed by conspiracy, grand theft, extortion, bribery, perjury, distruction of records, deceit, vindictiveness, forgery, bank fraud, banruptcy fraud, securities fraud, coercion, Governmental misconduct, obstruction of justice, and the colosial misuse of the F.B.I. Agency that turned into its own private Police force, in violation of Title 18 U.S.C. § 1962 and the RICO Act. The Petitioner further states:

1. The vendetta started with litigation between the Petitioner and an F.B.I. Agent's sister, Corrine B. Calvasina. The Petitioner caught Calvasina in Bank Fraud with Southeast Bank.

2. Litigation with Steven Rofsky and Merrill Lynch involved Lender Liability Fraud by Rofsky and certain Bondholders. Johnson uncovered their recording of a forged and altered Deed to the Preserve at Palm-Aire, Ltd.; destruction of the Collateral on \$28 million in tax-free Bonds; and filing false Financial Statements with the S.E.C. and their Shareholders.

3. Michael McBride, a Special Agent for the F.B.I., refused to persue the above-mentioned activities, and later conspired with them and others to cover their criminal Racketeering and

ultimately unjust enrichment through larceny and embezzlement.

4. F.B.I. Agent McBride threatened members of the Johnson family including Amy Thompson when she was 8 months pregnant at the time with her infant child present to hear the threats and abuse.

5. Agent McBride withheld or destroyed several F.B.I. (302) Field Reports in this case and other investigations in Obstruction of Justice. There were no issues of substance and several of the witnesses gave testimony that Harber owed Linkous the \$250,000 in legitimate business transactions.

6. When Rashid "Reg" Bodhanya stole approximately \$5 million in cash and stock from the Johnson family ventures in the Turks and Caicos Islands, Agent McBride protected him from arrest and prosecution.

7. Attorney Patrick Scott extorted millions of dollars in stock, property and lawful money and funds from the Johnson family, when there was no lawful claim.

8. The Bondholders made false representations to two courts of law regarding a second ammended Guarantee that the Petitioner never signed, and they received a fraudulent Judgment for over \$3.7 million.

9. The Bondholders reported the State of Florida tax-free Bonds as Double A rated by Standard and Poors, that in fact were destroyed by their own criminal acts.

10. The Bondholders, a U.S. Trustee, his Attorney, Agent McBride, the Prosecutor, Steven Rofsky, Joseph and Carol n

Baruch and others came together and formed a criminal enterprise, whereby they used the F.B.I. as their own private police force and protection from the law.

11. Joseph and Carolyn Baruch were turned in for Bankruptcy Fraud by Petitioner's son Mark Johnson. Joseph Baruch was arrested for theft.

12. Forensic Expert, Mr. Caron committed Perjury by showing to the Jury that Dianne Johnson spent part of the \$225,000 received in Exhibit Q after November 1994; and particularly large sums going into Ice Ban.

13. The Prosecutor, Patricia A. Borah, Dawn Bowen and Frederick Sundheim all committed Perjury by saying 1) Petitioner had a contract on Jupiter Island property; 2) Petitioner sold property for \$20 million; 3) Petitioner put \$20 million in Trust for his children; and 4) Petitioner (transferred) his Contract to his father. All these lies would have been exposed at the trial had the Government not destroyed the F.B.I. (302) Field Reports of Joan B. Thomson, realtor.

14. Attorney Patrick Scott committed grand theft when he lied to Atlas Transfer regarding \$2 million in collateral held for the Turks and Caicos government.

15. Government Agents threatened and extorted lawful property from Jerry Linkous.

16. Government Agents threatened and extorted lawful property from Richard Grund in order to take over Ice Ban America, Inc.

17. F.B.I. Agent McBride and Patrick Scott effectively destroyed Ice Ban America, Inc. in violation of 18 U.S.C. § 31. (See page 60 of this Motion and Exhibit D - Pgs. D-6).

18. Steven Rofsky and others defrauded Shareholders in the Hallmark Homes case.

19. The Bondholders bribed U.S. Trustee Soneet Kapila on a Lender Liability case worth millions to kill the case for a payment of \$25,000. The proceeds from the case would have paid the Petitioner's legitimate creditors in Bankruptcy.

20. The verbal attack on Amy Pratt Thompson by Michael McBride pushed her infant son Daniel over the edge and to this day he is permanently and emotionally scarred.

21. Ray Marshall committed Perjury in order to take control of IBAC Corporation.

22. John Polley committed Perjury to deprive Jerry Linkous of lawful funds that he was owed by Martin County for the 10" water main he deeded to Martin County, and resulted in unjust enrichment.

23. James Harper committed Perjury in order to appear that he did not breach his fiduciary duty to a Federally insured institution, which he did by never calling the Petitioner to ascertain that the Petitioner had no interest in a loan extension nor ever requested one.

In filing this criminal complaint to the Court, the Petitioner is complying with 18 U.S.C. § 4 to bring forth any knowledge of criminal activity and gross criminal abuse of Governmental power.

WHEREAS, the Petitioner hereby requests relief from the Court and seeks the Court to cooperate with Senator Charles Schumer's Senate Committee that is investigating these

Criminal acts and to expose the truth and to Indict those named
in the criminal complaint.



Warren D. Johnson, Jr.
53225-004 / (A-3) Low
Federal Correctional Complex
P.O. Box 1031
Coleman, Florida 33521

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Justice investigating the charges and actions contained within.

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Southern District of Florida

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STATEMENT OF FACTS

GOVERNMENTAL MISCONDUCT AND MISREPRESENTATIONS

In this case, the Government prejudiced the Judge and Jury by stating that Warren D. Johnson, Jr. owned property on Jupiter Island in 1979; sold lots for \$20,000,000 (20 million dollars) and place the \$20,000,000 (20 million dollars) in trust for his two children Mark and Kelly Johnson. For the prosecutor to take a lie and state it as truth is prosecutorial misrepresentation and misconduct under Title 18 USC § 1622. The truth to which Warren D. Johnson, Jr. testified in a civil proceeding in the 1980's was that the property (my father) Warren D. Johnson, Sr. purchased from E.J. Lavino and James Mills, became worth 20 million dollars by approximately 1987. The Government well knew that Warren D. Johnson, Sr. 1) owned the property; 2) sold all the property by 1980; 3) his total gain was \$41,219 in 1978, \$187,604 in 1979, and \$388,948 in 1980; 4) he gave \$250,000 to the Full Gospel Christian Association and \$24,245 to help build a new church in Batavia, New York; and 5) he only gave less than 20 thousand dollars to Mark and Kelly Johnson. (See Affidavit of Warren D. Johnson, Sr. - Exhibit "A").

The Government hammered home these lies in statements to Patricia A. Borah, which statements were printed in the Presentence Investigation Report prepared for the Honorable Kenneth L. Ryskamp, U.S. District Judge. Attached as Exhibit F are excerpts of the P.S.I. report, which state as follows:

1) Item '3 - "According to information provided by Assistant

U.S. Attorney Carolyn Bell and Federal Bureau of Investigation (F.B.I.) Special Agent Michael McBride"; 2) Item #4 (line 7) - "He further referred to 19 lots that had an estimated worth of \$20,000,000"; 3) Item #4 (line 11) - "After the bankruptcy was settled, the lots were sold for \$20,000,000."; 4) Item #78 (line 5) - "The filing that took place in 1978 occurred just after the Defendant placed \$20,000,000 in trust." This is perjury under Title 18 USC 1623, by submitting those statements in court to get a Judgment, not to mention gross abuse of Government power and trust. (See Exhibit F - Pgs. F-1 & F-3).

At the Sentencing Hearing the Judge said, "Well, it showed that he transferred \$20 million before he went bankrupt and gave it to his father for the benefit of his children." (Pg. 350 Ln. 25 to Pg. 351 Ln. 2). And he further stated "Can you enlighten me on those expenses, did that come out in the record? I just don't recall that now whether that was 20 million free and clear or gross or what the net was." (Pg. 351 Ln. 12-15). (Exhibit L-Pgs. L-21).

Government Witness, attorney Fredrick G. Sundheim misled the jury by stating that the initial contracts were in the name of Sun, Sea and Sand, Inc. The Government well knew that no offer was accepted in that name, and it never became a contract (R20:Pg. 1634 Ln. 10-15). The Government well knew that there were many offers for this property. The Government interviewed Joan B. Thomson on numerous occasions and withheld or destroyed F.B.I. (302) Field Reports on those interviews. She told the Government of offers from Dr. Alan Johnson, Paul Thomson and Ed

Stevens. Only Warren D. Johnson, Sr.'s offer was accepted by E.J. Lavino and became a contract. Joan B. Thomson and attorney Frank Ryan spearheaded the closing; drew deeds, mortgages and notes; and distributed all funds; and issued the title policies. Sundheim's testimony was designed to mislead the Judge and Jury by the Prosecution. (See Exhibit J- Pgs. J-32 to J-33).

Warren D. Johnson, Sr. purchased a second property from James Mills and Joan Thomson was the real estate Broker. Sundheim was not at that closing, and did not represent that seller. How could he speak on behalf of the entire project? These testimonies and the misleading Governmental misconduct so prejudiced Judge Ryskamp that he said:

"Now, let me just say that in dealing with creditors, especially in the state of Florida where it is well known, and I have seen cases exactly like this, that somebody who has incurred large debt realizes he's going to go to bankruptcy, will come from another state, say New York, put half of his huge amount of resources in a big home and another half in an annuity, declare bankruptcy and say, you can't touch any of it because my home is exempt and an annuity is exempt. And we have multimillionaires living in Palm Beach and Miami Beach and other places who have discharged all their creditors while living off their annuity and in their mansions. (See Exhibit K - Pgs. K-2).

And so I can see it's very easy for creditors to say they're going to get away with it. Well, you know, it's all hopeless. The bankruptcy laws have become a sham and a fraud on the public. It's not really the bankruptcy laws, it's the laws of the State of Florida. And shame on our legislators for allowing this to continue. But they, in an effort presumably to preserve someone's home, have not put any limit on that. And they allowed bankrupt individuals to live in multimillion dollar homes -- and I'm not saying that's the case here -- and to have the annuities which they take from ill-gotten

loans, and thumb their nose at the creditors while they live in luxury and the creditors get nothing.

It is a known fact. It happens in Florida. It is happening day after day I see cases like that. I had one case recently where the guy stalled his creditors for six months so he could liquidate all his assets and come down to Florida and buy a home and annuity so that he could declare bankruptcy here and not lose any of his money.

Unfortunately, he missed establishing residency here by about 20 days and he didn't get a discharge.

But I think that creditors have become aware of what can be done. And even though they're aware of the fraud involved, they came in and they say, well, we've got to just deal with a best situation.

So I don't see that this settlement had any effect on the fact that there was a victim for \$3.9 million. And I'll overrule that objection." (Pg. 50-51).

"Let me say with regard to all these letters, I have read every letter that has been submitted. I feel that if people take the time to write a letter that the court should read it. I think this is another letter, which I will read in a moment.

This is a situation where I see a real schizophrenic side to the defendant. I don't doubt for a moment the truthfulness of the letters that I read. I don't doubt for a moment the sincerity of those letters, the fact that the defendant was involved in many good causes, that he was involved in the church, in Bible studies, giving his money to various worthy causes.

And I think that all of the letter writers had seen a side of the defendant which I don't deny exists.

Unfortunately, during the trial we saw another side of the defendant that did exist. And how you can put those together I don't know." (Pg. 76-77).

"Now, God can give grace and forgiveness to people. The Court cannot. I can forgive Mr. Johnson but that doesn't absolve me of my responsibility to sentence him for what he did. And when I say that there's kind of a schizophrenic side to this, I'm accepting at

face value that he has been involved in all of these activities, worthy as they may be, and I'm pleased to see that he has this side his life which is very commendable. But we have seen another side his life which is not very commendable.

And because of all the good things he's done, that doesn't mean the Court just erases the crimes that he has committed." (Pg. 77).

"It just means that he has two sides to his existence. And the people who, presumably, are here and who have written these fine letters, I accept them as truthful and as an honest and sincere evaluation of what they have seen of Mr. Johnson." (Pg. 78).

"You know, we get a lot of bank robbery cases here. And, frankly, I have more respect for a bank robber. A bank robber says, Hey, I don't have anything available to me, it's a matter of whether I eat, whether I exist. And he walks into a bank with a gun and says, Give me your money. He doesn't have the ability to go to the loan department and present a lot of credentials and get them to give the money to him voluntarily.

So in this case, this is bank robbery, this is, you call it what you want. But it's taking money under false pretenses." (Pg. 79). (Exhibit K - Pgs. K-2 to K-6).

In the testimony of Dennis Ciaglo, the U.S. Attorney Carolyn Bell informed the court that "And it is true, I did not have Agent McBride, ask him to write a 302 on this matter." How many other (302) Field Reports were not written, hidden or destroyed on Ms. Bell's instructions? The testimony that Dennis Ciaglo was giving concerned the \$9,500 of cash he owed to Dianne Johnson for the purchase of 10,000 shares of IBAC stock. Ciaglo paid in cash for the stock, so Warren D. Johnson, Jr. brought his Pastor Scott Scheer and his wife Sheri along to witness the payment. The Government tried to make the testimony by Ciaglo into something dirty and crooked. Ciaglo was a purchaser of IBAC stock in the

list given to U.S. Trustee Soneet Kapila. (Exhibit E - Pgs. E-9).

Additional evidence withheld from the Judge and Jury by the Prosecution included a rug made in India and sold to Doug Smith, president of Baja Boats, by Nassar, president of Masterlooms, Inc. Doug Smith ordered the rug at the Atlanta, Georgia furniture show from Nassar. The rug in stock was sold in error twice by Masterlooms. When Doug Smith finished building his new house on Lot 16 in Bay Pointe, the wrong rug was shipped to Doug Smith by Masterlooms. Doug Smith then sold the house to Charles Faust. Faust did not want the wrong rug and Masterlooms was told to pick up the rug. They did not pick it up. Howard Interiors and Howard's brother redecorated the dining room of Charles Faust's new house and the rug was sold for storage to Howard's secretary. The sale price was \$400. The F.B.I. and Prosecutor destroyed the F.B.I. (302) Field Reports of interviews with Doug Smith and withheld the history of the Masterloom rug. They even tried to cover their extortion by trying to pay Masterlooms, even though Masterlooms has refused repeatedly to make a claim in court for restitution. (See Exhibit E - E-10). This is similar to the lies by the Government when putting on Mr. Hibel and Great Western Bank as witnesses, when in reality they were owed nothing.

Further evidence was withheld from the court regarding the F.B.I. (302) Field Reports on a vicious verbal assault by Michael McBride against Amy Pratt Thompson in approximately June of 1997. Amy Thompson and her infant son (approximately age 4 or 5) Daniel were verbally assaulted and threatened by Michael

McBride at her front door. McBride was screaming at Amy Pratt Thompson that her mother hid twenty thousand dollars for Warren D. Johnson, Jr. The infant child Daniel was terrified and screaming and crying and clinging to his mom during the tirade by McBride. The truth was that it was Amy Thompson's aunt who transferred the \$20,000 to her, which she wrote a check and loaned to Warren D. Johnson, Jr. The \$20,000 loan was listed on Johnson's Chapter 7 Bankruptcy petition. Baby Daniel was pushed over the edge emotionally and is permanently emotionally damaged from this incident. His father, John T. Thompson, filed a telephone complaint with the Fort Pierce F.B.I. office upon returning home and finding his near-term pregnant wife sobbing and baby Daniel hiding. To this day Daniel will not go to an adult male, but retreats to a closet or car or hiding place and starts clicking noises instead of talking. All of the F.B.I. (302) Field Reports of the incident have been withheld or destroyed by the F.B.I. And these F.B.I. (302) Field Reports were withheld or destroyed prior to March 24, 1998 Indictment. Had these reports been available to Warren D. Johnson, Jr. at a Preliminary Examination, before a Magistrate Judge, no probable cause would have been found. Johnson would then had due process under the Fifth Amendment. Since Rule 5.1 - Preliminary Examination under 18 U.S.C. § 3060 was bypassed, Johnson was then denied Constitutional rights under the 6th Amendment.

Excerpts of the April 22, 1998 and the April 27, 1998 hearings that follow are contained in Exhibit V - Pgs. N-1 to N-9.

In the Hearing on April 22, 1998, I was ordered to get an Attorney. On page 2, line 8 it says "Mr. Johnson, where's your attorney?" Line 12-13 says "You got two weeks to get a Lawyer." Line 13-14 says "Get a Lawyer. What's the problem here?" Line 9-16 states:

"On Friday, if you don't have a lawyer here, I will have appointed a lawyer to represent you that you will have to pay. I'll pick the lawyer, and you'll pay that lawyer. So you have your choice: you either find a lawyer that you want and you're going to pay, or the Court's going to pick a lawyer from our CJA list and require you to pay that lawyer. But by Friday you're going to have an arraignment on this case with a lawyer."

In the Hearing before Magistrate Judge Ann Vitunic, on April 22, 1998 and on April 27, 1998, the Court was well aware that Warren D. Johnson, Jr., Defendant, wanted to be pro-se. The Court Minutes of the above hearings clearly reflected Johnson's wishes by stating respectively: (See Docket #13 and #14).

1. "Defendant request to represent himself."
2. "Defendant insists on representing himself and declines Court-appointed counsel." (See Exhibit N - Pgs. N-4).
3. Defendant request to represent himself." (See Exhibit N - Pgs. N-9).

In the Hearing on April 27, 1998 it was the Government through Carolyn Bell that offered Johnson a third alternative "which would be to represent himself with some kind of standby counsel." (Pg. 10 Ln. 9-10). The Court suggested that it would be up to the District Court Judge [Ryskamp] (Pg. 10 Ln. 13-14). Johnson was advised to pick up a copy of the 'Rules of Evidence

and the Criminal Rules of Procedure" (Pg. 11 Ln. 4-5). Johnson put the Court on notice that "I would like to draft a notice of a demand for a bill of particulars." (Pg. 15 Ln. 13-14); and the Court said "we'll get to that later." (Pg. 15 Ln. 18-19).

In an Order dated April 25, 1998, Magistrate Judge Vitunac set aside appointment of Federal Public Defender after stating "The above named defendant having testified under oath or provided appropriate financial affidavit that he or she is financially unable to employ counsel but wishes to represent himself," (Docket #12). (See Exhibit N - Pgs. N-1 to N-9).

In the Feretta Hearing before Federal Judge Kenneth Ryskamp on May 5, 1998, he had to determine "sixth, whether standby counsel should be appointed." (Pg. 5, Ln. 12). He urged Warren D. Johnson, Jr. strenuously to get a lawyer (Pg. 17 Ln. 10-11; 16-18). Judge Ryskamp told Johnson that he never had a Bankruptcy case before (Pg. 18 Ln. 4-5). He went on to say "we might make a special appointment, we do that from time to time." (Pg. 18 Ln. 15-16). Referring to attorney Ted Klein, Judge Ryskamp said "But he might agree to work under a special appointment." (Pg. 19 Ln. 1-2). Judge Ryskamp in his conclusion went on to say "I think he [Warren Johnson] is probably competent to represent himself, as any other individual who wants to represent himself." (Pg. 19 Ln. 16-18). (See Exhibit N - Pgs. N-20 to N-33).

During the hearing, the Judge asked me if there was "any mistreatment or coercion of you?" (Pg. 5 Ln. 13-14 and Pg. 10 Ln. 25 and Pg. 11 Ln. 1-5). Johnson answered "Absolutely" and gave

a narrative on the Vendetta (Pg. 11 Ln. 1-25; Pg. 12 Ln. 1-25; Pg. 13 Ln. 1-25).

Warren D. Johnson, Jr. went on to tell the court of the Government's interference in using attorney Robert Furr as an expert witness on Bankruptcy matters pertaining to this case (Pg. 14 Ln. 1-2).

Johnson had also delivered his demand for a bill of particulars (Pg. 7 Ln. 13-19) and told the court that he was not indigent and had a free and clear homestead worth \$300,000 (Pg. 15 Ln. 9-13). (See Exhibit N - Pgs. N-11; Docket #25).

At the conclusion of the hearing, Judge Ryskamp stated "I don't think he wants to represent himself." (Pg. 19 Ln. 10-11); and "But it's not in his best interests to represent himself." (Pg. 19 Ln. 22-23). Warren D. Johnson, Jr. was found competent in the Feretta hearing to be pro-se, however, it was the Judge that handed it back to Magistrate Judge Vitunac to appoint counsel. (See Exhibit N - Pgs. N-33).

Attending the Arraignment hearing, pro-se, Johnson was informed by Magistrate Judge Ann Vitunic on May 14, 1998 that she signed an Order on May 11, 1998 (Docket #24) denying oral motion to represent himself as to Warren D. Johnson, Jr. and appointing a Public Defender to him. Johnson was stunned and was led to believe that there would be another hearing by Magistrate Judge Vitunic, after the Feretta hearing in order to appoint standby counsel.

The assigned Public Defender, Robert Alder, filed a notice to the court on May 18, 1998 (Docket #30) which in effect silenced

Warren D. Johnson, Jr. in any proceedings, regardless of the subject matter. (See Exhibit U - Pgs. U-4 & U-2).

The court erred in not allowing Warren D. Johnson, Jr. to be pro-se under the 6th Amendment to the United States Constitution, when he passed the examination at the Feretta hearing on May 5, 1998. Prior to Magistrate Judge Vitunic's Order of May 11, 1998 appointing the Public Defender, the court should have denied Johnson being pro-se under F.R.Civ.P. Rule 8(d) which Judge Ryskamp advised him to pick up (Pg. 9 Ln. 13-14). Judge Ryskamp then denied Johnson his right to represent himself in an Order to Magistrate Judge Vitunic on May 11, 1998 referring his motion "as to matter of determination of financial ability and appointment of counsel." (See Exhibit N - Pgs. N-24).

In the case of Dorman v. Wainwright, 798 F.2d. 1358 (11th cir. 1986) it states "Erroneous denial of defendants right to proceed pro se was inherently prejudicial, regardless of fairness of trial in which defendant was convicted."

STATEMENT OF FACTS

SUPPORTING FACTS AND EVIDENCE RELATED TO THE CASE

FACT 1: On April 17, 1978 Warren D. Johnson, Sr. purchased \$600,000 of parcels in Blowing Rocks subdivision of Jupiter Island from E.J. Lavino & Company. (See Warren D. Johnson, Sr.'s Affidavit - Exhibit A - Pgs. A-1 to A-9).

FACT 2: Warren D. Johnson, Sr.'s real estate broker was Joan and his attorney was Frank Ryan.

FACT 3: On July 17, 1978 Warren D. Johnson, Sr. bought a second parcel for \$200,000 in Blowing Rocks subdivision of Jupiter Island adjacent to his purchase from E.J. Lavino & Company. Frank Ryan closed both transactions and Joan Thompson of Preferred Properties was the commission Broker. (See Warren D. Johnson, Sr.'s Affidavit - Exhibit A - Pgs. A-10).

FACT 4: Warren D. Johnson, Sr. made a Capital Gains profit from 1978 to 1980 of \$617,771 on the sale of these two properties in the Blowing Rocks subdivision, which he split into 19 lots. (See Warren D. Johnson, Sr.'s Affidavit - Closing Statements - Pgs. A-11 to A-26; U.S. Tax Returns - Pgs. A-35 to A--7).

FACT 5: Warren D. Johnson, Sr. gave away \$274,245 to charities between 1978 and 1979. (See Warren D. Johnson, Sr.'s Affidavit - Exhibit A - Pgs. A-27 to A-34).

FACT 6: Mark and Kelly Johnson, his only grandchildren that

bore the "Johnson" name, were each given \$9,000 for their respective trusts. (See Warren D. Johnson, Sr.'s Affidavit - Pgs. A-41).

FACT 7: On or about September 17, 1983, Warren D. Johnson, Sr. was paid off on a mortgage that he held in the amount of \$750,352.60. (See Warren D. Johnson, Sr.'s Affidavit - Pgs. A-48).

FACT 8: Warren D. Johnson, Sr. loaned Linkous Corporation \$261,250 on October 18, 1983. (See Jeffrey A. Johnson's Affidavit - Exhibit B - Pgs. B-1 to B-7).

FACT 9: Jerry Linkous gave Warren D. Johnson, Sr. a note for the \$261,250 on October 18, 1983. (See Jeffrey A. Johnson's Affidavit - Exhibit B - Linkous - Pgs. B-34 & B-35; B-46 to B-48).

FACT 10: Warren D. Johnson, Sr. received \$250,000 for repayment of capital on the above referenced loan on 03/25/94 by M & T Credit Verification from Jerry Linkous by wire transfer. (See Jeffrey A. Johnson's Affidavit - Pgs. B-47 & B-48).

FACT 11: The F.B.I. was fully aware that the \$250,000 that Jerry Linkous paid to Warren D. Johnson, Sr. was the repayment of capital on a legitimate business loan. (See Jerry Linkous' Affidavit - with exhibits of a F.B.I. (302) Field Report by Special Agent Thomas J. Pierce and the document receipt by the United States Attorney - Exhibit B - Pgs. B-42 to B-46).

FACT 12: Linkous Corporation, on or about October 20, 1983, wrote checks to Martin County for \$6,215.20 (Check #193082)

and \$248,608 for a cash bond as required under Martin County Resolution #184. (See Jerry Linkous' Affidavit - Memo from H. Burton Smith to Harry King, dated August 23, 1983 - Pgs. B-49 to B-54)

FACT 13: If Linkous Corporation had not put up the required funds, which totaled \$254,823.20, plus the educational impact lien and the cash bond for landscaping, Jerry Linkous would not have received the final plat and final development plan approval. (See Jerry Linkous' Affidavit - Martin County Inter-office Memo, dated August 23, 1983 - Exhibit B - Pgs. B-53).

FACT 14: Jerry Linkous did receive final plat approval from Martin County by putting up the required cash bonds, which were held and dispursed by 1st American Bank.

FACT 15: Linkous Corporation sold Walter and Becky Harber lots 11 and 12 in the Bay Pointe subdivision. (See Jeffrey A. Johnson's Affidavit - Exhibit B - Pgs. B-8 to B-9; B-37 to B-39).

FACT 16: Dr Walter Harber purchased these two lots under a resolution for an Agreement for Deed in 1982. Under the resolution for an Agreement for Deed Dr. Harber paid 18% interest. The yearly interest payments to Linkous Corporation would have been deducted on Walter Harber's 1982, 1983, 1984, etc. Tax Returns.

FACT 17: The Warranty Deed that Dr. Harber ultimately received for Lot 12 of Bay Pointe subdivision was notarized by Dianne Johnson on May 30, 1984 and recorded in the Martin County

public records OR book 620 page 2002. (See Jeffrey A. Johnson's Affidavit - Exhibit B - Pgs. B-8 to B-9; B-37 to B-39).

FACT 18: The Warranty Deed that Dr. Harber ultimately received for Lot 11 of Bay Pointe subdivision was notarized by Janice C. Develle on September 5, 1984 (5 months later) but recorded in the Martin County public records on the preceeding page OR book 620 page 2001. (See Jeffrey A. Johnson's Affidavit - Exhibit B - Pgs. B-8 to B-9; B-37 to B-39).

FACT 19: The doc stamps on each Warranty Deed total \$1,125, which shows a sales value of \$250,000 for each lot.

FACT 20: Dr. Walter Harber gave up Lot 12 of Bay Pointe subdivision to Becky Harber in a divorce in 1988.

FACT 21: Dr. Walter Harber never paid the \$250,000 principal payment that he owed Linkous Corporation until March 23, 1994 for the parcels in the Bay Pointe subdivision.

FACT 22: Dr. Walter Harber made interest payments to Linkous Corporation from 1982 to 1986 at approximately \$50,000 or slightly less per year, as would be well known to the government from Dr. Harber's 1040 I.R.S. Tax Returns.

FACT 23: On approximately September 9, 1998, both Jerry Linkous and Dr. Walter Harber told attorney Robert Adler and Joe Carmack that the \$250,000 Harber paid Linkous Corporation on March 23, 1994 was the principal payment that Dr. Harber owed

Linkous Corporation for a lot in Bay Pointe.

FACT 24: On or about Monday, September 14, 1998, both Jerry Linkous and Dr. Walter Harber told Special Agent Michael McBride and Assistant United States Attorney Carolyn Bell that the \$250,000 Dr. Harber paid to Linkous Corporation on March 23, 1994 was the principal payment for a riverfront lot in Bay Pointe. (See Jerry Linkous' Affidavit - Exhibit B - Pgs. B-34 & B-35).

FACT 25: Warren D. Johnson, Sr. paid \$225,000 to Dianne Johnson for a Product License Agreement related to a license that Ice Ban, Inc. acquired from "Eco Sno". (See Jeffrey A. Johnson's Affidavit - Exhibit B - Pgs. B-1 to B-5; B-11 to B-33).

FACT 26: Dianne Johnson reported the payment to the U.S. Government on her 1994 I.R.S. 1040 Tax Returns. (See Jeffrey A. Johnson's Affidavit - Exhibit B - Pgs. B-23).

FACT 27: Ice Ban, Inc. was bought out by George Janke, president of Ice Ban America, Inc. on July 29, 1997. Warren D. Johnson, Sr. was repaid his \$225,000 investment in the Product License Agreement plus a \$72,470.05 loan with 100,000 shares of Ice Ban America, Inc. stock. At the time of the closing of Ice Ban America, Inc. the stock was trading between \$6 to \$11 per share. (See Jeffrey A. Johnson's Affidavit - Exhibit B - Pgs. B-24 to B-33).

FACT 28: In 1996 Dianne Johnson was paid \$19,500 for a 1995 GMC hi-top van by Warren D. Johnson, Sr. The van was driven

for approximately 5 months by Jeff and Lynn Johnson, then Jeffrey Johnson sold the van to Jim Whipple for \$20,000. (See Jeffrey A. Johnson's Affidavit - Exhibit B - Pgs. B-4).

FACT 29: Warren D. Johnson, Jr. reported threats against himself and Adam Brown to the F.B.I., the Judicial Committee of the U.S. House of Representatives and to the Federal Courts under Judge Kenneth Ryskamp and Judge Friedman.

FACT 30: F.B.I. Agent David Von Holley threatened Adam Brown and Warren D. Johnson, Jr. He made the threats to Tom and Brenda Benda. He also made the threats to Dr. Randy Hansbrough and to his wife Marion Hansbrough.

FACT 31: On November 16, 2001 Warren D. Johnson, Jr. filed in District Court a Pro-se Motion to Refer the Investigation of Fraud on the Court, a Vendetta, Cover-up and Extortion to the Attorney General of the United States and the Attorney General of the State of Florida; Also to Expand the Authority of Judge Friedman to Address the Issues Raised in the Motion before his Court (With Attached Exhibits). (See Exhibit V).

FACT 32: The vendetta was reported by letter to Robert Newman, Agent in charge of the F.B.I. in West Palm Beach, Florida in 1993. (See Exhibit V - Pgs. V-30).

FACT 33: A complaint was filed against Special Agent Michael McBride on March 10, 1997. (See Exhibit V - Pgs. V-29).

In 1997 the Judiciary Committee of the U.S. House of Representatives held hearings in 1997.

STATEMENT OF FACTS

EXTORTION AND RESTITUTION

Warren D. Johnson, Jr. was pro-se from June 24, 1999 before Judge Kenneth Ryskamp in District Court in this case. (See Page 1 of 18 pages of the criminal Docket -Exhibit U - Pgs. U-12).

James Eisenberg, along with attorneys David Finegold and Robert Critten told Warren D. Johnson, Jr. about the threats by attorney Patrick Scott to have Adam Brown indicted if the family did not turn over their lawful property. The meeting dates are set forth in Exhibit U - Pgs. U-13 to U-14. Warren D. Johnson, Jr. wrote a letter to Judge Ryskamp on January 20, 2001 telling him of the extortion and duress. (See Exhibit B - Pgs. B-55 to B-57).

The Settlement Agreement was not only extortion but illegal and was done under duress. There is a timeliness of issuing a Restitution Order that limits the Statutory limit of time to (90) days for final determining of victim losses after Sentencing. See United States v. Myat Maung, an 11th Circuit case, Nos. 00-10296 and 00-14669. September 25, 2001. Appeals from the United States District Court for the Southern District of Florida No. 98-00720-CR-JAL. The Appeals court stated:

"We agree with this reading of the statute [18 U.S.C. § 3664]. If the court believes more time is required to ascertain the amount of victim losses, it can postpone sentencing and thereby put off the start of the 90-day period. What a court generally may not do, however, is impose sentence and then delay determination of the amount of losses more than 90 days from sentencing."

Also refer to United States v. Cobbs, 967 F.2d 1555, 1556 (11th cir. 1992) and United States v. Hooshmand, 931 F.2d 725, 737 (11th cir. 1991) for the underlying cases.

The sentencing of Warren D. Johnson, Jr. was June 23, 1989 and the final Restitution Order was on March 26, 2001. The victims and amounts were not established until over 17 months late. (See Exhibit U - Pgs. U-11).

On January 25, 2001, Warren D. Johnson, Jr., pro-se and in persona spoke in front of Judge Ryskamp's court about the F.B.I. vendetta and his innocence. At no time did he ever agree that he had committed any crime or owed Restitution to any presumed victims. Judge Ryskamp ordered Leslie Taylor of the Office of Professional Responsibility (O.P.R.) to investigate the charges. She later told of the cover-up and disappearance of both the January and September 2000 complaints.

James Eisenberg had no authority to extend the time and signed Exhibit U - Pgs. U-5 to U-9 without my knowledge, consent or authorization. James Eisenberg repeatedly told Warren D. Johnson, Jr. that the Settlement Agreement was extortion and repeated the threats on February 21, 2001 to Johnson if he did not sign Exhibit U - Pgs. U-10.

James Eisenberg met with Warren D. Johnson, Jr. on both February 8, 2001 and February 9, 2001. Each time he told me the Agreement was extortion, but attorney Patrick Scott had threatened Adam Brown if Johnson didn't sign and his family was terrified.

Warren D. Johnson, Jr. signed the Agreement with the legend "UCC 1-207 without Prejudice" above his name to reserve his Common Law right not to be compelled to perform under any contract that he did not enter into knowingly, voluntarily, and intentionally.

And by using "without prejudice" he was further stating that he reserved his right not to be compelled to perform under any contract or commercial agreement that he did not enter knowingly, voluntarily, and intentionally. Under the Common Law, every contract must be entered into knowingly, voluntarily, and intentionally by both parties or it is void and unenforceable. These are characteristics of a Common Law contract. Another characteristic is that it must be based on substance.

The written language "UCC 1-207 without Prejudice" was removed from above Johnson's name as set forth in Exhibit U - Pgs. U-10, however the Court agreed that he preserved his rights and the notice and notation cannot be taken away.

Exhibit U - Pgs. U-15 to U-16 set forth the theft of collateral being held by Finbar Dempsey on behalf of the Turks and Caicos government. Patrick Scottwell knew "one of the original six companies pledged its 500,000 shares to the Turks and Caicos government for a performance bond on a Resort project to be built by Grand Turk Harbour Developments, Ltd. ..." (See Exhibit E - Pgs. E-5). The Government also well knew this project was "a huge part of the Grand Turk economic plan." (See Exhibit N - Pgs. N-13; TR 06/23/98:Pg. 13 Ln. 19-20). The collateral was for a minimum of \$2 million (See Exhibit N - Pgs. N-14; TR 06/23/98:Pg. 19 Ln. 7-11 and Exhibit N - Pgs. N-15; TR 06/23/98:Pg. 25 Ln. 21-25 and Exhibit N - Pgs. N-18; TR 06/23/98:Pg. 38 Ln. 12-15 and Exhibit N - Pgs. N-19; TR 06/23/98:Pg. 46 Ln. 1-3).

Warren D. Johnson, Jr. had no control of the collateral and Harbour Funding Partners, Ltd. put up over \$25 million dollars in Ice Ban America, Inc. stock as collateral to construct the project. (See Exhibit N - Pgs. N-15; TR 06/23/98:Pg. 27 Ln. 11-13).

Prosecutor Carolyn Bell lied to the Court and the Defendant in the April 27, 1998 hearing on self representation by telling the Court that "the money laundering counts, which I believe should be capped at about \$250,000;" (Exhibit N - Pgs. N-8; TR 04/27/98:Pg. 19 Ln. 13-14) and "I don't believe that we would be substituting assets in excess of \$250,000, even after conviction." (Exhibit N - Pgs. N-8; TR 04/27/98:Pg. 19 Ln. 17-19). The Court: "In other words, the total amount of assets that the Government seeks to seize from this Defendant is \$250,000, is that correct?" Mrs. Bell: "That's correct, your Honor." The Court: "Do you understand that, Mr. Johnson?" Mr. Johnson: "I do." (Exhibit N - Pgs. N-8; TR 04/27/98:Pg. 19 Ln. 20-25; TR 04/27/98:Pg. 20 Ln. 1-3).

Patrick Scott knew these shares were held in escrow with Finbar Dempsey and set out to misled Atlas Transfer by claiming a "lost certificate." (See Exhibit E - Pgs. E-9 - Item 1.19 of the Settlement Agreement and Mutual Release).

The extortion of Johnson's family emboldened Patrick Scott to commit grand theft of \$2 million in collateral from the Turks and Caicos government. Patrick Scott knew of "the possibility that Mr. Johnson's conviction could be overturned" and "we would

recover nothing." (See Exhibit E - Pgs. E-2 - Last Paragraph).

Richard Grund was also threatened into signing the February 16, 2001 Settlement Agreement. Richard Grund investigated the theft of over \$3,500,000 of cash and Ice Ban America, Inc. stock by Government witness Rashid "Reg" Bodhanya. The cash and stock were paid to AmSouth Bank in Tampa, Florida and Standard Star Insurance. (See Exhibit L - Pgs. L-7 to L-14).

When Richard Grund filed a verbal complaint under F.R.Cr.P. Rule 3 against Rashid "Reg" Bodhanya on June 18, 1989 with F.B.I. Agent Michael McBride, McBride refused to arrest Bodhanya. Patrick Scott has since confirmed that Reg Bodhanya "has since fled the Turks and Caicos Islands in the wake of a government investigation." (See Exhibit E - Pgs. E-5 Ln. 31-32).

Jerry Linkous was threatened into signing the February 16, 2001 Settlement Agreement, in order to force him to abandon his lawful right to be paid for the 10" water main he built to service Bay Pointe, Otters Run and Bay Pointe Estates. (See Exhibit B - Pgs. B-36).

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STATEMENT OF FACTS

FRAUD ON THE COURT

The Indictment was a fraud on the Court. There was no profit in Bay Pointe Estates. Dr. Walter Harber owned 100% of Bay Pointe Estates as certified in two documents recorded in the Martin County public records 90 days prior to Dr. Harber paying \$250,000 which he owed to Linkous Corporation (Linkous). Bay Pointe Estates Land Trust was never used and Adam Brown never owned or had had any rights to Bay Pointe Estates subdivision after he sold it to Dr. Walter Harber on November 1, 1991.

The time line - history - indisputable documents that exist provide the following:

1. Warren D. Johnson, Jr. entered into an option (contract) with Carlos Alfonso, president of PMC, to purchase 28 acres that could only access its riverfront portion (Bay Pointe Estates) through the single entrance and roads developed and owned of record by Linkous Corporation. (See Exhibit R).

2. Warren D. Johnson, Jr. then entered into a contract to sell platted riverfront lots (5) to Alfredo Sanchez, which included Dr. Walter Harber, for a total of \$1,220,000. (Pgs. R-11 to R-12).

3. Dr. Harber, Sanchezes, and Lindsey all pulled dock permits through Charlie Congainelli of Intracoastal Marine from two state and one federal agency. (November 28, 1988). (Pgs. R-17).

4. Bay Pointe Estates had a wetlands parcel in the middle of its riverfront that needed special state and federal permits to mitigate and fill it. (Exhibit R - Pgs. 1).

5. Carlos Alfonso agreed in the option contract with Warren Johnson to plat the subject property prior to closing. so that Johnson and his subsequent riverfront buyers would not

that the property could be developed into the number of riverfront lots the contract called for and that the ultimate buyers (Harber, Sanchez, et al.) would know the bonded costs. (Pgs. R-12).

6. In Martin County a plat can not be recorded unless a bond is put up for 125% of the development costs.

7. The sellers of the property ran into financial difficulty and time delays, so Carlos Alfonso sold out his portion to Corrine B. Calvasina, who was the sister of an F.B.I. Agent.

8. Corrine Calvasina tried to switch the property to a new corporation (Fercal, Inc.) and void Warren Johnson's option contract. (See Exhibit T - Pgs. T-28).

9. Warren Johnson sued both Project Management Corporation (PMC) and Fercal, Inc. to enforce his option contract and to honor the contract he had with Sanchez, Harber, et. al., who previously made a \$20,000 deposit and they had pulled dock permits for their respective lots that were under separate contract with Warren Johnson. (See Exhibit R - Pgs. R-11 to R-12).

10. Carlos Alfonso testified at the Johnson v. FMC/Fercal trial that Warren Johnson was paying full price for the land.

11. Prior to the Johnson v. PMC/Fercal trial, Indian River Appraisers valued the land at less than Warren Johnson and his contract purchasers were paying for the land. The Appraisal was submitted as an exhibit in the trial. (Pgs. R-13 to R-16).

12. Alfredo Sanchez testified that he had a valid contract for his group, but was misled by Ken Ferrari, president and co-owner of Fercal, Inc., as well as the engineer who was to plat the extra flag lots on the roadward side of the riverfront

lots, so each riverfront lot would have a separate house for guests or family. (See Exhibit R - Pgs. R-12).

13. The Jury only awarded Warren Johnson \$50,000 (or) he could elect specific performance to see that the property was sold.

14. Warren Johnson elected for specific performance so that the property could be developed for Harber, Sanchez, et. al.

15. PMC/Fercal stripped the dock rights from the riverfront and sought to block access to the riverfront parcel granted by the easement agreements obtained with Linkous Corporation and the Bay Pointe Property Owners Association of Palm City, Inc.

16. Judge Larry Schack would not enforce the provisions of the option contract that required PMC/Fercal to plat the property and told Warren Johnson's attorney, Robert Critton, Jr., the buyer would have to take the property "as is". This destroyed any potential profit in the property.

17. Dr. Harber offered to put up \$500,000 to protect his riverfront purchase and bought Bay Point Estates subdivision, thus becoming the developer.

18. Warren Johnson received a total of over \$86,000 (\$51,000 to pay his Attorneys for the lawsuit and due diligence to close the deal) plus checks for approximately \$36,000.

19. Adam Brown, Warren Johnson's son-in-law was Walter Harber's real estate broker and had a listing on lot 11 in Bay Pointe which Dr. Harber owned.

20. Adam Brown worked for Waterfront Properties who has

the Great Estates broker for the area and the Sotheby's real estate broker for Martin County, Florida. (Pgs. R-31 to R-34).

21. Adam Brown purchased the subject property November 1, 1991 from Ken Ferrari, president of Fercal, Inc. for \$450,000. He then sold Dr. Harber the Bay Pointe Estates parcel on the river for \$500,000, so that Warren Johnson could be paid for his option contract.

22. Adam Brown received an award from Sotheby's during the month of November 1991 for over 11 million in contracts. The deal with Ken Ferrari was a minor part of Brown's business.

23. Adam Brown had no further interest in Bay Pointe Estates except to sell land fill to the project and to work jointly with Dr. Harber and Martin County so that Walter Harber could ultimately plat the Bay Pointe Estates.

24. Adam Brown was threatened with indictment on this transaction by F.B.I. Agents David Von Holley and Michael McBride.

25. Dr. Harber was stuck with a development that he could not handle. F.B.I. Agent Mike McBride had labeled the project "Bad Bay" and interfered with Harber's deal.

26. The project was twice offered to Soneet Kapila, Trustee, in March and September 1994 at cost or less. Soneet Kapila was also informed that Warren Johnson, Jr. would have to go to work to finish the project for Dr. Harber. Soneet Kapila, through his attorney Marta Singerman, told Les Osborne of Furr & Cohen (Warren Johnson's attorneys) that Soneet Kapila "had no interest in the property" and requested to stop sending them documents to read. Also, to let Dianne Johnson

purchase the riverfront lots and her husband, Warren, do what ever he wanted to do for Dr. Harber. (Pgs. R-1 to R-10 & R-26 to R-27).

27. Walter Harber sued the B.P.P.O.A. (Bay Pointe Properties Owners Association) for blocking his access to the property and three documents were recorded in the Martin County, Florida records. (O.R. Book 1064 on pages 2582 to 2612). (Exhibit H).

28. One of the agreements extinguished the Linkous documents from the Martin County public records. Jerry Linkous was not a party to the lawsuit and his agreements could not be extinguished without his authority. He had never been paid for a 10" water main that serviced the subject properties. Adam Brown tapped that water main 9 times for nine Otter's Run lots and Dr. Harber had to hook on to the end of the water main to service Bay Pointe Estates. (Exhibit H - Pgs. H-19 to H-21).

29. Jerry Linkous in 1982 entered into a water service agreement with Martin Downs Utilities to service Bay Pointe. Martin County got into the middle of the deal and told Jerry Linkous that it was buying Martin Downs Utilities in less than 1 year and must contract with Martin County Utilities, which he did in good faith. Martin County breached the contract with Jerry Linkous, which provided for him to be repaid for his water main costs. A subdivision called the "Hammocks" hooked on to the water main with no payment to Linkous. Martin County did not buy Martin Downs Utilities timely, so they continued to contract for water and sewer service with developers, including Harbor Pointe by August 1988. (Exhibit T -Pgs. T-14).

30. Dr. Harber entered into a sewer agreement with Martin

Downs Utilities. Then Martin County Utilities purchased Martin Downs Utilities. They then proceeded to breach the agreement for sewer with Dr. Harber. John Polley of Martin County Utilities testified for the Government in Warren D. Johnson's trial that Jerry Linkous was not, in his opinion, owed money for the 10" water main due to a five-year limitation. John Polley misled the Jury, as did the Government, by not giving the history of the breaches to both a water agreement with Linkous and a sewer agreement with Dr. Harber. He also did not bring out the fact that Martin County signed a P.U.D. agreement in 1988 to hook these properties in question onto that 10" water main within the five year time frame.

Letters were obtained from the utility for a land loan in the amount of \$1,800,000 to Fercal, Inc., whereby Harbor Pointe "was receiving the benefit of the water main extension." The land loan closed August 11, 1988, and well within Linkous' five year date of March 13, 1989. (See Exhibit T - Pgs. T-14; T-29; T-34 to T-36).

STATEMENT OF FACTS

VIOLATION OF CONSTITUTIONAL RIGHTS

I believe that my Constitutional rights were violated when Magistrate Judge Ann Vitunic signed an Order on May 11, 1998 appointing a Federal Public Defender, without a hearing on me being pro-se with the possibility of Ted Klein or another attorney assigned as standby counsel to me.

I believe that my Constitutional rights were violated under the Federal Rules of Criminal Procedure as follows:

1. Magistrate Judge Ann Vitunic denied my demand for a bill of particulars on May 12, 1998 without a hearing as to due process rights. She told me in the April 27, 1998 hearing to "get a copy of the Rules of Evidence and the Criminal Rules of Procedure" (TR 04/27/98:Pg. 11 Ln. 4-5) and I informed her Honor that "I would like to draft a notice of a Demand for a Bill of Particulars" (TR 04/27/98:Pg. 15 Ln. 13-14); she replied "Mr. Johnson, we'll get to that later." (TR 04/27/98:Pg. 15 Ln. 18-19; Exhibit N - Pgs. N-6 to N-7)

Without the Court ruling on my Notice and statement of a bill of particulars (Docket #19 & #2) filed on May 8, 1998, I was denied my right to due process.

United States v. Davidoff, 345 F.2d 1151 (2nd Cir. 1988):

"The Second Circuit reversed the Defendant's conviction based on the denial of his request for a Bill of Particulars."

United States v. Madeoy, 652 F.Supp. 371 (D.D.C. 1987):

"The Defendant was charged in a 121 count Indictment involving fraud, conspiracy and RICO. The District Court held that he was entitled to a Bill of Particulars specifying in detail the laws and regulations which were alleged violated."

United States v. Santoro, 647 F.Supp. 153 (E.D.N.Y. 1986):

"The Defendants, charged with security fraud, were entitled to a Bill of Particulars describing as specifically as possible inside information on that which the defendants were alleged to have traded."

2. The Rules of Criminal Procedure contain the following rules: Rule 3. The Complaint; Rule 4. Arrest Warrant or Summons Upon Complaint; Rule 5. Initial Appearance Before the Magistrate Judge; Rule 5.1. Preliminary Examination under the Preliminary Proceedings section. Additionally, Rule 6. The Grand Jury under the Indictment and Information section provides Rule (f) Finding and Return of Indictment. (See Exhibit D - Pgs. D-5).

Title 18 U.S.C. § 3060 (Exhibit D - Pgs. D-2) states:

"(a) Except as otherwise provided by this section, a preliminary examination shall be held within the time set by the judge or magistrate pursuant to subsection (b) of this section to determine whether there is probable cause to believe that an offense has been committed and that the arrested person has committed it."

Under Rule 5.1 one cannot prove Probable Cause without a Preliminary Examination. In 18 U.S.C. § 3060(a) the keyword is shall. I was denied this Preliminary Examination and therefore denied my rights under the 5th Amendment to the United States Constitution, which is the right to due process.

Weimer v. Amen, 870 F.2d 1400 (8th Cir. 1989):

"Cornerstone of due process is prevention of abusive governmental power."

Muse v. Sullivan, 925 F.2d 785 (5th Cir. 1991):

"Due process requires that litigant claim be heard by fair and impartial fact finder applies to administrative as well as judicial proceedings."

Pearson v. City of Grand Blanc, 961 F.2d 1211 (6th Cir. 1992):

"Fourteenth Amendment substantive due process requires that both state legislative and administrative actions that deprive citizens of life, liberty, and property must have some rational basis."

U.S. v. Moody, 977 F.2d 1420 (11th Cir. 1992)/
Becker v. Lockhart, 971 F.2d 172 (8th Cir. 1992):

"Due process is violated by criminal statute when men of ordinary intelligence must guess at meaning of the statutes."

U.S. v. Conkins, 987 F.2d 564 (9th Cir. 1993):

"Due process of law is violated when Government vindictively attempts to penalize a person for exercising protected statutory or constitutional rights."

U.S. v. Boothe, 994 F.2d 63 (2nd Cir. 1993):

"Due process bars Prosecutor from making knowing use of false evidence and conviction may not stand if such evidence has any reasonable likelihood of affecting judgment of Jury."

U.S. v. Williams, 998 F.2d 258 (5th Cir. 1993):

"Prosecutor's suppression of evidence which would tend to exculpate Defendant or reduce his Sentence violates due process."

Moseanko v. Yeutter, 944 F.2d 418 (8th Cir. 1991)/
Matthews v. Eldridge, 424 U.S. 319, 333, 47 LEd.2d 18, 96 S.Ct. 892 (1976)/ Armstrong v. Monzo, 380 U.S. 545, 552, 14 LEd.2d 62, 85- S.Ct. 1187 (1965):

"Due process requires as general matter opportunity to be heard at meaningful time and in a meaningful manner."

McGeshick v. Fiedler, 3 F.3d 1083 (7th Cir. 1993):

"Offering false testimony is a violation of due process."

U.S. v. Henderson, 19 F.3d 917 (5th Cir 1994):

"When hearing is necessary to protect Defendant's due process rights, then failure to hold hearing would be abuse of discretion."

U.S. v. Guthrie, 789 F.2d 350 (5th Cir. 1986):

"Offering false testimony is a violation of due process."

U.S. v. Goodwin, 457 U.S. 368, 372, 102 S.Ct. 2485, 2488, 73 LE.2d 74 (1982):

"For the Government to punish a person because he has done what the law plainly allows him to do is a due process violation of the most basic sort."

The Docket Proceedings of this case (Exhibit D - Pgs. D-3) starts with Item #1 on March 24, 1998 with the Indictment. The first entry should have been the Criminal Complaint and it appears that there was a failure on the part of the Grand Jury to return the Indictment in open court to a Federal magistrate judge, whereby creating a jurisdictional defect and violated due process as required by Rule 6(f) of the Rules of Criminal Procedure. (See Exhibit D - Pgs. D-5).

This entire case was based on selective prosecution and a vendatta against me. I did not break any laws. I was allowed by law to go Bankrupt in 1979 and again in 1992. It is my right to go back to work and to restore my fortunes. Bay Pointe Estates was twice offered to the U.S.Trustee, and I offered TWENTY FIVE PERCENT (25%) of a TEN MILLION DOLLAR case to pay my legitimate creditors in my bankruptcy. (See Exhibit R, pages R-2, R-26, R-27 and R-35) Ray Loesche secretly taped a phone conversation for the F.B.I., where I told him to tell the truth, and tell about this Vendetta. Loesche later signed a statement on July 2, 1997 that affirmed my full disclosures on property transfers to the U.S. Trustee; and catching Corrine Calvasina at the Bay Pointe Gates. Loesche set up the Vendetta with Holland & Knight in a secret 12/28/92 Fax., bringing together himself, Calvasina, the Bondholders and F.B I.

RULES OF EVIDENCE

The Government's witnesses in this case against Warren D. Johnson violated the best evidence rule 608 - Evidence of Character and Conduct of Witness and rule 701 - Opinion Testimony under the Federal Rules of Evidence.

Principle witnesses that should have been called to testify were, as follows:

1. Dr. Walter Harber, since he paid Linkous Corporation the \$250,000 on March 23, 1994 from a lot sale in the Bay Pointe Estates subdivision. that he was the sole owner of. It was Dr. Harber's money and he owed it to the Linkous Corporation. Only he could have testified that he told the F.B.I. Agent Michael McBride and the Assistant U.S. Attorney Carolyn Bell that the \$250,000 was for the principal payment that he never paid Linkous; the principal of a lot that Dr. Harber sold to John Pierra for \$550,000. Dr. Harber could have also testified that he knew of the ingress and egress problem prior to November 1, 1991, since his close friend Olin Edwards was thrown off the Bay Pointe Estates site, which Olin Edwards had been hired to mow down the corn grass and the under brush on, prior to 11/01/91.

Exhibit H refers to the Agreement by Walter Harber, dated January 11, 1994, and recorded in the Martin County public record and states:

Page H-3; Item 5, Line 15 to 17 -

"Harber covenants that he, individually or as sole member of the Bay Pointe Estates Property Owners Association, Inc., is the sole owner of the Bay Pointe Estates Property," filed in C.R. Book 1064 page 2534 of the Martin County, Florida records.

Page H-11; Line 13 to 14 -

"Whereas, Harber is the owner in fee simple of that certain real property located in Martin County, Florida, more described as:" see Exhibit "A" (Bay Pointe Estates) filed in O.R. Book 1064 page 2598 of the Martin County, Florida records.

Page H-16; Line 6 under Item U -

"Harber, warrants and represents that he is authorized to enter into this agreement individually ..." filed in O.R. Book 1064 page 2603 of the Martin County, Florida records.

Page H-21; Line 4 to 5 -

"Harber as owner of the property described in Exhibit A ..." filed in O.R. Book 1064 page 2609 of the Martin County, Florida records.

These statements of facts clearly show that Bay Pointe Estates Land Trust did not own the Bay Pointe Estates subdivision. Walter Harber owned it individually and as sole owner at least 71 days before he paid Linkous Corporation the \$250,000 principal that he owed to Linkous.

The Government's Exhibit, Docket Number 82 - Exhibit #GX 2-17, which is the Bay Pointe Estates Land Trust, clearly states on page 4 (item) 6; "Beneficiaries shall in their own right, have full and exclusive control over the management and operation of the trust property." Page 5 (item) 11 states; "Beneficiaries shall file all such returns and pay all taxes on the earnings and avails of the trust property or growing out of their interest hereunder."

The Government well knew that Adam Brown did not own 50% of the Bay Pointe Estates property, and he did not exercise control over the management and operations of the Bay Pointe Estates subdivision. Adam Brown has filed U.S. Tax Returns each and every year since 1991 on huge real estate sales and transactions. (See Exhibit R. pages R-31 to R-34 for numerous sales awards that Adam Brown has received for outstanding sales in 1991 to 1993).

If Harber owned the Bay Pointe Estates subdivision, as stated repeatedly in the Martin County public records, the Bay Pointe Estates Land Trust was never used by either Dr Harber or Adam Brown. The proof that Adam Brown did not have an interest in the Bay Pointe Estates subdivision other than sales after November 1, 1991, will be found in Adam Brown's U.S. Tax Returns. If he owned an interest, he was obligated under the Trust agreement to report sales, profits or losses for 50% interest. If he had not reported activity of that trust, he could not have owned the property. The accounting records in Exhibit R, pages R-18 to R-25 show only individual interests of Walter Harber and Jim Lindsey (no Bay Pointe Estates Land Trust).

The Prosecution lied in order to mislead the Judge and Jury. Harber knew of the ingress and egress problem from Olin Edwards and never told Lindsey. The Bay Pointe Estates Land Trust could not have owned the property since it was Dr. Harber and not the Beneficiaries, as indicated under page 4 item 6, who had exclusive control over the management and operations of the property. Exhibit H - Pgs. H-6, filed in O.R. Book 1064 page 2587 states: "8. Harber shall provide and pay for ..."; "9. Harber shall install and pay for ..."; "10. Harber shall repair any damage caused ..."; "11. Harber shall complete all ..."; and "12. Harber agrees that pro-rata fees ...". It is clear from the Martin County public records that Walter Harber owned 100% of the Bay Pointe Estates subdivision and had "full and exclusive control over the management and operations," therefore the Prosecution misled the Jury and Judge. Harber had invested \$2,243,337.78 in the property as of December 20, 1995. See Exhibit R - Pgs. R-25.

2. Olin Edwards, and his brother-in-law (Pappy Sheltra), were former friends of Dr. Harber and had a coal strip mining operation together. Sheltra ended up with the contract to develop Bay Pointe Estates for Dr. Harber. Olin Edwards finished the contract with Dr. Harber due to environmental violations that Sheltra was charged with. Olin Edwards called Dr. Harber prior to November 1, 1991 to tell him that a Corrine B. Calvasina and Ray Loesche had ordered him off of the Bay Pointe Estates properties because the land did not have access through Bay Pointe.

Olin Edwards submitted a bill in the amount of \$2,310.00 for the pre November 1, 1991 work. The bill was paid on February 26, 1992. (See Exhibit R - Pgs. R-18). The Government well knew that Dr. Walter Harber was well informed of the looming battle over ingress and egress to Harber and Lindsey's lots.

3. Jerry Linkous, because he was owed the \$250,000 principal by Walter Harber, which he told to F.B.I. Agent McBride and A.U.S.A. Carolyn Bell on Monday, September 14, 1998. Jerry Linkous could have also testified about Martin County Utilities breaching Linkous' water service agreement and how he had paid for a 10" water main to service any land that it connected to. Jerry Linkous was never paid for the 10" water main, and he could have prevented Dr. Harber from filing his plat on Bay Pointe Estates. (Exhibit B).

Jerry Linkous would have exposed had he testified that Special Agent Michael McBride and Carolyn Bell destroyed the F.B.I. (302) Field Report of their meeting Monday, September 14, 1998, which would have shown that Johnson was not guilty of money laundering and had no interest in Bay Pointe Estates after November 1, 1991.

The testimony of John Polley of Martin County Utilities was a fraud on the court. The Government well knew that the Harbor Pointe subdivision (see Exhibit R - Pgs. R-13 to R-17; Exhibit T - Pgs. T-1 to T-33) hooked on to the Linkous 10" water main for all phases of Harbour Pointe, and specifically Phase V (Otters Run) and Phase VI (Bay Pointe Estates). In Exhibit T, attached hereto, the documents clearly show that any subdivision approval prior to March 13, 1989 would mandate a payment to Linkous Corporation for his 10" water main. (See Exhibit T - Pgs. T-36; R20:Pg. 1630 Ln. 5-12). It states "receiving the benefit of the water main extension." (See Exhibit T - Pgs. T-36; R20:Pg. 1630 Ln. 7). In a land acquisition loan by Southeast Bank that originated July 29, 1988, Fercal, Inc. "received the benefit of the water main extension."

In the Southeast Bank loan commitment dated August 2, 1988, the bank required "satisfactory evidence that all utilities are currently available to subject premises;" (Exhibit T - Pgs. T-14 Lines 5-6) and "the utilities supplying water" (Exhibit T - Pgs. T-14 Lines 8). Line 13 of page T-14 of Exhibit T states "Letters under seal from utilities currently operating under valid certificates of public necessity shall meet the requirements of this condition." The loan closed on August 11, 1988. (See date on Exhibit T - Pgs. T-33).

The master closing checklist required the following items to Lender's counsel: (Ultimately recorded 12/09/88 O.R. Book 791 Pg. 1150).

3.4 "Evidence of P.U.D Zoning Approval"

3.6 "Evidence of Utilities"

a. "Water"

(See Exhibit T - Pgs. T-33).

The reason that the Government withheld these documents of Southeast Bank (Exhibit T - Pgs. T-1 to T-19; T-29 to T-33) from evidence and the Jury is because Corrine B. Calvasina committed Bank Fraud, and being the sister of an F.B.I. Agent behind this vendetta, Special Agent McBride protected her. The loan Commitment clearly shows that Fercal, Inc. borrowed \$1.8 million on land they were only paying \$1.6 million for at the closing. After the closing, Corrine B. Calvasina told Warren D. Johnson, Jr. that his contract was "null and void." She repeated it at the Johnson v. PMC/Fercal trial over and over. She also breached her contract with Hounanian Companies, who charged her with fraud and walked away. (Referenced in Exhibit T). Southeast Bank's Executive Summary states "The land is 100% pre-sold to Warren Johnson (\$ 500 K), and the Hounanian Companies of Florida (\$ 2.2 M)." (Exhibit T - Pgs. T-1 Lines 5 to 7). The Executive Summary goes on to say "\$ 2.7 M in sales contracts (our primary source of repayment)." (Exhibit T - Pgs. T-1 Lines 20 to 21). Lines 31 to 32 of page T-2 it further states "There is little reliance placed on the guarantors due to the sales contracts."

Under the section V. Source/Repayment it states "The primary source of repayment is through the closing of the sales contracts totalling \$ 2.7 M." (Exhibit T - Pgs. T-3 Lines 33 to 35). Lines 2 to 4 of page T-4 states "The loan amount of \$1.8 M therefore is considered well protected, given the amount of the sales contracts." Line 20 of page T-4 states "100% pre-sold" and in Southeast Bank's Mortgage Loan Report on Line 15 of page T-5 states "Primary source of repayment, closing of sales contracts totalling \$ 2.7 M."

Southeast Bank's Mortgage Loan Commitment, dated August 2, 1988, (Exhibit T - Pgs. T-7 to T-19) states on lines 1 to 4 of page T-9 "Assignment of existing purchase and sales agreements between (i) Borrower and Warren Johnson in the amount of \$500,000 and (ii) Borrower and Hounanian Companies of Florida in the amount of \$2,200,000." Exhibit T on page T-15 acknowledges the following: "Title 18 of the United States Code section 1014 - Whoever knowingly makes any false statement or report ... for the purpose of influencing ..."

It is simple. F.B.I. Agent Michael McBride would not arrest FBI friend Corrine B. Calvasina for Bank Fraud. The Government well knew that this property was added to the Linkous 10" water main prior to March 13, 1989. Martin County Utilities breached their agreement with Linkous by not collecting the required fees when they issued a letter to Southeast Bank for "receiving the benefit of the water main extension." John Polley committed perjury with his courtroom testimony. John Polley also knew that Martin County Utilities had breached the sewer contract with Dr. Walter Harbor on this very same property.

The settlement agreement of February 16, 2001 was extortion and Linkous had no reason to sign it. Jerry Linkous was however threatened and the Government stripped him of his lawful claim to payment for the 10" water main and the same interest factor Dr. Harbor used regarding his investment in Bay Point Estates.

4. Warren D. Johnson, Sr. could not have testified at that time of the trial due to heart and cancer surgery, but found sufficient evidence to support his claim that Jerry Linkous owed him \$261,250 and that the \$250,000 paid by Jerry Linkous was marked in Warren D. Johnson, Sr.'s records as a repayment of a note. He produced the note and a copy of his receipt for the Government. The Government had copies of Warren D. Johnsons, Sr.'s tax returns and knew that he developed and sold property on Jupiter Island, Florida between 1978 and 1983 when he was paid September 1983 on a \$750,352.60 mortgage he held, and had sufficient capital to make the loan to Jerry Linkous one month later. (Exhibit A).

The Government's representations that he was a small pig farmer who was starving to death were grossly shocking lies and totally misled the Jury. Warren D. Johnson, Sr. owned several farms that had been in the family since the Civil War. He bought and sold land since his service in World War II. He build a 20' x 50' inground swimming pool in 1956, which was at that time only the second one built in Orleans County, New York.

This case reveals the exact type of pattern of wide spread and continous misconduct which this Court's powers can now address and correct.

5. Jeffrey Johnson, who founded Ice Ban, Inc. and signed a Product License Agreement, whereby Warren D. Johnson, Sr. purchased the license rights to the de-icing patent by paying \$225,000 fee to Dianne Johnson, who had funded the re-acquisition of the patent by Dr. Jeno Toth. Dr. Toth had to repurchase his patent from the Hungarian Communist Party. Exhibit B).

The prosecution of this case was frivolous, vexatious and performed in bad faith. The following bad faith witnesses were used by the prosecution, and were never the prime people involved in these legitimate business transactions, as follows:

1. Joe Baruch, his wife and attorney Dean Kohl, Joe Baruch's attorney, were turned in by Warren D. Johnson, Jr.'s son, Mark Johnson, for bankruptcy fraud and tax fraud. The I.R.S. had a lien against Joe Baruch's house for approximately \$125,000. The Government of Martin County had a lien against Joe Baruch's house for approximately \$100,000 for building violations - not only on his house, but on his business property as well. Joe Baruch went to his first mortgage holder to conspire to have him foreclose and wipe out the I.R.S. lien and Martin County's lien, then sell him back his house for the mortgage after Baruch's bankruptcy. Joe Baruch offered the mortgage holder \$20,000 extra to commit the bankruptcy fraud for him. Joe Baruch's attorney, Dean Kohl, went to a client of his to hide a car that Joe Baruch was purchasing from a worker, whose name was Bob. Joe Baruch hid a 30' Silverton yacht, until Mark Johnson got pictures of the boat and turned it over to the U.S. Bankruptcy Trustee. Joe Baruch bought three stainless steel ink chiller chassis from Stuart Sheet Metal just three days before his bankruptcy. He then finished them with supplies he and his wife hid on a 2-ton cargo van. They sold the three stainless steel ink chiller systems for \$45,000. The purchaser sent the first check for \$15,000 made out to the bankrupted company. Carolyn Baruch, Joe's wife, sent the check back and had the buyer issue a new check to her new company she formed with

Dean Kohl, her attorney. These people were not Johnson's friends as they testified to and they committed perjury when they testified that "they did not commit bankruptcy fraud."

2. Steven Rofsky, who was sued by Warren D. Johnson, Jr. for lender liability. Steven Rofsky misled and deceived the jury when he did not disclose the Apex Municipal Fund (Merrill Lynch) was in fact funded by the wealthiest banks and individuals in America, who subscribed for a minimum of \$100,000 each. The fund was closed ended, only to those wealthy investors who put up two-hundred million dollars, and were in so high a tax bracket that they needed the "Tax-Free Income." Steven Rofsky had greatly damaged the Apex Municipal Fund on a previous \$20 million bond deal and was sued under the Hallmark Homes case.

In the Hallmark Homes transaction Steven Rofsky was the only one to inspect the project and assured the underwriter at closing that \$10 million of improvements were completed when \$10,000,000 was released by the underwriter at closing. The improvements were never done and Steven Rofsky lied about the inspection. The project failed and was sold for about 10¢ on the dollar to the same people that Steven Rofsky said he knew in his deposition in this case were thieves and crooks in January 1991. He brought them to the Preserve at Palm-Aire, Ltd. 7 months later to be hired as professional management. This so called professional management, who Steven Rofsky knew were thieves and crooks, and they succeeded in stealing approximately \$1,400,000 of the operating fund from the Preserve at Palm-Aire, Ltd. This is why Warren D. Johnson, Jr. sued Steven Rofsky and Merrill Lynch, et al. Johnson agreed for U.S.

Trustee Kapila to pay 25% of the proceeds to his legitimate creditors, and Les Osbourne argued before the Court that Warren D. Johnson, Jr.'s legitimate creditors would be paid at least 60% of their debt. Attorney Robert Critton told the court that in his opinion the case could be worth \$10 million and that he took the case on a full contingency basis and his law firm was upfronting the money for expenses. U.S. Trustee Kapila sold the case for \$25,000 to the very people that Warren D. Johnson, Jr. was suing and never gave Johnson's legitimate creditors one cent. Steven Rofsky should have also disclosed that Warren D. Johnson, Jr. never signed the second amended guarantee of July 31, 1991. The bondholders intentionally misled the Judge in order to get a Judgment against Warren D. Johnson, Jr. for \$3,703,780.68.

Excerpts of the testimony of Stephen Rofsky are shown in Exhibit I, and noted as follows:

Page I-1. Steven Rofsky misleads the Judge and Jury by stating the Apex Fund was widely distributed. Their sales literature says that it is the wealthiest banks and individuals in America who can invest a minimum of \$100,000 and need tax-free income. The fund was closed end to these people only. (R13:Pg. 344 Ln. 5-11).

Steven Rofsky is reading from a resume of Warren D. Johnson, Jr. that the value in 1989 of the property on Jupiter Island "would exceed \$20 million." The Prosecution hid the facts from the Judge and Jury contained in Warren D. Johnson, Sr.'s Tax Returns and the Martin County public record. Warren D. Johnson, Sr. had sold all the property between 1978 to 1982 for \$617,771 profit after giving away \$274,245 to charities. (See R13:Pg. 353 Ln. 14-19). It only became worth \$20 million after it was built out with homes seven years later.

Steven Rofsky confirms the sale of the land by Warren D. Johnson, Jr. to the partnership was 1) his money and 2) he put up the \$2.8 million for the operating deficit required by the State of Florida Housing Finance Authority. (R13:Pg. 360 Ln. 8-14).

Page I-2. Warren D. Johnson, Jr. told the State of Florida Housing Finance Authority's underwriters and their attorney from Ft. Lauderdale, Florida about his Bankruptcy in 1978 and wrote them a full report for their Due Diligence. The Government misled the Jury by implying that Rofsky did not know about Johnson's 1978 Bankruptcy. (R14:Pg. 395 Ln. 10-13).

Page I-3. Steven Rofsky misled the Jury by implying that Warren D. Johnson, Jr. signed the 2nd Amended Guarantee. (R14:Pg. 419 Ln. 2-5).

Steven Rofsky perjured himself when he stated that the Bondholders took a second mortgage on the nursing home site. He then caught himself in the lie and could not recall a mortgage on Lot 1 in Bay Pointe. (R14:Pg. 420 Ln. 10-12; 20-22).

Page I-4. Steven Rofsky and the Bondholders were offered the Bay Pointe Estates property. Rofsky misled the Jury by implying Merrill Lynch could not fund that development. (R14:Pg. 423 Ln. 8-19; Pg. 424 Ln. 14-22; Pg. 425 Ln. 11-24). Also, Page I-6, Steven Rofsky states "Merrill Lynch as a company is a global financial services firm ..." (R14:Pg. 445 Ln. 13-14). Merrill Lynch has divisions that lend money to developers such as their Oxford Development division.

Page I-5. Steven Rofsky lied when he states that Warren D. Johnson, Jr. signed the July 31, 1991 2nd Amended Guarantee. (R14:Pg. 427 Ln. 1-25; Pg. 428 Ln. 1).

Page I-6. Steven Rofsky advised the Merrill Lynch Apex Fund to buy \$10 million of the State of Florida Housing Finance Authority Bond offering on the Preserve at Palm-Aire, Ltd. in December 1989, but admits that he did not talk to Warren D. Johnson, Jr. until "sometime in the fall of 1991." (R14:Pg. 458 Ln. 1).

He also admitted that he never talked to Johnson before November 1991 in a deposition in Case No. 93-25085 in the 17th Judicial Circuit, Broward County, Florida.

For twenty-three months after Steven Rofsky bought bonds in a deal where Warren D. Johnson, Jr. was at best a limited partner, all of a sudden the Government makes a big issue out of what Johnson didn't tell Rofsky. Steven Rofsky's whole testimony was about what Warren D. Johnson, Jr. did not tell him or what assets he could grab that were covered under a guarantee that Johnson never signed. Johnson sued Steven Rofsky in 1995 for Lender Liability and for adding Signature pages to Guarantees that Johnson never agreed to. This is the case, which was sold by U.S. Trustee Kapila, that was worth ten million dollars according to Attorney Robert Critton and this would have paid Johnson's legitimate creditors.

Apex Fund and the Bondholder's counsel misled U.S. Bankruptcy Judge Friedman to conclude that Warren D. Johnson, Jr. and George Janke were each to put up \$2.8 million and that Johnson never did, therefore they were still owed \$3,929,114.31.

At the conclusion of Rofsky's testimony Judge Ryskamp stated:

"If we tried a civil case with criminal lawyers and I am finding out right now, and it's a disaster. There is no focus to the prosecution, there is no focus to the defense. Both sides seem to be trying to waste as much time asking irrelevant questions. In almost three days, I have heard less than half an hour of relevant testimony in this case." (See Exhibit I - Pgs. I-14; R14: Pg. 531 Ln. 5-11).

Judge Ryskamp then said: "This Jury is totally lost."

"You have reams and reams of pages dealing with concepts they don't understand and we have lost sight of the fact that this is supposedly a case about hiding assets from Bankruptcy.

I haven't heard any of that today yet. All I am hearing is about a transaction that isn't even involved in the indictment. This whole retirement center isn't mentioned in the indictment." (See Exhibit I - Pgs. I-14: R14: Pg. 531 Ln. 20-25; Pg. 532 Ln. 1).

3. Jim Lindsey came to Bay Pointe in 1988 to purchase a riverfront lot in Bay Pointe Estates. He saw Warren D. Johnson, Jr.'s luxury home and had lunch there with Walter Harber, who was Johnson's guest. The house later sold for \$1,600,000, which was a price record for Martin County. Warren D. Johnson, Jr. never told Jim Lindsey that he was rich, but Dr. Harber may have told him. Johnson owned other lots in Bay Pointe and owned shares in Young at Heart, Inc. which, at the time, was the developer of the Preserve at Palm-Aire, Ltd. As Jim Lindsey should have known, any developer can go bankrupt five years later if a major project fails. (Exhibit C - Pgs. C-5, South Florida Sun-Sentinel, February 28, 2002, where Global Crossings, Ltd. lost more than \$8 billion in write-downs of assets). Jim Lindsey did not own Bay Pointe Estates. Walter Harber did. Jim Lindsey got his

riverfront lot with a dock. He and Dr. Harber both registered their lots in the Lindsey Family Trust and as Walter Harber, individually, and not Bay Pointe Estates Land Trust. (See Martin County OR Book 1070, pages 1018 to 1028; Exhibit H - Pgs. H-25 to H-28). Dr. Walter Harber, as individual owner, transferred Lots 36 and 37 in Bay Pointe Estates to himself individually and to the Lindsey Family Trust. The Prosecution deceived and misled the Jury by linguistic trickery and never brought out the facts that the Bay Pointe Estates Land Trust was never used. Jim Lindsey testified that Walter Harber did not tell him everything. Dr. Harber never told Lindsey about the ingress and egress problem. Jim Lindsey did not know about Dr. Harber suing the Bay Pointe Property Owners Association (B.P.P.O.A.); or about the exceptions on the title policy, whereby the ingress and egress could only be as good as the listed documents, which were recorded in the public record. Dr. Harber knew from Olin Edwards that he was blocked access to Bay Pointe Estates by Corrine B. Calvasina and Ray Loesche. James Lindsey testified that 100 people worked for him, and a least two attorneys. Isn't it reasonable that those 100 people and two attorneys would have required Dr. Harber to issue the I.R.S. tax reports required under the Bay Pointe Estates Land Trust if it had been used? Would a developer like Jim Lindsey, who does \$200 million a year, likely to overlook the contractual legal requirements of that trust agreement if he was a large limited partner? Walter Harber simply took over the Bay Pointe Estates subdivision; was sole owner; gave Jim Lindsey his riverfront lot; they used their existing trusts; Adam Brown got nothing:

Warren Johnson, Jr. never owned Bay Pointe Estates; there was no profit; and the Prosecution should not have held Dr. Harber for two days at the Courthouse in a windowless room to shock him and put him under such stress. The Government knew it induced memory loss in Dr. Harber. Both Walter Harber and James Lindsey were under great stress due to the F.B.I. making numerous visits and calls to each one over several years. They did not want Harber to pay Warren D. Johnson, Jr. for all the work he did on the Ostrich syndication, Quorum, Bay Pointe Estates and Men's Medical Centers. (Exhibit F - Pgs. F-3 Item 56). Johnson earned over \$250,000 working for Dr. Harber between 1994 to 1996, but was never paid due to interference by F.B.I. Agent Michael McBride. Warren D. Johnson, Jr.'s bill for Bay Pointe Estates alone was \$158,750. (Exhibit R - Pgs. R-3 to R-10). Johnson worked from September 24, 1994 to October 17, 1994 on the Ostrich Syndication, which is reflected on Exhibit R - Pgs. R-4. Harber wanted out of the Sanchez' contract (see Exhibit R - Pgs. R-11 to R-12) due to the fact that the Sellers did not plat the property, which Judge Schack failed to Order when Warren D. Johnson, Jr. won his lawsuit. Bay Pointe Estates property was twice offered to U.S. Trustee at Dr. Harber's cost or below in March 1994 and in September 1994, due to claims by the F.B.I. that Johnson sold the property option contract too cheap. (Exhibit R - Pgs. R-2, R-26 & R-27). Carlos Alfonso testified at the Johnson v. PMC/Fercal trial that the property was only worth what Johnson and Sanchez were paying for it.

Ken Ferrari, president of Fercal, Inc. ordered an appraisal

from Rodger Butterfield of Indian River Appraisers on May 6, 1990. (See Exhibit R - Pgs. R-13 to R-16). Butterfield appraised Sanchez' (Harber & Lindsey's) five riverfront lots at one-million dollars, platted and developed. The Sanchez contract was a fair price for Dr. Harber if he could overcome the lack of platting and contain their development costs. The loss of dock permits destroyed the value of the project. (See Exhibit R - Pgs. R-17). Harber ended up paying \$100,000 to Robert Benson, P.A. - Trust Account on June 14, 1995 to repurchase dock rights he was cheated out of by Fercal, Inc. and their buyer for Harbour Point phases I to IV. (See Exhibit R - Pgs. R-24).

When the property of Bay Pointe Estates was offered to U.S. Trustee Kapila for \$1.6 million on March 1, 1994 Dr. Harber had already invested \$1,872,096.10. There was no profit in Bay Pointe Estates. Walter Harber had been greatly damaged by the F.B.I. vendettat over Warren D. Johnson, Jr. suing Corrine B. Calvasina over this project. She told Earl Dempsey and Barbara Glover that she would get Johnson through her brother, who was an F.B.I. Agent. Special Agent Michael McBride further slandered the project by naming it "Bad Bay," and by calling any Buyer to further destroy the project.

Jim Lindsey testified to the following as shown in Exhibit G: Page G-2. Jim Lindsey and Dr. Harber do \$200 million a year and have 14,000 apartments. (R12:Pg. 47 Ln. 23-25).

Jim Lindsey came to Bay Pointe in 1988. (R12:Pg. 51 Ln. 17; Pg. 144 Ln. 22-25).

Page G-3. Jim Lindsey expected the project cost to be \$500,000

for land; \$600,000 for improvements plus \$100,000 - \$150,000 maybe. (R12:Pg. 61 Ln. 15-18).

They expected Warren D. Johnson, Jr. to do the co-ordination of permitting, engineering and approvals. (R12:Pg. 61 Ln. 23-25). Also, Page G-4. (R12:Pg. 62 Ln. 1-2; Ln. 8-10). Refer to also Exhibit R - Pgs. R-1; R-3 to R-10; R-11 to R-25. These exhibits show that Warren D. Johnson, Jr. engagement letter, billings, the Sanchez contract which Harbor took over, and development costs.

Page G-5. Adam Brown was in charge of sales. (R12:Pg. 125 Ln. 7-8; 16-20 and R13:Pg. 201 Ln. 14-22). See also Page G-11. Refer to also Exhibit R - Pgs. R-31 to R-34 on Adam Brown's sales awards.

Page G-7. Jim Lindsey was not aware that Linkous Corporation brought the 10" water main from Martin Downs Utilities to service Dr. Harber's property. (R12:Pg. 143 Ln. 1-4).

Page G-11. Jim Lindsey only came to the project five times in seven years. (R12:Pg. 202 Ln. 14-21).

Page G-12. Jim Lindsey was completely unaware of Walter Harber's actions, including a lawsuit for ingress and egress to his property. (R13:Pg. 225 Ln. 16-25; Pg. 226 Ln. 1-6).

Page G-14. Jim Lindsey was offended by the Grand Jury. (R13:Pg. 231 Ln. 8-9).

Jim Lindsey confirmed that Warren Johnson was right, but it took two years to do it. (R13:Pg. 231 Ln. 16-19).

Page G-15. Judge Rvskamp then stated:

"What the relevancy of this whole day of testimony is? It seems to me the key issue is was this man hiding property on his Bankruptcy and this sounds like a civil case whether this man has been defrauded. Whether he has been defrauded or not has nothing to do with whether the defendant is hiding property from creditors." (R13:Pg. 237 Ln. 15-18).

Jim Lindsey was "real vague" as to problems with ingress and egress. (R13:Pg. 242 Ln. 18-21).

Page G-17. Warren Johnson would have to pay Walter Harber if ingress and egress could not be obtained. (R13:Pg. 248 Ln. 4-14).

Page G-18. It was Lindsey's original suggestion to Harber to use a Trust. (R13:Pg. 255 Ln. 9-12; Ln. 24-25).

Page G-19. Lindsey said "Warren was helping everywhere he could." We were all friends, "But Walt didn't tell me, because he was probably scared a little bit." (R13:Pg. 256 Ln. 6-24).

Dr. Harber's net worth is \$15 - \$20 million. (R13:Pg. 266 Ln. 17-20).

Jim Lindsey's net worth is more than \$50 million. (R13:Pg. 266 Ln. 21-25; Pg. 267 Ln. 1).

4. James Harper came to work for Southeast Bank in early 1991 (R15:Pg. 597 Ln. 10-13) with one-third of his work load being problem loans (R15:Pg. 597 Ln. 11-13). Warren D. Johnson, Jr. sold 13.8 acres to the Preserve at Palm-Aire, Ltd. for over \$5.2 million and he put up \$2.8 million into an operating account for the project. The property was initially appraised March 7, 1998 at \$4 million (Government Exhibit 10-2). When Johnson sold the property he paid Southeast Bank \$1.9 million of the

original \$2.5 million loan that was made to Young at Heart, Inc. and the bank released the wrong property parcel (R15:Pg. 626 Ln. 23-25; Pg. 627 Ln. 1; Pg. 632 Ln. 5-7). Johnson disclosed the Haverhill Court Apartments' mortgages to Southeast Bank in Financial Statements dated February 10, 1988 (R15:Pg. 605 Ln. 16-22) and also dated September 6, 1988 (Government Exhibit 10-7; R15:Pg. 617 Ln. 1-4; R15:Pg. 621 Ln. 9-14; R15:Pg. 622 Ln. 20-25). The bank typically sent letters to George Janke requesting Financial Statements on Warren D. Johnson, Jr. (R15:Pg. 612 Ln. 5-23; Government Exhibit 10-6). A foreclosure document was prepared by Southeast Bank's attorneys in 1991 (Government Exhibit 10-24 - Sub Exhibit #7) and set forth that the loan was last extended on March 29, 1990 and the Bank's attorneys would be the best evidence as to the last loan extension date (R15:Pg. 624 Ln. 23-25).

On the last loan extension in 1990 approximately thirteen documents were prepared by Southeast Bank's attorneys. (See Exhibit S - Pgs. S-1 to S-18).

Johnson signed and portions were recorded in the public records of Broward County. The requirements to extend the loan were 1) a \$6,000 fee was paid; 2) interest was pre-paid to the term of the loan in mid 1991; and 3) all pre-conditions required by the bank were met, including an original Financial Statement with his wife (R15:Pg. 632 Ln. 1-4). (See Exhibit S - Pgs. S-19 to S-23).

Southeast Bank made several offers to extend the loan to Johnson in mid 1991, but Johnson ignored all requests to extend the loan. James Harper testified that there was no application

for an extension filled out by Mr Johnson and sent to the bank --
(R15:Pg. 634 Ln. 25; Pg. 635 Ln. 1-2).

Dianne L. Ross, Vice President of Southeast Bank, had stated in a letter January 14, 1991 "In light of the pending joint venture scenario, George Janke has discussed with me, I can assume your request might be for an extension of time. However, failing your written request identifying the requested time frame and providing details of the joint venture if solidified, I am unable to analyze and proceed with a possible loan extension." This letter was sent by the bank on March 25, 1991 (R15:Pg. 636 Ln. 10-25; Pg. 637 Ln. 1-12; Government Exhibit 10-15). Johnson never submitted a written request for said extension (R15:Pg. 639 Ln. 21-25; Pg. 640 Ln. 1-4). Johnson knew nothing of a joint venture scenario that George Jenke was discussing with the bank, since Johnson was not in any meeting with the bank during any discussions between Dianne L. Ross and George Janke. James Harper was the only person from Southeast Bank to testify for the Government on Count 2, and he did not even get involved in this loan until after March 25, 1991 (R15:Pg. 641 Ln. 1-3) and Harper stopped trying to extend the loan July 1, 1991 when he moved on to another area of the bank (R15:Pg. 654 Ln. 1-11; Pg. 657 Ln. 5-11). During this period of 96 days, with Harper rejecting the copy of Johnson's Financial Statements in each letter, Johnson never met with Harper and he never talked to Harper about the loan. At the trial Harper testified "we did not receive a written response, we did not receive any verbal communication, I do not recall having any efforts made to have Mr. Johnson to contact me. ... "

Richard M. Forney was head of the loan committee at Southeast Bank. Harper did not have the authority to complete an extension of this loan. Only the bank's attorneys, Richard M. Forney and Dianne Ross could have extended this loan, not James Harper. Harper's testimony contradicts itself when he first remembers conversations with Johnson (R15:Pg. 659 Ln. 6-8), but has no notes that the conversations ever took place (R15:Pg. 641 Ln. 12-25). When asked if he had confused conversations with George Janke, he did not say no, instead he said "I don't believe so." At best, Harper was at the opening of the Preserve at Palm-Air, Ltd. and met Johnson only on a social occasion in mid 1991. No business was discussed. The loan was last extended on March 29, 1990, at least approximately 9 months prior to the January 2, 1991 Financial Statement in question. The Financial Statement was a copy (R15:Pg. 645 Ln. 14-20) and not sent to the bank by Johnson.

Southeast Bank was fully aware of the mortgages on the Haverhill Court Apartments. Johnson sold those apartments on December 31, 1990 and closed in escrow. If Harper had called Johnson during the 96 days that he worked on this problem loan, Johnson would have referred him to Capital Title as the escrow agent for the escrow closing.

James Harper was asked "The loan was never extended, was it?" Answer "My involvement with this loan ended about that point. I sent two loan extension offerings to Mr. Johnson, which were not acted upon, and at that point I moved into another area of the bank and I believe the loan was moved over to loan workout area where they pursued foreclosure." (R15:Pg. 657 Ln. 6-11).

Johnson's Financial Statement of January 2, 1991 was accurate in Johnson's belief and opinion. He is not an accountant or lawyer, nor was trained in those areas. He reflected the sale of Haverhill Court Apartments and the third mortgage that he held as of January 2, 1991. The capital assets were reduced by the amount of mortgages on the property, thereby the net worth was as Johnson estimated on the return.

Johnson was presented with another Financial Statement dated January 2, 1991 at his 204 depositions in December 1992 and January 1993. The Financial Statement had been altered and the signature was a forgery. Johnson believes the F.B.I. knew who altered Johnson's January 2, 1991 Financial Statement and withheld the information. They may also have destroyed more 302 Field Reports. Whoever had Johnson's January 2, 1991 Financial Statement probably sent it to Southeast Bank.

According to Harper the conversation or conversations between Johnson and himself in April 1991 (R15:Pg. 642 Ln. 8-10) only and none immediately before or after the letters of June 12, 1991 (Government Exhibit 10-18) and July 1, 1991 (Government Exhibit 10-20).

The conversations that James Harper thinks he might have had with Warren D. Johnson, Jr. were probably with George Janke or Dianne Ross as it related to Johnson's intentions. Certainly before and after both June 12, 1991 and July 1, 1991 letters, Johnson's intentions were so clear to the bank that no one called him. Both letters rejected Johnson's copy of the January 2, 1991 Financial Statement. Southeast Bank well knew about the mortgages

that were on the Haverhill Court Apartments and never asked Johnson about the escrow closing of the property.

The Government at trial made a big deal of Warren D. Johnson, Jr.'s January 2, 1991 Financial Statement having omitted two loans on the Haverhill Court Apartments. In addition to Johnson having sold the apartments and closed in escrow three days earlier on December 30, 1990, Johnson would ask the Court to consider the Prosecution's mispeading argument as to:

A. The Government admitted that Warren D. Johnson, Jr. was not liable to Hibel (See Exhibit K - Pgs. K-3 Ln. 3-8 on Pg. 57) and;

B. The Conent Judgment to Great Western Bank showed Warren D. Johson, Jr. was not liable (See Exhibit S - Pgs. S-32 to S-35). No Deficiency Judgment was entered against Johnson. (See Exhibit S - Pgs. S-35 Item 9).

The Prosecution took a lie and stated it as truth in violation of 18 U.S.C. & 1622, which relates to the Prosecution knowingly misrepresented the lies and committed misconduct in the trial. It is also Perjury under Title 18 U.S.C. § 1623 whereby the Government submitted those statements into Court to get a Judgment.

QUESTIONS PRESENTED

1. How could I, Warren D. Johnson, Jr., have prevented:
 - A. Warren D. Johnson, Sr. from buying two parcels on Jupiter Island in 1978?
 - B. Warren D. Johnson, Sr. from donating \$274,245 to churches and charities in 1979 and 1980?
 - C. Warren D. Johnson, Sr. from giving \$9,000 to each of my children?
 - D. Warren D. Johnson, Sr. from loaning \$261,250 to Linkous Corporation?
 - E. My wife, Dianne Johnson, from working for Preferred Properties or Bay Pointe Reality?
 - F. Dr. Walter and Becky Harber from purchasing lots 11 and 12 in the Bay Pointe subdivision?
 - G. Dr. Walter Harber from paying the \$250,000 principal that he owed Linkous Corporation on the lot purchase, after he reported his basis cost to the Internal Revenue Service that included a \$250,000 principal payment?
 - H. Linkous Corporation from repaying the amount he borrowed from Warren D. Johnson, Sr. for \$250,000?
 - I. Warren D. Johnson, Sr. from paying for a Product License Agreement from Dianne Johnson?
 - J. George Janke from making a business transaction with Jeffrey Johnson to test the de-icing product?
 - K. George Janke, president of Ice Ban America, Inc., from buying Ice Ban, Inc.?

2. Since Southeast Bank's extension of a loan to me was March 29th, 1990, I, Warren D. Johnson, Jr., did the following to prevent a further extension; and since it was common knowledge from the media by early 1991 that Southeast Bank was in failure, I ask the following questions:

- A. How could I have prevented Southeast Bank from acquiring a copy of my January 2, 1991 Financial Statement, when previous requests for my Financial Statements were sent to George Janke or to attorney Frank Ryan?
- B. How could I have prevented Southeast Bank from sending me offers to extend the loan beyond its expiration date of March 1991?
- C. Since Southeast Bank only offered to extend the loan if I met certain conditions, and I refused the conditions, in fact be a refusal on my part?
- D. Did I not refuse to send to Southeast Bank a joint Financial Statement with my wife? Twice? Three times?
- E. Did I not refuse to give Southeast Bank a written request to extend the loan?
- F. Did I not stop a written request to extend the loan before the law firm of Ryan & Ryan sent it?
- G. Did I not refuse to put up approximately \$39,500 in prepaid interest to Southeast Bank?
- H. Did I not refuse to comply with each and every pre-condition of Southeast Bank's offer to extend the loan?
- I. Did I sign any of the thirteen documents similar to the documentation required to extend the loan on the

previous March 1990 loan extension?

- J. Did not Southeast Bank's lawyers prepare all closing documents for the March 1990 loan extension?
- K. Did not Southeast Bank's lawyers foreclose the property property after the loan came due March 1991?
- L. Did not Southeast Bank's lawyers lie in the foreclosure documents, whereby they stated multiple times that the last extension of the loan was March 1990?
- M. How could James Harper of Southeast Bank give credible testimony on a loan extension, when he only met Warren D. Johnson, Jr. once on a social occasion?
- N. How could James Harper testify against Warren D. Johnson, Jr., when he never had one business loan discussion with Johnson?
- O. How could the Government charge Warren D. Johnson, Jr. with Count 2 of the Indictment with any sense of justice? Can a failing bank rely on a copy of a Financial Statement that the bank would receive 9 months in the future to extend the loan? By a loan officer who never called Warren D. Johnson, Jr.?
- P. The loan matured March 29, 1991, however the Bank was paid interest each and every month through July 1991 with no default. (See Exhibit S - Pgs. S-19 to S-28). How come Warren D. Johnson, Jr. needed an extension, when the loan interest was paid in advance and no default existed until the Bank foreclosed the property?

EXHIBIT AA (2 of 2)

RESPONSE TO GOVERNMENT'S "ANSWERS TO APPELLANT'S APPEAL"

The Government has continually lied and has continually misled the Court both at trial and on Appeal before the 11th Circuit. Since 1996 this case has resulted in the destruction and Bankruptcy of Ice Ban America, Inc., which would have saved this country \$50 billion annually and over 1,000 lives per year. (See Exhibit V - Pgs. V-54).

Title 18 U.S.C. § 31 - Chapter 2: Aircraft and Motor Vehicles Laws make it a crime in the United States and under the laws of nations to place innocent lives in jeopardy, affect domestic tranquility or gravely affect interstate commerce under section 2012(2). The results of the F.B.I.'s outrageous acts or theft and extortion have directly caused an anti-corrosive, anti-icing chemical (Ice Ban) to fail commercially, while 20 million tons of poisonous rock salt is dumped on our soils and pollutes our water each year. Ice Ban was studied at great cost by a Government study under the Hi-Tec Commission; written into a \$202 billion transportation bill for a 80% subsidy; and it was nominated and won the Charles Penkow Award for the greatest environmental impact of the year.

There are no responses to pages 3, 6 and 14 as they were missing from the copy provided to Warren D. Johnson, Jr.

Warren D. Johnson, Jr. responds in the next 54 pages (pages 61 to 115) to the Government lies as told by Attorneys Dawn Bowen and Carolyn Bell. My response to each page and line is as follows:

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Dkt. 1 (04/19/02)

Line 3-4: Warren D. Johnson, Jr. never assured the investors that he had the resources to repay a \$28 million bond. The underwriter, Dain Bosworth, did not even know who would ultimately buy the bonds when the transaction closed in December 1989. It took the underwriter three months to resell the bonds.

Line 6: Warren D. Johnson, Jr. never submitted a Financial Statement to Southeast Bank, as stated by the Government. The January 2, 1991 Financial Statement was actually a copy and most probably sent to the bank by George Janke or Frank Ryan. The bank routinely requested them to send Financial Statements and would include statements of Warren D. Johnson, Jr.

Line 14-16: There has never been a profit on the development. Warren D. Johnson, Jr. received over \$86,000 by selling his option contract on November 1, 1991. Dr. Walter Harber took over the eventual development of the Bay Pointe Estates subdivision. Dr. Harber was contacted because he, Jim Lindsey and Alfredo Sanchez had a contract with Warren D. Johnson, Jr. to purchase the riverfront lots for \$1,220,000 since 1988. All three had pulled dock permits for their respective riverfront lots on Nov. 28, 1988. Warren D. Johnson, Jr. informed them that he could not buy the property and honor any contract with them.

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Line 1-8: Warren D. Johnson, Jr. made full disclosure in his 2004 depositions to the creditors. Warren D. Johnson, Jr. only had an Option (contract) on the property which expired on November 1, 1991. Johnson was fortunate to get out before it expired with enough to pay his attorneys (approximately \$51,000) plus an additional \$36,000. This total of approximately \$87,000 was well in excess of the \$50,000 value awarded to Johnson at trial.

Line 9-13: All real estate transfers were recorded in the public record of Martin County. Adam Brown purchased the property from Fercal, Inc. for real money. Warren D. Johnson, Jr. was paid more than the \$50,000 Jury award. This was no sham. Dr. Harber invested over \$3,000,000 in just the development costs alone and had only sold less than half of the lots in the Bay Pointe Estates subdivision in over 10 years. Dr. Harber stands to lose over one-million dollars on the project. There is no profit and there will probably never be a profit made by Dr. Harber on this purchase of property.

Line 3: Warren D. Johnson, Jr. did sue for Specific Performance and for platting and engineering. The Judge gave Warren D. Johnson, Jr. specific performance but denied platting and engineering, which the sellers had warranted to Johnson would not exceed \$600,000. When the Judge denied forcing Fercal, Inc. from doing the engineering and platting it created the situation that Dr. Harber now faces. He had to spend millions of dollars more than the contract called for. That was why Warren D. Johnson, Jr. had refused to close and deliver "platted" lots of Bay Pointe Estates to Harber, Sanchez, et al.

Line 6-12: The Southeast Bank rejected Warren D. Johnson, Jr.'s copy of a Financial Statement three times. Loan was last extended on March 29, 1990 as per the foreclosure documents. Johnson never provided the Financial Statement to the bank and James Harper never talked or called Warren D. Johnson, Jr.

Line 13-19: James Harper never discussed the Financial Statement with Warren D. Johnson, Jr. Johnson did not make a written request to Southeast Bank to extend the loan and did not extend the loan. Johnson never sent James Harper a Financial Statement. All that James Harper had was a copy, which was not a joint Financial Statement. Johnson never requested James Harper to extend the loan.

Lines 1-7: Warren D. Johnson, Jr. did not miss any deadlines with the bank. Southeast Bank was in failure and was taken over by the F.D.I.C. Johnson was no more liable to extend the bank loan than he would be to accept an offer from a bank for an unsolicited credit card. Johnson was under no obligation to extend the bank loan beyond the last extension date of March 29, 1990. When the loan came due, the bank foreclosed and bid in the property. The foreclosure was filed within 45 days of the matured loan's interest being exhausted July 1991. (Exhibit S - Pgs. S-28).

Line 8: Resolution Trust Corporation did not take over the Southeast Bank. It was the Federal Deposit Insurance Corporation. This takeover by the F.D.I.C. in no way delayed the bank's foreclosure action of September 13, 1991 on a matured loan where the interest was paid through July 1991.

Lines 14-16: Warren D. Johnson, Jr. would prepare his own Financial Statements. With respect to having sold Haverhill Court Apartments, which closed in escrow on December 30, 1990, Johnson put the third mortgage from the sale on his Financial Statement. That statement was not prepared by a Certified Public Accountant or other accounting expert.

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Line 2: Warren D. Johnson, Jr. had no personal liability on the J.J. Dorbel Corp. mortgage. (See Exhibit K - Pgs. K-3; Pg. 57 Ln. 3-8).

Line 6: Warren D. Johnson, Jr. never borrowed \$280,000 from Ray Loesche. Ray Loesche dismissed his lawsuit against Warren D. Johnson, Jr. in 1995 and took a Judgment from the Preserve at Palm-Aire, Ltd., whom Ray Loesche had made the loan for.

Line 9-11: On January 2, 1991 there was no foreclosure Judgment against Warren D. Johnson, Jr. in the amount of \$473,000 or the RTC on a \$261,000 mortgage.

Line 12-14: The Government's case is a fraud on the Court under the charges of Count 2, because the last loan extension was March 29, 1990 and it took thirteen documents to close and a joint signed Financial Statement. All of the Government's arguments and statements are covering the time periods between April 1991 to 1992.

Line 18 (Note 6): Warren D. Johnson, Jr. never represented anything to the loan officer of Southeast Bank. There were no discussions about the copy of the Financial Statement (January 2, 1991), which the bank rejected three times, requesting a joint Financial Statement, prepaid interest and many other conditions which Warren D. Johnson, Jr. did not agree to or request of the bank.

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Line 1: Warren D. Johnson, Jr. never requested an extension of time from Southeast Bank.

Line 8: Warren D. Johnson, Jr. never received a \$28 million bond issue. The bonds were issued by the State of Florida Housing Finance Authority for the Preserve at Palm-Aire, Ltd., a Florida partnership. Warren D. Johnson, Jr. was a limited partner and Debenture holder from 01/01/1990 and 05/23/1990 respectively. Warren D. Johnson, Jr. had no personal liability to repay the bonds.

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Line 3: Warren D. Johnson, Jr. never made a submission to Steven Rofsky.

Line 4: Warren D. Johnson, Jr. was under no obligation to repay the bond.

Line 5: Warren D. Johnson, Jr. did fully divulge his 1978 Bankruptcy to the Attorneys from Ft. Lauderdale, Florida who represented the State of Florida Housing Finance Authority's underwriter. The lawyers required a full written statement from Johnson, which was prepared in Tampa, Florida where the bond offering was completed. Steven Rofsky was not present for this preparation, but two underwriters and approximately nine law firms were represented. The lawyers did a complete background check on Warren D. Johnson, Jr. and would have known and discovered any litigation that Johnson would have been involved in. It is a total misrepresentation of facts to say that Johnson had a "large number of lawsuits pending against him." in December 1989. Warren D. Johnson, Jr. was suing P.M.C./Fercal and disclosed the lawsuit.

Line 9-13: Steven Rofsky had three months to due his Due Dilligence and back out of his purchase.

Line 14-19: Warren D. Johnson, Jr. sued Steven Rofsky and Merrill, et. al. for lender liability. They had changed the deal and

Page 11 (Continued)

attached Warren D. Johnson, Jr.'s signature pages to documents that he had neither seen or approved.

Several criminal acts were committed by Merrill Lynch; Steven Rofsky, et al.; and the Law firm of Holland & Knight.

1. In the Hallmark Homes case, a project was financed for \$20 million with VanKampen Merrit as underwriters. Rofsky lied to the Underwriters in order to release \$10 million to men that Rofsky knew were thieves and crooks, according to his own Deposition in the Hallmark Homes case. This \$10 million was released for work only Steven Rofsky had inspected and certified as completed. The work was never done.

2. Steven Rofsky brought these men to the Preserve at Palm-Aire, Ltd. and enticed George Janke to hire them as outside professional management. They stole \$1.4 million of the Preserve's operating deficit fund, which Warren D. Johnson, Jr. put up in the amount of \$2.8 million from his real estate sale to the Preserve at Palm-Aire, Ltd. This theft nearly broke the project.

3. The Bondholders mistakenly destroyed the collateral for their \$28 million in tax-free bonds, then through their attorneys whited out the real buyer of the Preserve at Palm-Aire, Ltd. and recorded a forged and fraudulent Deed, which was originally issued by the clerk of the Court, Broward County, Florida.

Steven Rofsky, the Bondholders and Holland & Knight have formed a criminal enterprise under the RICO Act to extort lawful assets of Johnson and gave false testimony such as in the L.A.P.D.

Page 11 (Continued)

scandal. (See Exhibit C - Pgs. C-2 & C-3). During this time, the President of Merrill Lynch made \$49.2 million per year and Prudential paid out \$4 billion for fraud during this period. (See Exhibit O - Pgs. O-2 & O-3).

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Line 1-9: No such agreement existed that required Warren D. Johnson, Jr. to make semi-annual payments over the 30 year term (of the Bond). Johnson never guaranteed the Bond payments. Steven Rofsky and Merrill Lynch, et. al. never switched Warren D. Johnson, Jr.'s signature pages to such an agreement, only to agreements that related to an unfunded guarantee. Johnson has absolute proof that he never signed the second ammended guarantee upon which the bondholders got a Judgment against him. The bondholders lied to the Court when they represented that they had Warren D. Johnson, Jr.'s signature on the guarantee. The signature page in the lawsuit is blank as to Johnson's signature, because he never signed it.

Line 10-11: Ray Loesche never loaned Warren D. Johnson, Jr. \$280,000.

Line 13-18: Warren D. Johnson, Jr. was under no obligation to inform Steven Rofsky of anything or to help him with his Due Dilligence. Warren D. Johnson, Jr. had adequate defenses against the foreclosure filed by the F.D.I.C. Royal Palm Savings Bank sold Warren D. Johnson, Jr. a house in Heathrow, Florida within Seminole County. The bank guaranteed to put up a construction fund of approximately \$250,000 to finish the house. The bank knew at the time of the sale of the house that it should have been torn down due to extremely dangerous construction defects. Royal Palm Savings Bank went under and the Resolution Trust

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Corporation failed to honor the commitments made by the Royal Palm Savings Bank.

Line 1-9: The Bond closing documents state that there is no guarantee that the unfunded \$1.4 million would ever be put up by Warren D. Johnson, Jr., George Janke or anyone. Johnson had himself allowed \$2.8 million to be held as an operating budget to get the project up to stabilized occupancy. These funds came from the equity that Johnson had in the property where the Preserve at Palm-Aire, Ltd. was constructed. The property sold to the partnership for over \$5 million, with \$1.9 million being used to pay off Southeast Bank on its first mortgage. If Warren D. Johnson, Jr. was so broke, how did he have over \$3 million equity that was appraised and recognized by the State of Florida Housing Finance Authority and its underwriters. What kind of lender is Steven Rofsky that he had to put so much faith in Johnson's winning a lawsuit? The Government failed to mention that Steven Rofsky was offered a first mortgage on the property after Warren D. Johnson, Jr. won his lawsuit. Merrill Lynch is a major investment bank which has development and lending divisions. Merrill Lynch was offered a first mortgage for \$2 million if it funded the development of Bay Pointe Estates and Lot 1 in Bay Pointe subdivision which Warren D. Johnson, Jr. also owned in September 1991, when he won the lawsuit against Fercal, Inc.

Line 10-17: During July 1991 Steven Rofsky brought Ron Kates, a Mr. Armanian, and a Mr. Cho to be hired by George Janke as managers of the Preserve at Palm-Aire, Ltd. Warren D. Johnson, Jr. never talked to Steven Rofsky during the period from April 1991

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to November 22, 1991 except for a possible conference call between all the bondholders and Lawyer Frank Ryan with George Janke, where Johnson set in the meeting. It was later discovered in a Hallmark Homes case filed in Miami, Florida that Steven Rofsky had a bad deal with Ron Kates, Armanian and Cho in the previous year. In Steven Rofsky's deposition on the Hallmark Homes case he stated that he knew they were thieves and crooks in January 1991, at least 6 months before Rofsky brought them to George Janke to manage the Preserve at Palm-Aire, Ltd. Janke removed Steven Rofsky's associates as managers after they had stolen an estimated \$1.4 million of the \$2.8 million operating fund that Warren D. Johnson, Jr. had put up through the sale of his property. Robert Critton sued Steven Rofsky, Merrill Lynch, et al. and stated to Judge Friedman that the case was worth an estimated \$10 million and the legitimate creditors would get approximately 25% of the total proceeds. Les Osborne later argued against the U.S. Trustee Soneet Kapila selling the case to the very people that it was suing. The case was sold for \$25,000 and Warren D. Johnson, Jr.'s creditors never got paid one cent. Les Osborne argued that Johnson's legitimate creditors would get at least 60¢ on the dollar. Judge Friedman stated that he had to go with the recommendation of the U.S. Trustee "because he [Soneet Kapila] studies these things very thoroughly." Soneet Kapila admitted at Warren D. Johnson, Jr.'s criminal trial that he never looked at one of the 9 boxes of files or read one word of Johnson's two days of 2004 depositions.

Line 6: Warren D. Johnson had no liability on the J.J. Dorbel mortgage. He was never personally sued by Dorbel or Hibel.

Line 8-11: With respect to Investors, the bondholder's lawyers were quite able to check the chain of title ownership in the Martin County records, which they did December 1992. Since they declined to finance the project after Warren D. Johnson, Jr. won his lawsuit, why would they care if Dr. Harber became the developer of Bay Pointe Estates to protect the lots he and Alfredo Sanchez, et. al. had under contract. There was no secret assignment. The transaction was public record. There was no profit, Warren D. Johnson, Jr.'s costs and legal fees exceeded the approximately \$87,000 that he received on his option. The bondholders knew that the Jury only awarded Johnson \$50,000 and they did not move to take it, because they knew that Warren D. Johnson, Jr. had never signed the 2nd ammended guarantee.

Line 13-19: Steven Rofsky is perjuring himself by claiming that Warren D. Johnson, Jr. informed him of anything. Warren D. Johnson, Jr. never met with Steven Rofsky or talked to him, except Johnson sat in on a conference call between Frank Ryan, George Janke and all of the bondholders; then Warren D. Johnson, Jr. attended a meeting between Mike Ryan, George Janke and all of the bondholders on or about November 22, 1991 in the law offices of Holland and Knight in Ft. Lauderdale, Florida. At the criminal trial Steven Rofskv also made false statements by intimating that the shareholders of Merrill Lynch's Apex

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Municipal Fund were a bunch of little investors. Johnson recalls reading the history of Apex being the most monied banks and families in America, with a minimum investment of \$100,000 to create the fund. The fund was also closed ended, whereby no other person could get in after the original \$200 million was subscribed by these wealthy investors who needed the tax-free income.

Line 1-8: Warren D. Johnson, Jr. supplied the bondholder's attorneys at Holland and Knight a Financial Statement, which they notarized, at the beginning of the meeting. Rusty Bogue, III, attorney for Holland and Knight, proceeded in the meeting to threaten Mike Ryan, George Janke and Warren D. Johnson, Jr. with taking over the project and "they wouldn't even have to foreclose." Johnson told them that he was under under no guarantee to them and walked out of the meeting. If Warren D. Johnson, Jr. had not given them a Financial Statement at the beginning of the meeting, he surely would not have given one at the end. They had no interest in the property that Fercal, Inc. had sold. Warren D. Johnson, Jr.'s option contract expired November 1, 1991. They had already turned down the financing a month earlier. They only wanted to take over the Preserve at Palm-Aire, Ltd., just like they did on the Hallmark Homes case. George Janke and Mike Ryan removed Ron Kates, Armanian and Cho's group with armed guards from the Preserve at Palm-Aire, Ltd. in the previous few weeks and Steven Rofsky was mad. Steven Rofsky should have told the other bondholders that his friends were thieves and crooks.

Line 9-13: Warren D. Johnson, Jr. filed bankruptcy October 2, 1992 because attorney Mike Ryan let the bondholders have a Default Judgment against him on a 2nd ammended guarantee that Johnson never signed. Mike Rvan then ended up in a secret deal as owner of the Preserve at Palm-Aire, Ltd., whereby he would sell the project to Autumn America of Texas.

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Line 14-17: Warren D. Johnson, Jr. had to come up with \$450,000 to buy the property from Fercal, Inc. Dr. Walter Harber put up \$500,000 so that he could buy out Johnson's option contract, where the Jury had awarded him \$50,000.

See Exhibit R which sets forth the following:

Page R-1. Warren D. Johnson's employment letter to straighten out Bay Pointe Estates which Walter Harber owned 100%

Page R-2. Dr. Harber's real estate Broker, Dianne Johnson offered to sell the project to U.S. Trustee Kapila at cost or below.

Page R-3 to R-10. Warren D. Johnson's timesheets for \$158,750 labor.

Page R-11 to R-12. The Sanchez (Harber and Lindsey) contract to buy (5) Bay Pointe Estates riverfront lots for \$1,220,000.

Page R-13 to R-16. An Appraisal by Indian River Appraisals on Dr. Harber's and Jim Lindsey's lots at \$200,000 each (or a total of \$1 million for five lots).

Page R-17. Letter to reclaim dock permits that were issued November 28, 1988 through Charlie Cangianelli for Harber, Lindsey and Sanchez brothers.

Page R-18 to R-25. Accounting records for Walter Harber and James Lindsey only. Bay Pointe Estates Land Trust was never used. Dr. Harber himself paid \$100,000 on June 14, 1995 to repurchase dock rights.

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Page R-26 to R-27. Second time U.S. Trustee Kapila was offered Bay Pointe Estates, due to threats by F.B.I.; "Bad Bay" slander and extortion by Michael McBride.

Page R-28 to R-30. Deeds by Walter Harber individually for his and Jim Lindsey's riverfront lots. Only Lindsey's family Trust was used.

Line 1-17: Warren D. Johnson only met James Lindsey in 1988 when Dr. Harber and he wanted to purchase riverfront lots from Alfredo Sanchez, who had a contract for \$1,220,000 to purchase all the riverfront lots in Bay Pointe Estates. They were aware that the price was to go up since Warren D. Johnson, Jr. needed at least \$50,000 for the amount that the Jury had awarded him. Their limit under the Sanchez contract was \$1,220,000. Jim Lindsey told the Jury that Dr. Harber did not tell him everything. Jim Lindsey did not even know that Walter Harber sued Bay Pointe Property Owners of Palm City, Inc. to gain ingress and egress to his property. Jim Lindsey and Dr. Harber each took a riverfront lot, Jim Lindsey for his family trust. Dr. Harber owned 100% of Bay Pointe Estates according to the public record of Martin County. Under the terms of the Bay Pointe Estates Land Trust, it was a requirement that Dr. Harber would have issued several reports both quarterly and annually. Since the land trust was not used, no reports were ever issued. There is no profit. Dr. Harber may lose over \$1 million on the development of Bay Pointe Estates. Warren D. Johnson, Jr. did work on the project for over two years and was never paid. He also worked for Dr. Harber on the Men's Medical Centers, and ostrich syndication and a multi-level deal called Quorum. During the three years that Johnson worked for Dr. Harber, he was never paid by him. To buy three years of Warren D. Johnson, Jr.'s on four separate ventures would cost over \$250,000 of his time. If Adam Brown or Warren D. Johnson, Jr. owned 50% of Bay Pointe Estates, where are their

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two waterfront lots? Dr. Harber and James Lindsey each transferred a riverfront lot into their respective name and family trust. There is no transfer from Bay Pointe Estates Land Trust to Walter Harber. They did need to use another trust, as they each had one. Adam Brown was not even paid his full commissions on Bay Pointe Estates lot sales to Dexter Yeager or Dr. Kanwal, although he had a 10% Listing Agreement for each of the sales. Ever since Dr. Harber purchased and started developing Bay Pointe Estates, he only wanted to get out even from the deal. (See Exhibit R - Pgs. R-2; R-26 to R-27; R-31 to R-34).

Adam Brown has been threatened by F.B.I. Agent David VonHolley in December 1992; F.B.I. Agent Michael McBride in 1997; and attorney Patrick Scott representing U.S. Trustee Soneet Kapila in late 2000 to February 16, 2001 in order to extort assets of the Johnson family members in violation of the RICO Act.

Adam Brown's real estate sales in Bay Pointe, Bay Pointe Estates and the Palm City area were virtually destroyed as threatened by F.B.I. Agent Michael McBride. Brown's buyer of Lot 4 in Otters Run was verbally assaulted by McBride after he purchased his property.

Lines 1-15: Otter's Run was swamp land which Dr. Harber did not want to try to develop. Kelly Brown and Mark Johnson were promised that land to split in two by Mets & Bounds for two building lots. Walter Harber had Listing Agreement with Adam Brown at Waterfront Properties for at least 3 previous years. Adam Brown was the top real estate salesman in the area. Adam Brown could have taken a \$122,000 fee on the Sanchez contract or a \$60,000 fee on the sale to Dr. Harber. Adam Brown sold the Bay Pointe Estates subdivision to Harber for no fee. He earned the Otter's Run Swamp for a house. If Dr. Harber ever used the Bay Pointe Estates Land Trust, he breached it. Dr. Harber wanted Adam Brown in the development so that he would save hundreds of thousands of dollars on the commissions from selling the property.

Line 16: Warren D. Johnson, Jr. never held title to the property or any interest in any profits.

Line 18-20: Adam Brown was awarded by Sotheby's for \$11 million in contracts during November 1991. Adam Brown has been in the Platinum Club of Realtors in Martin County for ten years. (Over ten-million dollars in annual real estate sales). (See Exhibit R - Pgs. R-31 to R-34).

Line 1-9: Warren D. Johnson, Jr.'s legal fees were already topping \$50,000 which was more than the Jury gave him in the Jury award. More attorneys were not needed in the transaction. Gary, Dietrich & Rvan had drawn the Bay Pointe Estates Land Trust agreement that Dr. Harber never used, and if he did, he breached the terms and conditions. Dr. Harber and James Lindsey had their own family trust agreements, in which they showed as Trustee. (See Exhibit H - Pgs. H-25 to H-28).

Line 10-11: Nothing reflected Adam Brown's interest in Walter Harber's project, because he did not have any interests in it. January 1994 Dr. Harber executed two agreements recorded in the Martin County public records that he was the sole owner of Bay Pointe Estates. Dr. Harber never recorded or referenced the Bay Pointe Estates Land Trust agreement in the public records of Martin County. He could have, but he didn't. (See Exhibit H).

Lines 12-19: How could Jim Lindsay have thought that Warren D. Johnson, Jr. was well off, when Johnson could not pay for the Bay Pointe Estates land after a lengthy legal battle? Warren D. Johnson, Jr. told Dr. Harber that he was in a fight with the bondholders and that Steven Rofsky's friends had stolen \$1,400,000 from the operating funds of the Preserve at Palm-Aire, Ltd. Warren D. Johnson, Jr. had no obligation to complete any Due Diligence for Jim Lindsey. Johnson merely gave Dr. Harber, et. al. the opportunity to develop their own lots on the riverfront that they had under contract.

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Line 1-3: Alfredo Sanchez, Walter Harber and James Lindsey did not have to sue Warren D. Johnson, Jr. for specific performance on their contract for riverfront lots. Warren D. Johnson, Jr. took his option money and walked away. (See Exhibit R - Pgs. R-28 to R-30)

Line 4: Warren D. Johnson, Jr. did tell Dr. Harber that he was in a fight with the bondholders.

Line 7-16: Walter Harber, et. al. were not Warren D. Johnson, Jr.'s partners, and Johnson referred Dr. Harber to attorney Robert Critton, who successfully sued to obtain ingress and egress to his riverfront lots. The title insurance issuer put the easements of record on the title policy. Dr. Harber knew that ingress and egress was a major issue prior to November 1, 1991. because his close friend Olin Edwards was evicted from the Bay Pointe Estates property by Corrine B. Calvasina and Ray Loesche because they claimed that there was no ingress and egress to the property through Bay Pointe. Corrine B. Calvasina was the sister of an F.B.I. Special Agent and also an officer and shareholder of Fercal, Inc. She was the cause of an ingress and egress problem, not Warren D. Johnson, Jr. Johnson won the previous legal battle against her, and the Florida law provides that you can not land lock a piece of property. Warren D. Johnson, Jr. had already secured easement agreements which were part of Dr. Harber's title policy. Dr. Harber knew that he would sue to enforce the easements. Warren D. Johnson, Jr. had no responsibility to force Dr. Harber to tell Jim Lindsey anything.

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Line 14-16: Linkous Corporation was 100% owned by Jerry Linkous. Who are Warren D. Johnson, Jr.'s friends and associates that testified differently?

Line 17-19: Title to the property of Bay Pointe Estates was free and clear to Dr. Harber. Ingress and egress to the property was subject to documents of record and to the laws of the State of Florida, which would not allow a property to be land locked.

In Jim Lindsey's testimony (Exhibit G), Lindsey testified how important Adam Brown would be in marketing the property. (See Exhibit G - Pgs. G-5, Pg. 125 Ln. 7 & 8 and Ln. 16-20; also see Pgs. G-11, Pg. 201 Ln. 14-22).

On the subject property Lindsey described it as a "Jungle - looking - like tract." (Exhibit G - Pgs. G-2, Pg. 51 Ln. 22).

On the 10" water main Jim Lindsey did not know that Linkous Corporation built the line. (Exhibit G - Pgs. G-7, Pg. 143 Ln. 1-4). As to the easement for the ingress and egress Lindsey says (Exhibit G - Pgs. G-15, Pg. 242 Ln. 21) "That gets vague to me."; "I have a vague recollection." (Exhibit G - G-16, Pg. 243 Ln. 13-14) "That is so vague." (Exhibit G - G-16, Pg. 243 Ln. 21).

Jim Lindsey also stated that as far as the cost, it was always the same as the Sanchez contract. (Exhibit G - Pgs. G-3, Pg. 61 Ln. 15-22).

Line 1-3: Jerry Linkous never testified. Language was added to a 1987 Access Agreement that allowed Walter Harber to file his plat in Martin County without putting up 125% of that cost in a cash bond escrow account. Since the property was platted years later than anticipated, Jerry linkous was due the interest, as per his access agreement, over and above the \$1 million.

Line 6: Jim Lindsey testified that he was a developer in Arkansas who did \$200 million per year. He would have a good understanding of the development time frame. The contractor, Sheltra & Sons, had a completion date of approximately 10 months from the date of signing, but abandoned the job. (See Exhibit G - Pgs. G-2, Pg. 47 Ln. 24).

Line 8-12: Jim Lindsey did not purchase the project, Walter Harber did. It is not believable that Jim Lindsey was in Florida between October 25, 1991 and November 25, 1991. If he had been in Florida, Olin Edwards might have told Jim Lindsey that Corrine B. Calvasina and Ray Loesche threw him off Bay Pointe Estates, where Edwards was mowing down the brush for the surveyors to mark off the wetlands. Olin Edwards and his brother-in-law, Sheltra, were former partners with Dr. Harber.

Line 16-21: It is Warren D. Johnson, Jr.'s belief that the tax returns were for Linkous Corporation, which lost over \$1 million on Bay Pointe subdivision, and not Jerry Linkous personally. Joe Baruch was trying to buy Jerry Linkous' motor home on credit. Jerry Linkous owned or leased upscale executive homes from 1973 in West Palm Beach: Turtle Creek Country Club;

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Tulsa, Oklahoma; Boca Raton; and most recently, a gated community in West Palm Beach, Florida. Jerry Linkous started as a developer for Perini in Texas, then moved with them to West Palm Beach. Jerry Linkous was then the controller for Wadsworth/Sabrice of West Palm Beach and France, doing approximately \$5 million per month. He had a new red Corvette. He also became a real estate Broker and purchased Preferred Properties from Joan B. Thomson. Jerry Linkous also became a mortgage Broker. His most recent projects were for Dade County, where he oversaw the construction of nine school projects, and most recently Broward County. He is accredited as one of only approximately 1200 people in the State of Florida to inspect school construction. If Jerry Linkous had a meager income, it may have been due to a divorce or a brain tumor, which is inoperable.

Jerry Linkous could not help Dr. Harber with Bay Pointe Estates, so Warren Johnson took the job. Jim Lindsey testified that Johnson would "coordinate the engineers and surveyors" (See Exhibit G - Pgs.G-3, Pg. 61 Ln. 23-25); "keep his [Johnson] eye on the project while it was being constructed" (G-4, Pg. 62 Ln. 1-2); "Warren was helping everywhere he could." (G-19, Pg. 256 Ln. 6); "We were counting on Warren to help us." (G-19, Pg. 256 Ln. 17); "We relied on Warren." (G-20, Pg. 257 Ln. 2); and "That Warren was right." regarding the ingress and egress and "It proved that he was right. but it took two years to do it ..." (G-14, Pg. 231 Ln. 17-19).

Line 1-19: Elkins and Friedman attorneys told Warren D. Johnson, Jr. to list any possible claims on his bankruptcy forms. Dianne Johnson had given up months before Warren D. Johnson, Jr. did. Warren D. Johnson, Jr. gave up after the bondholder got a Default Judgment on a 2nd ammended guarantee that Johnson never signed. Warren D. Johnson, Jr. had sold his main house furnished in 1988 and moved into a house at the entrance to Bay Pointe, outside of the gates. Adam and Kelly Brown were married and Adam moved into the house with Kelly. Mark Johnson owned his bedroom furniture. Kelly Johnson (Brown) owned her furniture. And Dianne Johnson owned hers, which she listed on her bankruptcy forms. Since the house was to be a temporary house, the furnishings were bought wholesale at dealer shows in two days, as Dianne Johnson was also a Decorator. Adam Brown and Kelly liked the furniture and Adam purchased the living room, dining room and kitchen furniture for approximately \$10,000 to \$12,000 in checks. Mark Johnson made the wall unit and picked up a used television and stereo from Gordon Clow. When Adam and Kelly Brown moved out, they took Kelly's bedroom set and their daughter Ashleigh's furniture, which replaced Mark's bedroom set. The rest of the furniture was donated to Living Waters Church by Adam Brown and sold at a church auction. Adam and Kelly Brown wrote off the donation to the church on their tax returns. The Masterloom rug was sold to Doug Smith by Nassar, owner of Masterlooms, Inc. The Government destroyed the F.B.I. Field Reports on meetings with Doug Smith and the sale of the rug to Howard Interior's secretary for \$400.

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Line 12-19: Warren D. Johnson, Jr. listed all possible creditors, upon the advice of legal counsel, even the debts to J.J. Dorbel which carried no personal liabilities, and Masterloom who had furnished a rug to Doug Smith's house months after the house was completed and sold. Masterlooms was told to pick up the rug that they sent in error and then to pick up the rug they sent approximately 9 months late. Masterlooms refused to pick up the rug before the house was sold by Doug Smith, president of Baja Boats, to Charles Faust. Faust gave the rug to Howard Interiors for a \$400 credit on the remodeling of his dining room. Howard Interiors' secretary bought the rug for \$400. The F.B.I. withheld the F.B.I. (302) Field Reports with Doug Smith and Masterlooms, Inc. has refused to make a claim against Warren D. Johnson, Jr. as per the extortion agreement of February 16, 2001 for Restitution. Patrick Scott tried to cover the Government's trail by paying Masterlooms anyway. (See Exhibit E - Pgs. E-10).

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Line 1-7: The new buyer of Doug Smith's house contracted with Howard's Interiors (or possibly Howard's brother) to refinish the dining room where the rug was that was delivered by Masterloom. The secretary of Howard's brother purchased the rug for \$400 after Masterloom refused to send a truck to pick it up. Warren D. Johnson, Jr., himself, made the call to Nassar Rahmanan, the owner of Masterloom, to pick up the rug, as they had mis-ordered the original rug and shipped it months late. A discussion was held between Nassar Rahmanan and Doug Smith, president of Baja Boats about trading out the rugs on a Baja boat.

Line 8-9: Warren D. Johnson, Jr. made no assignments, except in the ordinary course of business. He had sold many options, real estate, and contracts in his business career. He was licensed with the New York Stock Exchange in 1969, and his wife was a licensed real estate saleswoman then Broker in the mid 1970's.

Line 9-19: Warren D. Johnson, Jr. did mention the transfers in his 341 creditors' hearing and U.S. Trustee, Soneet Kapila, wanted to know if they were on his tax returns. Warren D. Johnson, Jr. said "yes" and sent copies of his tax returns for the two years in question. He also extensively covered the sale of the option contract on the day it expired and became worthless (November 1, 1991 at his 2004 depositions in December 1992 and January 1993. It was a legitimate sale of an option to Adam Brown. Johnson never owned the property. Fercal, Inc. sold it to Adam Brown, who resold Bay Pointe Estates to Dr. Walter Harber.

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According to a Holland & Knight memo by Jana Peters, Dr. Harber owned the property 100%, which he did as developer, until he transferred lots to him and James Lindsey's family trust; Dexter Yeager; and Dr. Kanwal; plus any other lot sales. Ray Loesche, along with his wife's son, Anthony Ardizzone, signed a statement that, in effect, said that Warren D. Johnson, Jr. must have told Soneet Kapila of the transfers, or Loesche would have remembered, and that he and Corrine B. Calvasina were trying to block the sale by blocking access to the Bay Pointe Estates properties until after the November 1, 1991 option expiration. They were well aware that Dr. Harber had bought the property. Walter Harber owned adjoining property to Ray Loesche and knew each other for several years. (See Exhibit H - Pgs. H-3; H-11; H-16; H-21; H-25 & H-26).

Line 1-3: Soneet Kapila testified that he could not remember if Warren D. Johnson, Jr. had told him of the transfer; he did not have any notes and he had taped the meeting, but had lost the tape. The Government's statement that Soneet Kapila "was never aware" is a total misstatement and a misrepresentation of Kapila's testimony. The Government liked to use facts that were not true and ask the question like "Warren Johnson never told you he had a hidden interest in a trust for \$250,000 in his son-in-law Adam Brown's name, did he?" They would all answer "no" to the question! Well, of course, Warren D. Johnson, Jr. never told anyone that. It was nothing but linguistic trickery and bad faith by the Government and it was designed to mislead the Jury.

Line 4-5: Warren D. Johnson, Jr.'s legitimate creditors could have been paid if the U.S. Trustee, Soneet Kapila, had not sold the major asset, which was a lawsuit against Steven Rofsky, Merrill Lynch, et. al., whereby the legitimate creditors were to get 25% of the gross proceeds. The attorneys took it on a full contingency for 40% and expenses. The suit was so good, the attorneys even agreed to front the expenses. George Janke and the partnership brought an inferior lawsuit and were offered over \$3 million plus legal fees to settle prior to the trial for specific performance. Joe Mathews of Colson, Hicks, Eidson ... Mathews of South Florida handled the case. (See Exhibit R - Pgs. R-35).

Line 9-10: Jerry Linkous looked to Walter Harber to pay him.

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since he was still owed \$250,000 principal on the sale of lots 11 and 12 in Bay Pointe. Jerry Linkous could have blocked Dr. Harber's plat at any time over payment to hook up the 10" water main that Harber never paid for or for extinguishing his agreements from the public records. Bay Pointe Estates had to extend the water main and Otter's Run had to make 9 taps directly into it. (See Exhibit T - Pgs. T-14; T-29; T-33; T-34; T-35 & T-36).

Line 12-16: Joseph and Carolyn Baruch perjured themselves at Warren D. Johnson, Jr.'s trial. Mark Johnson turned them in for both tax fraud and for bankruptcy fraud. It was the Baruch's that had a boat; a car purchased from Bob, who worked for them; and three ink chiller systems that they sold for \$45,000 after their bankruptcy. The ink chiller systems were built from inventory items the Baruchs had hid in a large Cargo van. They could not be characterized as friends of the Johnsons, except by the Baruchs to mislead the Jury. Warren Johnson was a Baja boat dealer in a company called Marko Oil & Gas, Inc. That company was a car dealer in the State of Florida. In its ordinary course of business it had sold Adam Brown a three year old BMW for \$22,000. The transfer was made by Dianne Johnson, a secretary of Marko Oil & Gas, Inc. The conversion van was wrecked by Mark Johnson and was sold, in its wrecked condition as is, over a year prior to Warren D. Johnson, Jr.'s bankruptcy. Johnson purchased a Mercedes for Dr. Harber, which he paid for and took delivery.

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Line 1-14: The Baruchs were obviously coached by the Government or their attorney Dean Kohl. This leads to more of the Baruch's perjury.

Line 15-18: Warren D. Johnson, Jr. took the Baruchs to Robert Furr, bankruptcy attorney. Warren D. Johnson, Jr. later apologized to Robert Furr for ever bring the Baruchs to him, since they had lied to him and concealed assets.

Line 1-3: Dean Kohl committed perjury during the trial, since Warren D. Johnson, Jr. never suggested any illegal activities to Dean Kohl. Warren D. Johnson had just happened onto Carolyn Baruch whose daughter's car, a Mazda RX-7, would not run. She was heading to Dean Kohl's office, so Warren D. Johnson, Jr. dropped her off as she needed a ride. Johnson suggested to Dean Kohl that they lease a better and more reliable car, and get rid of the old cars that would not run. Prior to bankruptcy Joe Baruch bought a good car from Bob, who worked for him.

Line 6-9: Dr. Harber did not file a lawsuit on behalf of the trust, and the action was not resolved in favor of any trust. This statement is purposely misleading and not true. It was only after a plat was filed that the lots could be sold.

Line 9-12: Dr. Harber was 100% and sole owner of Bay Pointe Estates according to the Martin County public records in two documents filed February 1994. To say that he was acting for the Bay Pointe Estates Land Trust without any facts is misleading the Jury and a fraud on the court. (Exhibit H - Pgs. H-3; H-11; H-16 & H-21).

Line 12-15: This is more linguistic trickery designed to mislead the Jury at trial. To say that "Adam Brown had no other involvement" would be correct, since Dr. Harber owned 100% of the Bay Pointe Estates subdivision, not a land trust.

Line 16-18: Dr. Harber needed to pay the \$250,000 principal that he deducted on his tax returns as the basis cost in a lot he sold

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to John Pierra for \$550,000. If he did not pay Jerry Linkous he would have been guilty of tax fraud.

The Government lied at the trial to mislead the Jury and Judge. Now in the Government's brief to the 11th Circuit Court of Appeals, they have embellished their lies that were originally established through linguistic trickery and producing people who Warren D. Johnson, Jr. had either sued or were adversarial. These witnesses were the least qualified to know either the facts or truth. Pages 33 to 40 of this Motion set forth those individuals who would have fulfilled the Best Evidence Rule 608, but due to Governmental threats, harassment and lies, they never testified.

Line 1-2: The land trust agreement does not agree to pay anything to Warren D. Johnson, Jr. And the money was not paid to Warren D. Johnson, Jr. The money was paid by attorney Terence McCarthy on behalf of Dr. Harber to Linkous Corporation for a "Resolut." This undoubtedly referred to a resolution for agreement for deed per Linkous's sale of two riverfront lots in Bay Pointe to Dr. Walter Harber. Dr. Harber told attorney Bob Adler and his investigator, Joe Carmack, on or about September 9, 1998 that the \$250,000 must have been the principal on a river lot. Walter Harber said that he paid Linkous about \$50,000 per year for approximately 5 years from 1982 to 1986 plus \$20,000 for a seawall and backfill. When Dr. Harber was reminded of the doc stamps on the two deeds being \$250,000 each for a total of \$500,000, he said that it must have been to pay for the lot.

Line 3-11: James Lindsey testified that Dr. Harber did not tell him everything. That Lindsey did not even know how much Walter Harber originally paid for lots 11 and 12 in Bay Pointe, much less how he was to pay for them. Warren D. Johnson, Jr. did tell Dr. Harber that he could not extinguish Linkous' agreements from the public record without Jerry Linkous agreeing, since he was not a party to the lawsuit; as it was Harber v. Bay Pointe Property Owners Association of Palm City, Inc. Warren D. Johnson, Jr. had no cut of any profits. There were no profits. There are no profits. Dr. Harber could do whatever he wished with his proceeds of the lot sale to Dexter Yeager. Dr. Harber certified in the public record less than 60 days earlier that he was the sole owner.

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How did Jim Lindsey, who received a riverfront lot from Bay Pointe Estates for his family trust become the authority witness for the Government? Later on the Government stated that Martin County official testified Linkous owed nothing on Bay Pointe. If that official was John Polley, head of the Martin County Sewer Department, he would certainly have no complete understanding of Linkous Corporation's debt to Warren D. Johnson, Sr. for a \$261,250 loan. Why didn't the Government call Dr. Walter Harber to the stand as a witness? He owned 100% of Bay Pointe Estates. Why didn't the Government call Jerry Linkous as a witness? He was owed money by Dr. Harber and, in turn, owed more than \$250,000 to Warren D. Johnson, Sr.

Line 12-17: The money went to repay a legitimate debt on previous business transactions. If Jerry Linkous had a large account balance prior to this transaction, he could have repaid Warren D. Johnson, Sr. at an earlier date, rather than waiting for Dr. Harber to pay the money that Harber in fact owed to Linkous Corporation.

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Line 2: Warren D. Johnson, Jr.'s father's name is not Walter Johnson, Sr., it is Warren D.

Line 4-13: All of the \$225,000 funds were expended by November 1994. Most of the expenses were either for Dianne Johnson or expenses she was to pay on the Chapter 7 Petition, whereby she would pay all household expenses; i.e., real estate taxes, phone, food, etc. The April 1, 1996 check in the amount of \$19,500 was to purchase a 1995 GMC hi-top van for Jeffrey Johnson. Jeffrey Johnson sold the van in the fall of 1996 to Jim Whipple for \$20,000, Warren D. Johnson, Jr. only received a total of \$5,000 of these funds. (See Exhibit Q - Pgs. Q-1 to Q-4). Patrick Scott lied regarding these funds. (Exhibit E - Pgs. E-4, Last Paragraph).

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Line 1-9: Dianne Johnson used the funds to pay the expenses that were reported that she would pay on the Living Expense form attached to Warren D. Johnson, Jr.'s Chapter 7 Bankruptcy Petition. The Government's forensic expert witness misled the Jury by not showing that all of the \$225,000 funds were spend by November 1994. Any checks that Dianne Johnson wrote to the Ice Ban account were other funds she expended in 1995 and beyond. Warren D. Johnson, Jr. did help Dianne Johnson with her bill paying, record keeping and investments. (See Exhibit Q).

Line 10: Warren D. Johnson, Jr. never described himself as a "self-described wheeler-dealer."

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Line 5: Warren D. Johnson, Jr. did not own the St. Lucie riverfront property, only an option contract. The riverfront property was under contract at the time of the option contract, which was honored. Warren D. Johnson, Jr.'s children received property that is now worth only the development costs and not part of the riverfront properties.

Line 8: Warren D. Johnson. Jr. and his wife are distinct and separate individuals.

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Line 17: The Martin County official ran the water and sewer company for the County. The official failed to mention that the County breached the Water Service Agreement with Jerry Linkous, and breached the Sewer Service Agreement with Dr. Walter Harber.

See Exhibit T - Pgs. T-14; T-15 & T-29 whereby a loan for \$1.8 million was closed August 11, 1988; the subject property was hooked on to Linkous Corporation's 10" water main by the utility purchased by Martin County and on the very 10" water main built by Jerry Linkous at a cost of \$86,266 and Deeded to Martin County. On Exhibit T - Pgs. T-35 & T-36 John Edward Polley committed perjury.

Line 2-3: Walter Harber's debt was to Linkous Corporation, and not to Warren D. Johnson, Sr. Linkous Corporation owed \$261,250 to Warren D. Johnson, Sr. The attorney only testified as to the real estate closing that he attended for less than one hour in April 1978. The Government is misrepresenting what attorney Sundheim had testified to during the trial. He was not there over five years later when Warren D. Johnson, Sr. was paid off on the \$750,352.60 mortgage and then loaned Linkous Corporation \$261,250 approximately one month later.

Line 5-19: At the hearing before Judge Kenneth Ryskamp on May 8, 1998, it was Judge Ryskamp who suggested Ted Klein as stand-by counsel under the C.J.A. Act, and ordered a hearing on the matter before Magistrate Judge Ann Vitunic. That hearing was never held. On May 11, 1998 Magistrate Judge Ann Vitunic signed an Order forcing Warren D. Johnson, Jr. to take the public defender. The criminal trial docket clearly shows that there was no hearing held by Magistrate Judge Ann Vitunic as expected by Warren Johnson between May 11, 1998 and May 14, 1998. (See Exhibit N - Pgs. N-20 to N-38). Warren Johnson, Jr.'s right to due process, a Bill of Particulars and his 5th and 6th Amendment Constitutional rights were violated, as previously set forth in this Motion.

Pages 33 to 56

Response: Rather than review the linguistic trickery of the Prosecutor, Carolyn Bell, it is better to set forth the lies that she told the Judge and Jury from the very beginning.

Lie 1. At the hearing on April 22, 1998 (Exhibit N - Pgs. N-3, Pg. 5 Ln. 1-3) she told the Court "Yesterday was the first time that [Judge] Mr. Farrell tried to contact me." Also, she stated "Second of all, I spoke with Mr. Farrell yesterday, that was the first time that he called me," (See Exhibit N - Pgs. N-3, Pg. 4 Ln. 21-22).

Truth - Judge Mark Farrell had left several messages since early April which went unanswered. He wanted to see a copy of Warren D. Johnson, Jr.'s Indictment.

Lie 2. At the same hearing as above, Carolyn Bell said "I have given Mr. Johnson a copy of his Indictment previously." (See Exhibit N - Pgs. N-3, Pg. 4 Ln. 19-20).

Truth - This was another small lie, but none the less Warren D. Johnson, Jr. discussed them with Judge Farrell and he told Johnson that Carolyn Bell was lying to the Court.

Lie 3. Carolyn Bell said that attorney Robert Furr was and would be a Government witness. (See Exhibit N - Pgs. N-38, Pg. 5 Ln. 6-25). This was previously told by Government attorney Karadbil in the hearing before Judge Ryskamp on May 5, 1998 (Pgs. N-38, Pg. 14 Ln. 1-12).

Truth - Attorney Robert Furr was not called as a witness.

Pages 33 to 56 (Continued)

Attorney Elkins was called in violation of Warren D. Johnson, Jr.'s Attorney-Client Privileges. Elkins was Johnson's Attorney of record in Judge Friedman's court until December 1998. Robert Furr had sent a letter to Judge Friedman indicating that Attorney Elkins was in fact Johnson's attorney on the Bankruptcy until replace by a substitution of counsel in late 1998. Robert Furr was only hired by Warren D. Johnson, Jr. as special counsel to fight two adversarial actions in 1993, which Robert Furr confirmed to Judge Friedman's court. Attorney Elkins committed Perjury.

Lie 4. Carolyn Bell told the Court "the money laundering counts, which I [Carolyn Bell] believe should be capped at about \$250,000." (Exhibit N - Pgs. N-8, Pg. Ln 13-14); "We have no legal right to seize anything prior to conviction." (Exhibit N - Pgs. N-8, Pg. 19 Ln. 16-17); "I don't believe that we would be substituting assets in excess of \$250,000 even after conviction." (Exhibit N - Pgs. N-8, Pg. 19 Ln. 17-19). The Court responded "In other words the total amount of assets that the Government seeks to seize from this Defendant is \$250,000, is that correct?" Mrs. Bell says "That's correct, your Honor." (Exhibit N - Pgs. N-8, Pg. 19 Ln. 20-25).

Truth - The Government extorted stock, land and lawful money that had a future forward value of over \$40 billion.

Lie 5. Masterloom, Inc. was owed for an \$8,000 rug which Warren Johnson had in his home Carolyn Baruch committed Perjury by

Pages 33 to 56 (Continued)

saying she saw that rug.

Truth - The rug was sold to Doug Smith and resold to a secretary of Howard's Interiors for \$400. The F.B.I. destroyed the (302) Field Reports on Doug Smith.

Lie 6. William Hibel was owed \$100,000 by Warren Johnson. This was also a lie. (See Exhibit K - Pgs. K-3, Pg. 57 Ln. 3-8).

Truth - William Hibel's note is non-recourse.

Lie 7. The question that was posed by Carolyn Bell to everyone was "Warren Johnson never told you about the \$250,000 he hid in a land trust in Adam Brown's name, did he?"

Truth - The question is linguistic trickery whereby Carolyn Bell was taking a lie (false statement) and stating it as being true to get a Judgment. This is a Criminal Act by the Prosecution under Title 18 U.S.C. § 1623. Carolyn Bell lied through her framing of the case and questions with known perjured testimony whereby the individuals testifying were D/B/A or acting as United States Attorney in this case.

Lie 8. Carolyn Bell lied to the Court when she repeatedly gave testimony of Johnson signing a second Ammended Guarantee to the Bondholders. Steven Rofsky committed Perjury. (See Exhibit I).

Truth - Warren D. Johnson, Jr. never signed the 2nd Ammended Guarantee and can prove it.

Lie 9. Carolyn Bell lied to the Court concerning a debt to Great Western Bank, who had acquired Sunpoint Savings Bank.

Pages 33 to 56 (Continued)

Truth - The Bank only had a consent Judgment against Haverhill Court Apartment property, and not a Default Judgment against Warren D. Johnson, Jr. (See Exhibit S - Pgs. S-32 to S-35).

Lie 10. The entire Baruch testimony was basically a lie and fraud on the Court by Joe and Carolyn Baruch.

Truth - Carolyn Bell well knew that the Baruch's committed Bankruptcy Fraud and their testimony was Perjury and probably coerced by the Government in order to avoid being prosecuted. Dean Kohl also joined into the Perjury.

Lie 11. Carolyn Bell well knew that Walter Harber owned 100% of Bay Pointe Estates and not the Bay Pointe Estate Land Trust.

Truth - That is why Carolyn Bell would not put Dr. Harber on the witness stand after holding him for two days at the start of the trial. He was held in a windowless room with a telephone in the bottom of the Courthouse, and not in the normal witness room that is outside of Judge Ryskamp's Court on the fourth floor.

Lie 12. Carolyn Bell lied about violating Warren Johnson's Attorney-Client Priviledges with Attorney Elkins. Elkins also committed Perjury.

Truth - According to Attorney Robert Furr and the Court record in Judge Friedman's Court, attorney Elkins was not replaced by substitution of counsel until after he testified.

Pages 33 to 56 (Continued)

Lie 13. Forensic Expert, Mr. Caron lied when he told the Judge and Jury that Dianne Johnson spent part of the \$225,000 she received from Warren D. Johnson, Sr. for Ice Ban in 1995 and 1996. (See Trial Transcript page 1623 lines 19 to 23).

Truth - Dianne Johnson spent all the funds by November 3, 1994 with none of the funds going into Ice Ban. (See Exhibit Q). Mr. Caron lied so that attorney Patrick Scott could extort the Ice Ban America Inc. stock and IBAC, Inc. stock from the lawful owners under their theory of money laundering. The stock that the Johnson family members held was paid for with their own lawful money and traded within 6 months of each offering at a total combined value of over \$100 million. The future forward value, according to the reports of the Hi-Tec Commission, the 80% subsidy under the \$202 billion transportation bill and the Charles Penkow Award would exceed \$40 billion if the future forward value of the total companies just equalled one-year of savings to America and Canada for Ice Ban America, Inc. and IBAC respectively.

Lie 14. Ray Marshall committed Perjury when he stated Dianne Johnson had no business interest in Ice Ban Canada (IBAC). He also committed Perjury when he told the Court that Ecological Snow Control, Inc. became Ice Ban USA, Inc.; and that Ice Ban USA, Inc. became Ice Ban America, Inc.

Truth - Dianne Johnson paid for the incorporation of Ice Ban America, Inc. and charged it on her American Express Optima

Pages 33 to 56 (Continued)

Card. She also paid Ray Marshall's phone bills and purchased business supplies for him. Ice Ban America, Inc. never acquired Ice Ban USA, Inc. Ecological Snow Control, Inc. went out of business because Karl Ronesecki made legal claims against it and against George Janke, in order to cancel the sale of the Toth Patent for non-payment by George Janke.

Lie 15. Patrick Scott committed extortion against the Johnson family and threatened to "have Adam Brown Indicted if the Johnson family did not turn over their lawful assets." Patrick Scott committed Perjury when he denied making that statement. His denial was sent to Judge Friedman's Court. Patrick Scott also committed Perjury about the date he told Attorney David Finegold that "he needed to settle the Restitution case so he could pay a large bank loan he had."

Truth - He did threaten "to have Adam Brown Indicted if the Johnson family did not turn over their lawful assets." Patrick Scott made these threats and they were reported to not only Warren D. Johnson, Jr. but to Johnson family members who reported the same exact threats to Warren D. Johnson, Jr. The extortion and threats were outlined as to dates of reports, times and places in Exhibit V - Pgs. V-57 & V-58.

Lie 16. Attorney Fredrick Sundheim lied for Carolyn Bell and misled the Court by saying that Warren D. Johnson, Jr. had a contract on the Jupiter Island property and inferred that he then

Pages 33 to 56 (Continued)

transferred that contract to his father

Truth - Warren D. Johnson, Jr as president of Sun, Sea and Sand, Inc. made an offer. If Attorney Fredrick Sundheim knew that offer was accepted by E.J. Lavino, and Warren D. Johnson, Jr. was never told that his offer became a Contract, then the property is now worth over \$40 to \$50 million and he would have a claim for that amount. (See Exhibit J - Pgs. J-32 & J-33).

Lie 17. Patricia A. Borah committed Perjury in the P.S.I. Report to Federal Judge Kenneth Ryskamp by stating that Warren D. Johnson, Jr. sold lots on Jupiter Island for \$20,000,000; place \$20,000,000 in trust. (See Exhibit F - Pgs. F-1 & F-3).

Truth - Warren D. Johnson, Sr. and not the son that owned the Jupiter Island property, signed Deeds, had a realtor (Joan Thomson), had an attorney (Frank Ryan) and marketed the lots through the realtor Joan Thomson. See the Tax Returns and Closing Statements as well as the Martin County public records in Exhibit A. The F B.I. destroyed the (302) Field Reports of meetings with both Joan Thomson and Frank Ryan.

Lie 18. Rashid "Reg" Bodhanya perjured himself in his testimony that Warren D Johnson, Jr. somehow controlled the corporations in the Turks and Caicos Islands and Nevis Corporations.

Truth - Rashid "Reg" Bodhanya had signed over all those corporations in July 1998 to Mark Johnson as custodian for 21 Johnson family members. (See Exhibit V - Johnson Family History).

Pages 33 to 56 (Continued)

Bodhanya then fled the country when he was exposed for theft of approximately \$5 million in stock and lawful funds of the 21 members of the Johnson family and collateral for the Grand Turk Harbour Project.

Lie 19. Attorney James Eisenberg and Carolyn Bell filed a Joint Motion Regarding Judgment of Restitution recorded with the Court in this case on March 15, 2001. The Restitution Order that was issued by Judge Ryskamp was illegal as ruled under United States of America v. Myat Maung, no. 00-10296 and 00-14669, before the 11th Circuit Court of Appeals, since the order was more than 90-days after sentencing. James Eisenberg and Carolyn Bell made numerous representation on behalf of Warren D. Johnson, Jr. that were outright lies. (See Exhibit U - Pgs. U6 to U-9).

Truth - James Eisenberg was hired by the Johnson family through sentencing and then only afterwards as Warren D. Johnson, Jr.'s Appeals attorney. Warren D. Johnson Jr. was pro-se from June 24, 1999 on in the District Court. Carolyn Bell knew that James Eisenberg did not have the authority set forth in the agreement and Warren D. Johnson, Jr. did not see a draft of the agreement. was not aware of the agreement and never approved it. The extortion continued because attorneys Eisenberg, Critton and Finegold believed the threats against the Johnson family were real (See Exhibit U - Pgs. U-12 to U-14).

Lie 20. Patrick Scott told Atlas Transfer that the stock certificate of Ice Ban America, Inc. issued to Marlin Preservation Fund was lost.

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Truth - This is grand theft against the Turks and Caicos Islands government. The 500,000 shares of Ice Ban America, Inc. in the name of Marlin Preservation Fund were put up as collateral for a \$2 million guarantee to the government of the Turks and Caicos Islands in order to fulfill the development agreement with the British Crown. The stock is held by attorney Finbar Dempsey as the escrow agent and the Government knew that. (See Exhibit U - Pgs. U-15 & U-16; Exhibit E - Pgs. E-2, E-5, 1.19 of E-9, E-14. E-15; Exhibit N - Pgs. N-4, N-9, N-13 to N-15, N-18, N-19).

Lies 21 to 37. Carolyn Bell told the Jury that Warren D. Johnson, Jr. "lied," or made statements that were "not true" at least seventeen (17) times in her closing statement. (See Exhibit J - Pgs. J-34 to J-41).

Truth - Carolyn Bell was the one who lied to the Jury each and every time that she said that Warren Johnson had "lied," in violation of Title 18 U.S.C. § 1623, which is a federal crime to take a lie and state it as truth.

In U.S. v. Iglesia, 915 F.2d 1524 (11th Cir. 1990) and in U.S. v. Nickens, 955 F.2d 112 (1st Cir. 1992) it says:

"It is improper for prosecutor to inject personal beliefs about the evidence into closing arguments or call the defendant a liar."

In Bell v. Evatt, 72 F.3d 421 (4th Cir. 1995) it says that:

"The prosecutor's closing arguments may be grounds for reversing conviction."

The above case, as in Guthrie, is "inspired by a determination to punish a pesky defendant for exercising his legal rights."

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a presumption of vindictiveness applies (See Exhibit M - Pgs. M-6).

Isaiah 32: 7-8 says: "The smooth tricks of evil people will be exposed, including all the lies they use to oppress the poor in the courts." (Holy Spirit Encounter Bible - 1997 - Creation House Publishers).

Michael McBride sent Warren D. Johnson, Jr. a message in 1995 "that when he was done with me, I [Warren Johnson] would know he was the anti-Christ." McBride joked about Johnson's friends coming to the trial as "the dog and pony show with their bibles." At trial Carolyn Bell tried to get an ordained Lutheran Minister removed from the Courtroom because he was wearing his cleric collar. Carolyn Bell was mocking God when she asked Rashid Bodhanya if Warren D. Johnson, Jr. had ever prayed with him, and her slur about the "Israel of the Gentile." The family history sets forth Johnson's great grandfather John Alden first stepping foot on Plymouth Rock off the Mayflower to create a "Zion in the wilderness." John Alden was the 9th and youngest signer of the Mayflower Compact, which was the first Constitution of self-government in America. The Johnson family descendants of Huguenots and Pilgrims has a noble history. (See Exhibit W for the Johnson family history). The country still celebrates a National holiday at Thanksgiving that the family instituted; and the Bill of Rights and the United States Constitution are extensions of the founding document, the Mayflower Compact, which provided

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for these future laws and constitutions. (See Exhibit W - Pgs. W-8).

In Exhibit C - Pgs. C-1, the Deputy Attorney General Larry Thompson said "It would be unfortunate for our criminal - justice system if any individual or any entity could say that he or she or it was too big or too important, so as it couldn't be indicted." If Arthur Anderson is "charged with a crime that attacks the Justice system itself," then how about Carolyn Bell and Michael McBride; Patrick Scott and Soneet Kapila, Merrill Lynch, Steven Rofsky; and Holland & Knight? Should we not apologize to the L.A.P.D. Police for "framing innocent people," and "testifying against him in order to send him to prison on false charges," if F B.I. Special Agent Michael McBride, et al. go free? (See Exhibit C - Pgs. C-1, C-2, C-3, C-4, C-7).

An Officer in the N.Y.P.D., Charles Schwartz, won his Appeal in the Louima's Civil Rights case and was then charged with Perjury, for having "denied escorting Louima inside a Brooklyn Station House." (See Exhibit C - Pgs. C-8).

Judge Ryskamp said during the trial "I have often wondered what would happen if we tried a civil case with criminal lawyers and I am finding out right now, and it's a disaster." (See Exhibit J - Pgs. J-42, Pg. 531 Ln. 5-7). "In almost three days, I have heard less than half an hour of relevant testimony in this case." (Exhibit J - Pgs. J-42, Pg. 531 Ln. 10-11). Judge Ryskamp then said "This Jury is totally lost. You have reams and reams of pages dealing with concepts they don't understand ..." (Exhibit J - Pgs. J-42, Pg. 531 Ln. 20-22).

Pages 33 to 56 (Continued)

Mr. Adler told the Court "The Government is aware, and I believe they have made misrepresentations to the Jury, ..."

Judge Ryskamp stated "If you can establish later on that the Government has withheld evidence or misled the Jury, that's a pretty serious accusation and I will deal with that later on." (See Exhibit J - Pgs. J-42, Pg. 1173 Ln. 4-6 & Pg. 1179 Ln. 2-5).

At the sentencing Judge Ryskamp indicated the reason that Warren D. Johnson, Jr. was convicted is because of the luxury cars that he and his family drove that the Jurors saw, while they drove old cars. (See Exhibit L - Pgs. L-31, Pg. 366 Ln. 1-12).

I am sure my family who founded America could never have imagined that a civil case could put someone in prison by a Jury who was totally lost, if the Defendant drove luxury cars. We do know that our founding Fathers were concerned about an all powerful leviathan Federal Government and their Agents. That is why they left Europe to found a "Zion in the wilderness." Our family is however not disillusioned.

Attorney General John Ashcroft has appointed a special Senate Committee to investigate the criminal activity of the F.B.I., headed by Senator Charles Schumer. Paul McNulty has been appointed as United States Attorney by the Justice Department. The club at the F.B.I. may steal the complaints that were filed with the Office of Professional Responsibility, they can steal the U.S. mail exposing their crimes and threaten U.S. Citizens and Governmental officials like Leslie Tavlör; However, it is God who promises us Justice.

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Psalm 64: 7-8 says "But God himself will shoot them down. Suddenly, His arrows will pierce them. Their own words will be turned against them, destroying them."

My family and I look forward to Senator Charles Schumer's hearings and ultimately giving testimony and evidence before a Federal Grand Jury on the crimes contained in this Motion and Rule 3 - Criminal Complaint. As Citizens of this great and God Blessed America my family helped found, we are fed up by those who would convince a Federal Judge that I was "Schizophrenic" and "worse than a bank robber." If McBride thinks that he is really the anit-Christ, he may be "schizophrenic." And had he read the last book of the bible, in Revelations he would have known in the end the anti-Christ and spokesperson are thrown into Hell and the Lake of Fire.

This has been a hate crime or vendetta, pure and simple. It is also a David versus a Goliath story. When a F.B.I. Agent's sister, four of the biggest Wall Street firms and the fourth largest law firm in America team up to use the F.B.I. and the Justice Department for their own private police force; then who but a young shephard boy with the power of the living God can bring them down.

Let us now look at their criminal acts, in light of the fact that there were no issues of substance against me. Arron Sanchez of the F.B.I. told me in 1997 that it "is a Vendetta" if there are no issues of substance. It was also vindictive.