CASE NO. 03-11467-D, Etc.

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

UNITED STATES and RISK CORP et al, Appellee,

v

Kevin A. Wiederhold, Appellant,

INTERLOCUTORY APPEAL BRIEF

Prepared and submitted by:
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To Sonny, Regards

United States and Risk_Corp et al v. Kevin A. Wiederhold

Appeal No. 03-11467-D, Etc.

CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

In compliance with Fed. R. App. P. 26.1 and 11th Cir. R. 26.1-1, I hereby certify that the following persons and entities have an interest in the outcome of this case;

1. John Ashcroft, United States Attorney General.
2. Paul I. Perez, United States Attorney, Middle Division, Tampa, FL.
3. U.S. Senator Chairman & former Chairman, Banking, Housing & Urban Affairs.
4. U.S. Congressmen, Solomon P. Ortiz et al.
5. James Handley et al & The Federal Bureau of Investigation.
6. Janet Reno et al & all former U.S. Attorneys.
7. Departments of Commerce et al and/or all in concert.
8. Loeb Investments et al and/or all in concert.
9. David P. Rhodes et al, Asst. United States Attorney.
10. Anthony Porcelli et al, Asst. United States Attorney.
11. Tamra Phipps et al, Asst. United States Attorney, Chief Appellate Div.
12. Attorneys Dan Daly et al.
13. Attorneys Ellis Curry et al.
14. Attorneys Ryan Truskoski et al.
15. American Bar Association et al.
16. Florida Bar Association et al.
17. Kevin A. Wiederhold.
18. Dr. William E. Bonney Ph.D, Tampa, FL.
19. U.S.A. Today et al and/or all Media who "Went down the wrong road," LOL.
20. James D. Whittemore et al, District Court Judge(s)/Attorneys etc.

STATEMENT REGARDING ORAL ARGUMENT

The issues are clear and the law is unambiguous yet the petitioner believes that oral argument will enhance his cause. If the government or Risk Corp et al moves for oral argument and their request is granted, petitioner seeks equal time for the same.

Kevin A. Wiederhold, Appellant

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STATEMENT OF JURISDICTION

The District Court had jurisdiction pursuant to 18 U.S.C. 3231. The Court of Appeals has jurisdiction under 28 U.S.C. 1292. The judgement appealed from was an Order Striking appellant's February 19, 2003 ten page motion (Doc 200-11SR, Doc-201). This is an Interlocutory Appeal and the District Court authorized it and granted in forma pauperis status April 14, 2003. The Notice of Appeal was timely filed **as well** as the Transcript Information Forms.

STATEMENT OF THE ISSUE

Whether the District Court was justified/racketeering when Striking appellant's February 19, 2003 ten page motion by quoting a "Local Rule 2.03(d)" and because he was appointed (racketeering) counsel. Appellant asserts no Local Rule 2.03(d) can be found here, rather a Local Rule 2.(d) pertaining to the filing of 2255's. Appellant made it clear **he was not** filing a 2255 in his pleading(s).

STATEMENT OF THE CASE

Appellant was **maliciously** arrested, charged and imprisoned on an illegal two count indictment alleging interstate communications containing a threat; and using interstate communications to harass any person. He pled **innocent** to all past and present charges and went to trial. Appellant was found **sane** and **competent** to be tried and to represent himself pro se **without** medication by Dr. William E. Bonney Ph.D. Following the **unconstitutional** trial and sentencing, appellant began his research on the appeal process and began filing various Motions, Notice of Appeals, Interlocutory Appeals, Affidavits and Rebuttals to attack the **malicious** allegations, **perjury** and **racketeering** frauds by the plaintiffs/**perpetrators** and judges. Appellant was sent back to the Morgan Street Jail for the **illegal sentencing** hearing in January 2002. After the appellant arrived at the Morgan Street Jail he began receiving **more** scandalous, **racketeering** Orders and Striking Orders from James D. Whittemore removing the (a)forementioned pleadings **crucial** to appellant's defense.

Appellant, according to the law timely mailed his Notice of Appeals and completed Transcript Information Forms on the **malicious** final judgement and conviction to the clerk. Appellant then placed Notice of Appeals on Orders by Judge James D. Whittemore when he again referred the appointment of counsel to the corrupt magistrate Judge Thomas G. Wilson. Petitioner, by February 1st 2002 filed two **Judicial Complaints** according to 28 U.S.C. 372(c) concerning the (a)forementioned corrupt activity and Canon Law violations by James D. Whittemore et al. Appellant continued to receive scandalous, **racketeering** Orders and Striking Orders from James D. Whittmore, the latest being the Orders dated November 14, 2002 and March 10, 2003. Appellant appeals this Order for it is **malicious prejudicial abuse** to deny his **constitutional** right to obtain all falsified transcripts, transcript tapes and PTSR to further prove perjury, conspiracy to commit fraud, and **racketeering** etc, by the perpetrators/judges consequently enabling him to receive a new and fair trial. The Court authorized this Interlocutory Appeal and approved in forma pauperis status.

SUMMARY OF THE ARGUMENTS

Appellant has **consistantly** followed the law and the constitution by attempting to bring witnesses and evidence to trial and/or peacably redressing the goverment according to Const, Amdt. Art 1 and 6. Appellant done this to expose **serious** corruption, abuse, **racketeering** and malicious **perjury** by the perpetrators and to have them prosecuted. Appellant was again **maliciously** arrested, defamed, prosecuted and imprisoned **without bond** and again the **racketeering** perpetrators continued to create a **scapegoat** out of him in violation of Const, Amdt. Art 8 etc. Appellant proceeded to trial because he was being made into a **scapegoat** for the criminal wrongs of others including **racketeering** abusive judges. Appellant was **prejudicially** denied witnesses and evidence and again abused in the courtroom by the corrupt, racketeering perpetrators and judge at trial in violation of Const, Amdt Art 6 and 8.

Appellant again continues this vigorous task, this time he is trying to get the malicious, **prejudicial** and abusive judge, clerks, court reporters and lawyers to produce **all** the falsified transcripts, transcript **tapes** and discovery **tapes** of **at least** eleven years as outlined in his well done November 5, 2002 and February 19, 2003 ten page motions and his seventeen page rebuttal to the PSR dated December 21, 2001. Appellant, in the process of trying to obtain all the **falsified** transcripts, **tapes**, Pretrial Services Report (**PTSR**) etc, simultaneously exposed the plaintiffs/perpetrators and judges with a complex **racketeering** scheme severely abusing the 18 U.S.C. 3059-3060 laws. Appellant has in the process provided a **substancial** assistance to the U.S. Attorney General, John Ashcroft by exposing this **extremely** corrupt and lucrative **racketeering** scheme by the perpetrators and judges.

Appellant asserts the issues are clear and **undeniable**. The malicious, abusive, prejudicial **agenda** is obvious concerning this judge and his **racketeering striking Order(s)** illegaly removing appellants well done February 19, 2003 ten page motion from the file (Doc 201). Appellant has been **maliciously** arrested, defamed, accused, imprisoned and prosecuted by the **racketeering** perpetrators, judges and

his own lawyers using **their** racketeering documents and court documents over the last twelve years. This now includes the Oct 12, 2000 indictment, pretrial services report (**PTSR**), Dec 21, 2000 discovery, Bureau of Prison Study (**BOP**), presentence investigation report (**PSR**), Jan 17, 2002 judgement/sentencing document, Ryan Truskoski et al appellate brief, David Rhodes et al appellate brief and the Dec 30, 2002 Nancy Holbrook et al appellate order. Appellant explains these issues clearly in his illegaly striken motion (Doc 200) including the fact there is no proof(**tapes**) concerning the **malicious** allegations in the perpetrators 1992-4293CA **racketeering** injunction, 92-3130F (92-3418F, 92-341?F) **perjuring** aggravated stalking **discovery** and many other **malicious, perjuring** arrests, charges and allegations.

Appellant, in his illegaly striken ten page motion simultaneously explains how the **racketeering** perpetrators, judges and **his own** lawyers are keeping him from obtaining **all** the falsified transcripts, **altered** tapes or proof of the **non**existance of recorded statements to avoid being exposed. Appellant asserts once this **racketeering** activity is **further** proven he will be afforded a new trial not withstanding long **overdue** prosecutions on the perpetrators. Appellant he is being made into a **scapegoat** by the **extremely** corrupt, abusive, racketeering perpetrators and judges who are abusing the 18 U.S.C. 3059-3060 arrest/reward laws which has and will allow them lucrative racketeering payoffs if they are not **vigorously** exposed by the appellant, removed by the government and/or prosecuted by John Ashcroft.

Appellant asserts the issues are **clear** and **undeniable.** The malicious, prejudicial striking of appellant's **crucial** pleading(s) by James D. Whittemore for surplusage, scandalous, irrelevent, indecent, frivolous, impertinent, superfluous, sham, dishonesty or Local Rule 2.03(d) is ludicrous and defamation at the least. To the contrary, the appellant has and will prove that the "surplusage" is the same **substancial**, revelent and material matter that will eventually lead to the impeachment of this abusive corrupt judge, then his removal from the federal bench.

ARGUMENTS AND AUTHORITIES IN SUPPORT

A. Whether the malicious, prejudicial, abusive district court (perpetrator) violated Canon Laws, RICO laws, Constitutional laws and other laws when striking appellants February 19, 2002 ten page motion that proved **racketeering** and requested all transcripts, transcript tapes and discovery tapes since 1990/91.

Standard of Review: Exteme abuse of the law, breaking the law, Canon law violations, Constitutional violations and facts; plain malicious prejudicial abuse warranting impeachment and removal from the federal bench; de novo review.

Appellant, according to Rule 16(a) filed two crucial ten page motions November 5, 2002 (Doc 188) and February 19, 2003 (Doc 200) again **proving** perjury, fraud and **racketeering**, the motions were prejudicially striken from the file (Doc 190(**S**), Doc 201). Appellant requested the malicious, prejudicial, abusive, **lying** perpetrator James D. Whittemore issue an Order that would cause the rest of the perpetrators/plaintiffs to produce all falsified transcripts, transcript tapes, discovery tapes since 1990/91 and **PTSR.** Appellant, in the process of claiming his constitutional right (Doc 188-**8SR**, Doc 200-**11SR**-pg 1,7) to obtain this important evidence for his defense and reversal of the malicious conviction proved all the malicious perpetrators with an **extremely corrupt** racketeering scheme **severely** abusing the 18 U.S.C. 3059-3060 criminal procedure laws since at least 1991/92 (Doc 200-**11SR**). Appellant had **already proven** the perpetrators and his court appointed attorneys (now referred to as perpetrators) with a malicious prejudicial agenda since the onset of the malicious October 12, 2000 indictment and ten years before. (Re: Sealed Reasons For Subpeona's(**RFS**)/Motion For Subpeona's Doc 82, Judicial Complaints filed Nov 27, 2001(**1SR**) & Feb 1, 2002(**2SR**), Interlocutory Appeal 01-15416-BB(**3SR**), Rebuttal/Objection To The PSR Doc 146(**4SR**), Defendant's Affidavit To Rebut Allegations-(**DATRA**) Doc 142(**5SR**), Motion To Dismiss Ellis Curry (**6SR**).

Appellant asserts this malicious, racketeering agenda was **again** proven when

the sick perpetrators **maliciously** attempted to have the innocent, competent and sane appellant defamed as incompetent, insane and/or schizophrenic etc, in need of psychotropic drugs according to and abusing the 18 U.S.C. 4241(a)(b)(d) Mental Defective laws. Appellant asserts the malicious perpetrators attempting this racketeering act by defaming/framing him using corrupted psychiatrist(s) Dr. Donald Taylor et al from December 1992 to March 22, 2001 but not limited to. (See falsified docket 3-5,9-15,**16,17,18,19,22,23,24,25**,28-37,40,**44,45,46,48,49,51**,52,54,**56,57**,107, 113 but not limited to). Appellant asserts the two trial calenders signed by perpetrator Whittemore at this point were smokescreens (Doc 20,42).

Appellant asserts this extremely corrupt agenda began to fail when he figured out the perpetrators **genetic** spinal stenosis psychiatric frauds February 3, 2001 and when appellant (not Ellis Curry) contacted Dr. William E. Bonney Ph.D February 5, 2001. Appellant was found **sane** and **competent** by Dr. William E. Bonney on March 9, 2001 (Doc 142-**DATRA,1SR,7SR** and Doc 55). Appellant asserts perpetrator Whittemore was infuriated at a hearing March 15, 2001 and again maliciously abused appellant because he found Dr. Bonney to **correctly** evaluate him according to Federal and State criminal/civil procedure laws and Criminal Institute Trial Manual Chapter 3. Appellant asserts perpetrator Whittemore was further infuriated when appellant stated he was going to sue Ellis Curry (**1SR**-pg 1,2). Appellant asserts the perpetrators **could not** drop their malicious charges and sick agenda at this point as they were **proven** with a measure of criminal activity (Doc 56).

Appellant was maliciously harassed, defamed, prosecuted and imprisoned **with their racketeering Orders** denying him access to the courts just to be heard and recorded for a bond regarding the decade (ten plus years) of corruption surrounding the **genetic**, spinal stenosis, psychiatric disability frauds in violation of Const. Art 3, Section 1, Art 6, Const, Amdt Art 1, Art 4, Art 5, Art 6, Art 8 and Art 14 (Doc 78,81-83,89,93). Appellant was maliciously defamed, prosecuted and imprisoned by perpetrator(s) Ellis Curry et al who **maliciously** conspired in his racketeering

Motion To Limine to exclude all **altered audio tapes** (Doc 16) to keep appellant from a trial **even** since 1995/96 in violation of Const. Art 6, Const. Amdt Art 5, Art 6, Art 7, Art 8 and Art 14. After appellant **forced** Ellis Curry et al to place a motion for a speedy trial **he then was made into a scapegoat** in another racketering Motion To Limine (Doc 54). Appellant asserts he has not seen (**NS**) some of the racketeering responses by perpetrator Porcelli **acting** like he was opposing perpetrator Curry's motion (Doc 18,34 etc). Appellant asserts in the altered audio tape matter (Doc 16,18) all perpetrators were **anxiously** waiting for their defaming, racketeering psychiatric exams to take place from October 12, 2000 through March 2001 so the racketeering Motion To Limine could be accepted that **excluded** all altered audio tapes as evidence, even since 1995/96. Appellant asserts that criminal conspiring, racketeering and perjury will be **further** proven when appellant shows the government that **all tapes** are altered and in most cases the **non**existance of recorded statements (Doc 148,**4SR**-pg 4,7).

Appellant asserts if he would not have informed Dr. William E. Bonney on the phone, he would only see him first and not Dr. Taylor, thus risking a malicious contempt of court (Doc 49) the motion **excluding** the altered audio tapes might have been accepted by perpetrator Whittemore as Dr. Bonney's exam might have been a lesser factor **at this time**. Appellant asserts he clearly proves the perpetrators are again attempting to make Dr. Bonney's exam a **lesser** factor or **non**factor through the **racketeering** BOP study, psych and medical departments etc here at Beaumont by by the striking of the November 5, 2002 and February 19, 2003 motions that request **all altered tapes** or proof of **no recordings** in ten plus years (Doc 188, Doc 200).

Appellant asserts if he had not **found** Dr. Bonney and figured out the genetic, spinal stenosis, psychiatric frauds early February 2001 the insane racketeering, abusive agenda by the perpetrators Whittemore et al was going to proceed full steam by **excluding** tapes. Appellant asserts this **insane** agenda included severely defaming **innocent**, competent and sane appellant with **their exams** using just defaming, fals-

ified transcripts/discovery transcripts (Doc 13,14,16,24,39,43). Appellant would have been ruled incompetent, insane, schizophrenic, mentally ill and placed on psychotropic drugs then flown to Rochester MN within the months mentioned (**2SR**-pg A bottom). Appellant asserts he would have been forced on medication and if he did not take the medication he would have been killed or maimed. Appellant asserts if he would have cooperated with the **racketeering** criminals at Rochester he would have been severely defamed as mentally ill etc, sent back to Corpus Christi to be let out on bond/medication based on **their** racketeering exams then one or both chaarges eventually dropped based on **the lie** of serious mental and physical defects. Appellant asserts this same corrupt, racketeering agenda comes out in Tom Taylors conspiring statements in **DATRA** (Doc 142-pg 10), BOP study and finally Ryan Truskoski's racketeering activity by not sending the defaming falsified transcripts and attacking the **malicious** conviction (Doc 180, Doc 188-**8SR**-pg 14,15).

Appellant asserts this **pathetic**, sick, racketeering agenda is proven by Whittemores extremely **late** response on both the racketeering pleadings by perpetrators Porcelli and Curry (Doc 16,18) with a backing away/covering Order denying Curry's Limini motion to exclude the altered tapes (Doc 50 **NS**). Appellant asserts the same day that Dr. William E. Bonney found appellant sane and competent, perpetrator Whittemore attempts to hide behind the **most obvious** of the racketeering activity by **now denying** perpetrator Curry's motion to exclude all altered audio tapes. Appellant asserts the **sick**, racketeering perpetrators knew the appellant had found an honest, ethical psychologist (Doc 39,55).

Appellant asserts he tried to put forth a handwritten letter dismissing perpetrator Curry and was **prejudicially** denied (Doc 23). Appellant typed a motion (**6SR**) by mid January 2001 explaining the corrupt agenda but was maliciously denied being able to make it public record or dismiss Curry with this motion at the end of the insane February 2, 2001 motion/competency hearing (Doc **30**,28,29,31,32,37). Appellant asserts the docket has been falsified to say the February hearing was a

motion hearing **yet** appellant was denied being able to submit his **fine** motion at the end of this extremely corrupt hearing. Appellant was again maliciously denied submitting this motion at the March 15, 2001 hearing (Doc 55) and again on April 6, 2001 (Doc 61). Appellant asserts on March 14, 2001 it was planned for perpetrator Curry to resign discrediting petitioner after the **second** forced, covering and racketeering psychiatric visit/exam by Dr. Taylor et al on March 22, 2001. Appellant asserts he was now found competent by Dr. Taylor et al but viciously defamed into a **scapegoat** with a ridiculous hearsay exam. Appellant asserts the **true** hearing/trial tapes will prove perpetrator Whittemore making defaming, corrupt, unconstitutional, malicious, insane, abusive and prejudicial remarks from the bench since February 2, 2001.

Appellant asserts the insane, corrupt docket has been falsified by removing the **second** forced visit/exam by Dr. Taylor et al March 22, 2001 only to show the **first** forced visit/exam on February 21, 2001 when appellant informed Dr. Taylor he was waiting on Dr. Bonney. Appellant **clearly** informed perpetrator Curry one day before Dr. Taylor came into the jail for the first visit that he **would not** see Dr. Taylor before Dr. Bonney, hence the racketeering Order by Whittemore on or about March 6/8, 2001 (Doc 40). Appellant asserts the perpetrators attempt to make Dr. Bonney's March 9, 2001 visit and March 14, 2001 published exam into Dr. Taylor's **second** corrupt visit/exam by using the term **psychiatrist** (Doc 55). Appellant asserts the term **psychologist** was on earlier **stolen** docket lists before appellant was sent to Rochester, MN. Appellant asserts the **second** racketeering exam by Dr. Taylor on March 22, 2001 then sets the stage for the next illegaly appointed racketeering attorney(s) Dan Daly et al (Doc 65,66,67 and Interested Parties on David P. Rhodes et al appellate brief September 26, 2002).

Appellant finally went on to represent himself properly even with perpetrator standby counsel Dan Daly lying to him about not being able to place interlocutory appeals on the insane, racketeering, **deceptive** Orders by perpetrator Whittemore

denying subpeona's and bond hearing motions (Doc 78,81-83). Appellant went to trial being **viciously** defamed by the **sick** perpetrators including not being able to ask the jury virtually none of his proposed questions (Doc 99) because the insane, racketeering judge claimed they were derogatory against corrupt people like himself and homosexuals.

Appellant asserts the **unconstitutional** trial by perpetrator Whittemore was a complete fraud, abuse of the laws, disgrace to the constitution and human rights (Doc 142-**DATRA-5SR,1SR,2SR**) and the true trial tapes will prove this. Appellant was prejudicially denied evidence and subpeona's contrary to what perpetrator Whittemore states in his **pathetic**, racketeering, unconstitutional Order (Doc 83). Appellant put forth no exhibits contrary to what the racketeering docket states (Doc 115,198-Tampa) and (Doc 10/24/00-Corpus Christi). Appellant asserts **any** exhibits in the dockets **even** with his handwriting on them **are not authorized**, out of context and a desperate attempt by the perpetrators to discredit appellant even with the upcoming, long awaited, racketeering BOP study (Doc 113). Appellant asserts one such **unauthorized** exhibit could be the one page Public Defender document through Tom Taylor et al that was a desperate, racketeering attempt to cause an illegal mistrial or eventually overturn the unconstitutional conviction/judgement in the **District** Court based on incompetency, insanity and/or mental illness. Appellant asserts since he was already ruled sane and competent this malicious activity is against **all** fundamental competency laws and criminal procedure laws (Doc 142-**DATRA-5SR**-pg 5-13,**1SR,2SR,3SR,4SR**-pg 16,17). Appellant asserts the racketeering perpetrators Whittemore et al attempted this highly illegal and criminal act by needlessly sending appellant to the **anxious** (since 1999) Rochester Medical Center perpetrators to complete **their** insane, malicious, corrupt, disgusting, racketeering act with the defaming BOP study (Doc 188-**8SR,1SR,2SR,3SR,4SR**-pg 16,17,**5SR**). Appellant asserts the insane, racketeering August 17, 2000 Public Defender document had a typed date of February 1995 on the top for corrupt payoff purposes seven

years from that date using the **racketeering** BOP study.

Appellant asserts such an Order/Study was purely **malicious**, **un**constitutional, defaming, highly prejudicial, racketeering and now a **complete failure**. Petitioner asserts the only reason for the Constance"I(We)"Reese et al study was to defame the **normal, competent** and **sane** petitioner as incompetent, insane, **schizophrenic**, paranoid, **delusional, narcissistic**, hypercondriac, suicidle, anti-social, preditor, stalker, homosexual, physically defective and/or severely mentally ill (Doc 55). Appellant asserts this wrongfully gives the **racketeering** perpetrators **false** reasonable cause, **substancial** information and compelling reason according to 18 U.S.C. 4241(a), 4242(a), 4243(a), 4244(a), 4245(a), 4246(a), 4247(a)(b)(c)(e) and 3552(b) which maliciously creates a **scapegoat** out of innocent petitioner for their own financial gain (Doc 188-**8SR,**Doc 200-**11SR,1SR,2SR,3SR,4SR**). Appellant asserts this racketeering study maliciously creates a dangerous person out of **in**nocent petitioner justifying the (dismissed) **racketeering** 1992 aggravated stalking injunction, the **PSR**, the David P. Rhodes et al and Ryan Truskoski et al appellate briefs, the Nancy Holbrook et al December 30, 2002 appellate Order etc. Furthermore, appellant asserts this justifies a further unlawful imprisonment/sentence according to 18 U.S.C. 3581(b), 18 U.S.C. 3583 etc (Doc 200-**11SR**).

Appellant asserts the **most recent** defamation before and after his transfer to Rochester was/is coming from James Handley et al, Frank Wirt et al, Dubuque County et al, Corpus Christi FBI, **certain** Oklahoma/Rochester/Beaumont BOP employees, **certain** U.S. Marshals, Hillsborough County Sheriffs employees and/or most anyone who **un**constitutionally and illegaly placed cuffs on petitioner since October 23, 2000. Appellant asserts these perpetrators continually placed/place him in cells with corrupt, **mentally ill**, false accusing, threatening, paid/rewarded informants (**now** Kevin Roberts et al) to attempt senseless/stupid setups equivalent to their own intelligence level in violation of Const. Amdt Art 8 etc. Appellant asserts all others involved in this racketeering since 1990/91 are listed in this brief

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the November 5, 2002 and February 19, 2003 motions and other records (Doc 188-**8SR**, Doc 200-**11SR**, Doc 142-**DATRA, 1SR, 2SR, 3SR, 4SR, 5SR**).

Appellant asserts his motions for Dr. Bonney to do the **unnecessary** study in the community were **prejudicially denied** because of the perpetrators **racketeering** agenda and to destroy petitioners defense in violation of Const. Amdt Art 14. This severely defaming study then disqualifies the **competent, normal** and **sane** appellant from representing himself in violation of Const. Amdt Art 6 and 28 U.S.C. 1654 (Doc 55-pg 1, line 7).

Appellant asserts 18 U.S.C. 4245, History, Ancillary Laws and Directives, Ammendments 1984 "Mental incompetency undisclosed undisclosed at trial". **does not** apply to the appellant as the issue of cometency was raised **before** trial (Doc **16**, 23,24,28-30) and **determined** before trial by Dr. William E. Bonney Ph.D on March 9 and 14, 2001, (Doc 55-**7SR**). Appellant asserts there is **no need** to determine the mental competency of the (falsely) accused in accordance with 18 U.S.C. 4241(a), 4242(a), 4243(a), 4244(a), 4245(a), 4246(a) and 4247(a)(b)(c)(e) etc. Appellant asserts since he done **no medication** before the malicious arrest, was found competent and sane before trial **without** medication, **done no** medication at Rochester, MN (contrary to the **lying** BOP study) and **does no** medication here at Beaumont, the District Court **cannot** vacate the judgement of conviction and perpetrate another unconstitutional trial. Furthermore, under 18 U.S.C. 4245 and its cross references it states "The procedure upon finding mental incompetency/disease is 18-U.S.C. 4241-4247". This again proves the **normal, competent** and **sane** petitioner **does not** belong in the system under the 18 U.S.C. Mental Defective Laws.

Appellant asserts this proves to the Appellate Court that the District Judges, attorneys, court employees and Risk_Corp et al are **racketeering** with the defaming BOP study and severely abusing appellant in violation of Const. Art 3, Const, Amdt Art 1, Art 4, Art 5, Art 6, Art 7, Art 8 and Art 14. Appellant asserts perpetrator Whittemore et al and Risk_Corp et al have/are severely abusing the 18

U.S.C. 3059-3060, 18 U.S.C. 4241-4247, U.S.C. 875(c), 47 U.S.C. 223(a)(1)(E) and other federal and state criminal/civil procedure laws. Appellant asserts he proves **why** perpetrator Whittemore maliciously, prejudicially abuses him by denying and striking his motions, affidavit and rebuttals **crucial** to his defense/release. At the same time appellant proves he is being **substancially**, continually, maliciously, arrested, defamed, prosecuted and imprisoned since 1991/92 with their **substancial** falsehoods and **perjury** (scapegoat) in violation of Const. Art 3, Const. Amdt Art 1, Art 3, Art 4, Art 5, Art 6, Art 8, and Art 14 (Doc 188-**8SR**, Doc 200-**11SR**, Doc 82-**RFS**, Doc 142-**DATRA, 1SR, 2SR, 3SR, 4SR, 5SR**).

Appellant asserts the same racketeering agenda was/is occurring through Ryan Truskoski who will not continue appellant's appeals (Doc 177) nor will he attack the malicious conviction. Furthermore, **scandalous** documents were sent by Nancy Holbrook et al in March 2002 (10SR) attempting to dismiss appellant s **Notice of Appeal** for Interlocutory Appeal 02-10314-D (**DATRA**) for "lack of jurisdiction" then insanely quoting **Flanagan v U.S. 465 U.S.259,266,104 S.Ct.1051,1055,79 L.Ed.2nd 288 (1984)** for the perpetrators. Appellant asserts he never had a chance to place a brief on Interlocutory Appeal 01-10314-D, yet Nancy Holbrook **insanely denied** his right to even place a brief. Appellant asserts the docket has been falsified by Nancy Holbrook et al **and** on May 10, 2002 when she **then** gives appellant's 02-10314-D appeal to the racketeering appellate counsel Ryan Truskoski (Doc 177). Appellant asserts this and many other frauds involving Ryan Truskoski including why falsified transcripts **are not** being sent are now **undeniable**. Appellant asserts this proves the malicious racketeering involvement of all instant false accusers Cynthia Eget et al as clearly mentioned **in DATRA** (02-10314-D) and on appellant's last illegaly striken motions Nov 5, 2002 and Feb 19, 2003 (Doc 188, 200).

Appellant asserts the forementioned and following information clearly proves the **racketeering** involvement of case workers Mr. Green et al and other officers here at Beaumont, Rochester and Tampa, through their psych and medical dep-

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18 U.S.C. 3059B to justify the James Handley et al **racketeering** 92-4293CA injunction and the malicious aggravated stalking arrest/prosecution and imprisonment. Appellant asserts this racketeering activity included Jerry Meisner et al, Elliot Metcalf et al, **judges** Becky A. Titus et al, James Whately et al, Andrew Owens et al, Hayworth et al, prosecutors Peter Baranowicz et al and all medical and psychiatric perpetrators who defamed appellant on records (Doc 82-**RFS, 1SR, 2SR, 3SR, 4SR, 5SR-DATRA**-pg 11, **8SR**).

Appellant asserts some of the perjuring paid witnesses left the state of Florida and disappeared such as Laura Flemming who may have escaped with **well over** $100,000 to Virginia in 1994 (Doc 146-**4SR**-pg 6 #45 and pg 10 #82). Appellant asserts Sgt. Lamb et al and LT. Al Hogle et al of the Sarasota Sheriff/Police Depts received **racketeering** payoffs in 1992/93 and again in 1994-96 when **numerous** police officers, approximately 15-20 came to an **un**constitutional non-jury trial April 4, 1995 to perjure themselves and convict **innocent** appellant on an illegal misdemeanor **arrest, charge** and **prosecution** (Doc 146-**4SR**). Furthermore, Jan DeLuca, Teresa Long, Milissa Long, Collean Reardon and Doug Smith et al racketeered large sums of money in 1992/93/95 and 96, with DeLuca and Long disappearing in 96. Appellant asserts at least 70-80 people have collected racketeering payoffs in the Sarasota/Tampa area alone since 1991/92 not counting all the perpetrators in IA, MO, KS, GA, D.C. and Texas. Appellant asserts this includes federal judges, state judges, attorneys, law enforcement, medical people, business people, disowned family members, disowned relatives, private individuals and others (Doc 82-**RFS**, Doc 200, **4SR**).

Appellant asserts corrupted attorney(s) Louis Stern et al (Jim McConnahhay et al) were desperately harassing and defaming him on tape as incompetent/schizophrenic at a "Workers Compensation" deposition hearing early 1995 (Doc 188-**8SR**, Doc 200-**11SR**-pg 6 letter (**n**). Appellant asserts this defaming tape has now been turned into the "**interview**" that James Handley is attempting to create in the

assault by Roger Gilchrist (R.G.) of Glacier Water Company. Appellant asserts these events then become the main reason for the defaming/framing **aggravated stalking** injunction **92**-4293CA which **covers** and **esculates** all the racketeering activity (Re: "Mr. Weiderhold got into an altercation with a previous employer (R.G.), I and my family fear for my safety etc", Sandra Bock et al, July 27, 19**92**-4293CA **aggravated stalking** injunction **affidavit**). Appellant asserts **this is the reason** the perpetrators do not mention the **racketeering** injunction in the **racketeering PSR.** Appellant asserts this is **why** he is **viciously** defamed and falsely accused by **James Handley et al** in the scandalous PSR and all documents thereafter. Appellant asserts James Handley et al was/is **directly involved** in the concoction and **racketeering** of the 19**92**-4293CA **malicious**, aggravated stalking injunction.

Appellant asserts the "We" of the racketeering promissory note represents all the hardcore conspirators who are a part of the racketeering and malicious **court activity** starting as early as February 1991 in Tampa, FL. Appellant asserts the $15,000 "workers compensation" settlement paid to him February 1991 through judge Lazarra (now a federal judge) came from this racketeering activity by Charlie Jacobs et al, Cedar Rapids FBI, James Handley et al for Dubuque County, Roger Gilchrist et al through Crum & Foster/Aetna et al, hence the start of the **genetic** spinal stenosis (psychiatric) disability **frauds.** Appellant asserts this racketeering fraud maliciously and **falsely creates** a dangerous schizophrenic out of him thus allowing Aetna et al's attorney Mr. Clark to create appellant into the overly aggressive assaulting scapegoat **claiming** he has "abnormal, **genetic**, physical and mental defects". Appellant asserts this **sick** defamation/racketeering then allowed the perpetrators to cover Roger Gilchrist and Glacier Water from being **criminally** charged and sued for assault/battery. Furthermore, it allowed Dubuque County et al to keep from being sued as appellant was **defamed** as incompetent through **this** settlement. Appellant asserts this was the start of the creation of the racketeering promissory note. Appellant asserts the racketeering note was created no

later than 1992 as this is when the "We", "Risk_Corp" (Risk Insurance Service) perpetrators assemble and orchestrate their malicious, racketeering injunction through Charlie Jacobs et al, James Handley et al, Charles Greene et al, Tony Malone et al, Tony Dunbar et al and Pam Ziegenhorn et al, (Doc 82-**RFS**, Doc 188-**8SR**, Doc 200-**11SR**, **1SR**, **2SR**, **3SR**, **4SR**, **5SR** etc).

Appellant asserts the $5000,00 that Sandra Bock/Anita Strickland et al and Alexander Paderweski et al of Risk_Corp et al attempted to settle with in 1994 was from the **racketeering** promissory note/funds defaming petitioner and abusing the 18 U.S.C. 3059(a), 3059A and 3059B arrest/reward laws. Appellant asserts some money was already collected by perpetrators James Handley et al, Charlie Jacobs et al, Tony Dunbar et al and Charles Greene et al in December **1992** as Dunbars **father** was one of the first malicious and defaming arresting parties in late November 1992 through the Manatee County Sheriffs Dept, Sarasota County Sheriffs/Police Depts. Appellant asserts he was maliciously arrested for **Aggravated Stalking** which was the defaming arrest, charge and allegation of **violating** the 92-4293CA **racketeering** injunction thus making this "**violation**" into an **arrest** according to Federal Criminal Laws 18 U.S.C. 3059(a)(1) as well as the state charge. Appellant asserts the perpetrators racketeered the rewards from this **federal** statute including defaming **innocent** petitioner as a **drug addict** on their upcoming 1992/93 psychiatric exams and again racketeering rewards according to 18 U.S.C. 3059(b)(c)(1).

Appellant asserts since the racketeering injunction maliciously framed and defamed him to look like an insane, incompetent, **schizophrenic**, sexual assaulting/harassing **drug addict**, racketeering payments for the arrest of **more than one person** could have been made to James Handley et al. Appellant asserts the elder Dunbar retired from the Sarasota Sheriffs Department, December 1992 **after** he maliciously arrested/transported appellant over county lines. Appellant asserts when he went to trial against the perpetrators in May of 1993 approximately 20-30 malicious, perjuring people instantly received up to or over $100,000 per person under

18 U.S.C. 3059**B** to justify the James Handley et al **racketeering** 92-4293CA injunction and the malicious aggravated stalking arrest/prosecution and imprisonment. Appellant asserts this racketeering activity included Jerry Meisner et al, Elliot Metcalf et al, **judges** Becky A. Titus et al, James Whately et al, Andrew Owens et al, Hayworth et al, prosecutors Peter Baranowicz et al and all medical and psychiatric perpetrators who defamed appellant on records (Doc 82-**RFS, 1SR, 2SR, 3SR, 4SR, 5SR-DATRA**-pg 11, **8SR**).

Appellant asserts some of the perjuring paid witnesses left the state of Florida and disappeared such as Laura Flemming who may have escaped with **well over** $100,000 to Virginia in 1994 (Doc 146-**4SR**-pg 6 #45 and pg 10 #82). Appellant asserts Sgt. Lamb et al and LT. Al Hogle et al of the Sarasota Sheriff/Police Depts received **racketeering** payoffs in 1992/93 and again in 1994-96 when **numerous** police officers, approximately 15-20 came to an **unconstitutional** non-jury trial April 4, 1995 to perjure themselves and convict **innocent** appellant on an illegal misdemeanor **arrest, charge** and **prosecution** (Doc 146-**4SR**). Furthermore, Jan DeLuca, Teresa Long, Milissa Long, Collean Reardon and Doug Smith et al racketeered large sums of money in 1992/93/95 and 96, with DeLuca and Long disappearing in 96. Appellant asserts at least 70-80 people have collected racketeering payoffs in the Sarasota/Tampa area alone since 1991/92 not counting all the perpetrators in IA, MO, KS, GA, D.C. and Texas. Appellant asserts this includes federal judges, state judges, attorneys, law enforcement, medical people, business people, disowned family members, disowned relatives, private individuals and others (Doc 82-**RFS**, Doc 200, **4SR**).

Appellant asserts corrupted attorney(s) Louis Stern et al (Jim McConnahhay et al) were desperately harassing and defaming him on tape as incompetent/schizophrenic at a "Workers Compensation" deposition hearing early 1995 (Doc 188-**8SR**, Doc 200-**11SR**-pg 6 letter (**n**). Appellant asserts this defaming tape has now been turned into the "**interview**" that James Handley is attempting to create in the

Appellate court Order dated December 30, 2002. Appellant asserts on page 3 of the Order it states, "The PSI(PSR) explained that Weiderhold began making threatening calls regarding agent Hanely (Handley) in 1994 after Agent Handley **interviewed** Weiderhold as part of an investigation". Appellant asserts the Nancy Holbrook et al Appellate Order is a vicious **lying** racketeering document that only attempts to justify **all** the past and present **racketeering** activity by **all** perpetrators listed. Appellant has never met James Handely nor were any threats made to anyone at the Sarasota FBI until appellant was **directly** threatened by their office **to be killed** in January of 2000 (Doc 146-**4SR**-pg 3 #6). Appellant did visit the Sarasota FBI in July 1994 as mentioned in the rebuttal to the **sick PSR** but this person at the front desk only advised him to contact the internal affairs section at the Sarasota Police Dept. Appellant asserts even then in July 1994, Handley was **cowardly** attempting to cover by having this corrupt individual shift the focus on **just** the City of Sarasota when it was James Handley et al that orchestrated **all** the **racketeering** activity in that area since 1990/91. Appellant asserts the **lying** "investigator" that accused him of "building a bomb" in August of 1995 **did not** identify himself as James Handley but Handley et al would have been directing this **racketeering** false accuser therefore appellant names Handley et al as the ones behind this malicious, arrest, charge and imprisonment (Doc 188-**8SR**-pg 2 #3 and Doc 146-**4SR**-pg 3 #6, pg 11 #83). Appellant asserts it was Handley et al making verbal threats on his life especially after 1994.

Appellant asserts the only other explaination for **the lie** of an "interview" with the racketeering FBI agent is the altered **tapes** from the **narrative** appellant gave in the **unconstitutional** trial August 15, 2001 are being used by James Handley et al to attempt to make it look like the appellant received the racketeering bank note in 1994 rather than 1997 as this false bank note was mentioned to the jury (Doc 200-**11SR**-pg 10 #16). Appellant asserts **this again proves** the falsification of **all** the **tapes** and **transcripts** being withheld from him by Ryan Truskoski et

al, Dan Daly et al, Whittemore et al etc (Doc 188,**8SR**, Doc 200-**11SR**).

Petitioner asserts he is being continually, maliciously defamed, arrested, prosecuted and imprisoned since 1991 or the start of the 92-4293CA **racketeering** injunction in violation of Const. Art 3, Const. Amdt Art 1, Art 4, Art 5, Art 6, Art 7, Art 8 and Art 14, but not limited to. Appellant asserts the perpetrators are severely abusing the 18 U.S.C. 3059-3060, 18 U.S.C. 4241-4247, 18 U.S.C. 875, 47 U.S.C. 223 and other applicable federal and state laws. Appellant asserts he is being made **into a scapegoat** for the perpetrators severe criminal activity using a **racketeering**, defaming, federal promissory note he most certainly **did not** falsify. Appellant asserts if he would have or does accept any **unclean**, fraudulent settlement or disability payments from the **racketeering** perpetrators he would be as guilty as the criminals offering the laundered money. Furthermore, since the only way the **sick** perpetrators could settle is by framing and creating an incompetent, insane, schizophrenic scapegoat out of **normal, competent** and **sane** appellant the **unclean** money could have been taken away at anytime he refused to "take his medication" that he **did not** do in the first place **nor does** he need it. Appellant asserts if this insane, racketeering activity is not prosecuted by John Ashcroft appellant will be continually, maliciously, harassed, threatened, defamed, arrested, prosecuted and imprisoned by the insane racketeers James Handley et al the rest of his life. Appellant asserts his lawsuits in 1994 stating **premeditated, continued, malicious prosecution** and his 1995 federal temporary/**preliminary** injunction stating **and/or all in concert/conspiracy** etc are completely correct **even** to this day. Appellant asserts he was actually **doing the work** for the corrupt Attorney General Janet Reno according to 18 U.S.C. 216 when he filed his temporary/**preliminary** injunction in October of 1995. Appellant asserts he has been **maliciously** destroyed state/federal by **Janet Reno** et al (FT. Lauderdale) for Roger Gilchrist et al (FT. Lauderdale), Glacier Water et al, Aetna et al, Hillsborough County et al and Dubuque County et al since 1990/91 (Doc 82-**RFS** and all **SR's**).

Appellant asserts the **racketeering** District Court clerks are sending scandalous letters claiming he "is improper... has a case pending" before this **sick, scandalous, unclean, racketeering** and **schizophrenic** District Court Judge rather than a proper reversal or remand on **both/all** malicious charges from the Appellate or Supreme Court. Appellant asserts Local Rule 33 is being violated and abused as their newly discovered evidence would ultimately amount to the **sick, defaming, scandalous, unconstitutional, racketeering** BOP study, the PSR, falsified transcrpts and all defamation in the Ryan Truskoski et al, David P. Rhodes et al and Nancy Holbrook et al appellate briefs and Order (Doc 200-**11SR**, Doc 200,201 & **4SR**).

Appellant asserts any **newly discovered clean hands evidence** for a new **constitutional** trial by remand or reversal from the higher courts would be appellants **RFS** (Doc 82), Judicial Complaints (**1SR** and **2SR**), Interlocutory Appeal 01-15416-BB-(**3SR**), Rebuttal/Objection to the PSR (**4SR**), Defendant's Affidavit To Rebut Allegations **DATRA** (**5SR**), Dr. William E. Bonney Ph.D exam (**7SR**), Nov 5, 2002 and Feb 19, 2003 ten page motions (Doc 188,200), letter of resignation/disbarring of Ryan Truskoski et al, impeachment/removal and prosecutions. Appellant asserts the only other corrupt act that could take place is the illegal appointment of another racketeering attorney by the **racketeering** District Court Judges, corrupt clerks Nancy Holbrook et al and this racketeering warden Constance Reese et al (Doc 175). Appellant asserts this is the only way the **sick perpetrators** can get a defaming, conspiring motion in the Tampa Courts to illegaly overturn the **unconstitutional** judgement/conviction using **unclean** documents and exhibits that are 18 U.S.C. 1951-1968 **RICO** offenses etc (Re: BOP study etc). Appellant now persuades one **could** come to the conclusion that **some** jury people in 1993 and 2001 **may** have been **asked** to be a part of the racketeering activity(Doc 146-**4SR** pg 13 #103-113,Doc 94,Doc 109-5).

CONCLUSION

Appellant asserts perpetrator Whittemore **sealed his own fate** to be impeached and removed from the bench when he: **A.** Decided to be a part of the insane rac-

keteering activity after he was appointed to the federal bench in 1998/99. **B.** When he helped orchestrate the unconstitutional, **malicious** arrest of petitioner for financial gain (Doc 1). **C.** When he began perpetrating defaming, racketeering, psychiatric exams with the other perpetrators abusing appellant even after he was ruled **sane** and **competent**. **D.** When he **did not strike** the Ellis Curry et al and Anthony Porcelli et al motions that **excluded** the altered audio **tapes** yet **hypocritically** and **prejudicially** strikes appellants motion to obtain **all** audio tapes or **proof of no tapes** concerning the appellate briefs and PSR filed by the perpetrators **yet** allowed **altered** tapes to be used at trial on the instant charges. **E.** When he desperately attempted to **cover** by now denying Curry et al's motion that excluded the altered audio tapes yet **hypocritically** and **prejudicially** denied appellants right **to file** a motion dismissing Curry et al for severe corruption even after he was ruled **sane** and **competent** by Dr. Bonney. **F.** When he maliciously denied appellants motions to **simply be heard/recorded on tape for a bond**, then had Dan Daly et al inform petitioner that he **could not** appeal these corrupt prejudicial Orders. **G.** When he and the rest of the perpetrators falsified transcripts of hearings before Jane Cooper Hill in Corpus Christi, TX, and again allowed Ellis Curry et al to submit another **racketeering** motion creating a **scapegoat** out of appellant. **H.** When he maliciously abused and defamed appellant by **attempting** to submit the **insane, racketeering** Public Defender document through appellant's landlord, Dan Daly et al and Anthony Porcelli et al. **J.** When he maliciously abused appellant by stealing documents at trial including Dr. William E. Bonney's exam. **K.** When he maliciously abused appellant by using **certain** jury members who were a part of the racketeering activity just as **certain** jury members were used in 1993. **L.** When he maliciously conspired with the clerks to send a racketeering Notice Of Hearing document with the Dept Of Ed name Cindy Leigh Martin on it. **M.** When he maliciously ordered a defaming, **unconstitutional**, prejudicial and **racketeering BOP study** completely destroying appellant, abusing the laws and violating RICO laws by not allowing the unnecessary study to be done **in the community** by Dr. Bonney, then

hiding behind the WTC disaster. **N.** When he maliciously conspired with the Rochester Medical Center, district and appellate court clerks to have appellant's [illegible] briefing schedule delayed on appeal 01-15416-BB, causing a dismissal. **O.** When he maliciously conspired to defame and abuse appellant by sending the **racketeering** PSR on his birthday then later sending the **racketeering** BOP study addendum. **P.** When he prejudicially and against the law **began striking** appellant's affidavits, rebuttals and motions proving obvious criminal activity as well knowing these documents are **crucial** to his defense. **Q.** When he illegaly sentenced appellant while he was proven with a prejudicial agenda against appellant especially with the conspiring, corrupt statements "Dispute with Riscorp" and "Two years incapacitate" with his corrupt, **racketeering** prosecutor friends Porcelli et al. **R.** When he appointed another racketeering attorney Ryan Truskoski et al for himself and the rest of the perpetrators. **S.** When he maliciously conspires to use **corrupt** inmates, medical people, psych departments and officers here at Beaumont and elsewhere with the insane, racketeering, overlapping two year incapacitate **campaign** again defaming Dr. Bonney and harming appellant. **T.** When he used Ryan Truskoski et al, David P. Rhodes et al and Nancy Holbrook et al to defame and destroy appellant in their **racketeering** documents. **U.** When he maliciously, prejudicially abused appellant by **criminally striking** his Nov 5, 2002 and Feb 19, 2003 ten page motions that requested **all** evidence and the proof of the **non**existance of evidence (tapes) which would allow him the ability to place a proper brief/petition attacking the conviction/sentence and further prove racketeering. **V.** When he states in his illegal striking orders, appellant has the services of the racketeering attorney and has insane, corrupt inmates stealing the racketeering Orders and other documents after appellant would place Notice Of Appeals on them. **W.** When he has the corrupt clerks send scandalous, racketeering in forma pauperis forms on appeal 03-11467-DD and sickly attempts to justify his racketeering activity by placing the term "Affiant" under the name United States **of America**. Appellant asserts the cover page of this brief was changed to "United States and Risk_Corp et al" because of this **sick**, disgust-

ing, racketeering **plot.**

Appellant asserts this type of **corrupt** behavior is **outrageous, ludicrous,** hypocrisy, **criminal, unconstitutional** and **racketeering.** Appellant asserts it is definitely not fair and impartial for this judge to accept the use of **altered tapes** at one point in the proceeding (Doc 50) then deny the request/retrieval of **all** altered tapes or proof of the **nonexistance** of tapes to further prove **fraud, perjury,** and **racketeering** by the insane perpetrators. Appellant asserts perpetrator Whittemore proves **his** own deep involvement in the racketeering activity (Doc 188-**8SR,** 200-**11SR**-pg 10, Doc 146-**4SR,** the **PSR(PSI), 1SR, 2SR,** Doc 82-**RFS,** Doc 200-pg 10 and appellate briefs and documents filed by David P. Rhodes et al, Ryan Truskoski et al and Nancy Holbrook et al).

In Am Jur 2nd 488 and FR Civ P, Rule 11 (Practice Guide) it states:

> "Moreover, statutes or rules of practice commonly provide that a court may strike a pleading, or parts thereof, **if** the pleading is entirely or to **some** extent irrelevent, frivolous, scandalous, or if it is not authorized by the law or rules governing plradings....impose a requirement of **honesty** with respect to pleadings and other papers presented to the court. **Sanctions** for violations of this requirement with respect to a pleading can include the striking of all or part of the pleading".

Applying these standards appellant asserts his Nov 5, 2002 and Feb 19, 2003 pleadings were not striken because they were irrelevent, frivolous or dishonest, rather they were striken because of a **racketeering agenda.** Appellant made it clear he was not filing a 2255 as is **redundantly** mentioned by perpetrator Whittemore on his last two illegal Striking Orders by insanely quoting Local Rule 2.03(d) (actually Local Rule 2.(d)). Appellant asserts that attempting to file a 2255 to the racketeering district judge would only amount to unwanted appointment of another racketeering attorney to create a **scapegoat** out of innocent appellant. Appellant asserts perpetrators Whittemore et al and Risk_Corp et al are actually trying to appoint another racketeering attorney by conducting a **racketeering** "annual" **X-Ray** through officers Flanagain et al, **pathetic, false** accusing inmates Kevin Roberts et al and the medical and psych departments etc. Appellant asserts this **racketee-**

ing **back** X-Ray was conducted **against his will** on March 4, 2003 according to and abusing 18 U.S.C. 4247(d)(e) but not limited to. Appellant asserts this racketeering X-Ray has amounted to **severe** defamation by officers Flanagain et al concerning appellant's **mental condition** and a defaming, corrupt reprimand by Flanagain et al at his place of employment, then a malicious, defaming termination on April 24/25 2003. Appellant asserts this **racketeering corrupt** prison is again attempting to create a **scapegoat** out of him because of **its own** pathetic incompete- and senseless **malicious** behavior in violation of Const. Amdt Art 8 and Art 14.

In Am Jur 2nd 489, it states:

> "In some jurisdictions, the purpose of a motion/Order to strike the legal suffiency of the allegations of a complaint to **state a claim** upon which **relief** can be granted. Under this view, **if facts provable** under the allegations in a complaint **support** a cause of action, a motion/Order to strike **must be denied**".

Applying these standards appellant asserts his pleadings were not striken because of legal suffiency of the allegations of the pleadings to support the claim upon which the **relief, arrests, prosecution** and **rewards** should be granted. Appellant states very clearly in the pleading his **defense, reward, relief** and the need for the government to produce **all** evidence so he can assist them in prosecuting the **racketeers** and so appellant can properly place a brief to the Appellate or Supreme Court for a new trial. Appellant asserts one can only come to the conclusion that this District Judge is **maliciously** and **prejudicially** abusing appellant by hiding his own racketeering activity and the racketeering of others(Doc 188,200,**all SR's**).

In Am Jur 2nd 490, it states:

> "Not only is a court authorized to strike from the record a **sham** plea either with or without a motion, but it also **may** disregard the plea either with or without an express order striking it.....In order to justify the striking of a pleading as a sham, it must be so **undoubtedly false** as not to be the subject to a **genuine issue of fact**, or mere pretense, set up in **bad faith** and **without** color of **fact**".

Applying these standards appellant asserts his pleadings are not a sham nor could they have been striken as a sham or undoubtedly false as not to be the

subject of **genuine issue of fact** or bad faith because appellant **received** an order stating no such things and the pleadings were sent back (except the last) and not disgarded. To the contrary, appellant **clearly** shows in the pleadings and this brief that corruption and bad faith **by the perpetrators** is obvious. The only other conclusion one can come to is this District Judge **is** orchestrating the bad faith and corruption by his **prejudicial** strikes as mentioned in the last page of the pleading(s). Furthermore, this District Judge **knows** the **genuine issue of fact** is the **racketeering** from the U.S. Treasury severely **abusing** 18 U.S.C. 3059(a), 3059A, 3059B and other applicable laws. Appellant asserts this is **undeniable**.

In Am Jur 2nd 491, it states:

> "If the pleading contains **some** good and proper averments or denials as well as other matters having no place therein, the latter averments may be striken out for that purpose....the motion/order striking is a proper manner of **objecting to defects**,....irrelevent, immaterial, redundant, duplicity, sham, frivolous, scandalous and impertinent matter".

Applying these standards appellant asserts the District Judge **does not** mention part of the motion as being **good or proper** as not to be striken and **does not** state what parts are defective and have no place therein. Appellant asserts one can only come to the conclusion that by this judge **not striking defects**, that **none** of his pleading is irrelevent, immaterial, redundant, frivolous and most certainly not a sham or scandalous etc. To the contrary, appellant only receives redundant, scandalous and racketeering striking Orders by the corrupt District Judge desperately **avoiding the truth**, then when appellant attempts to expose the **new fraud** of the illegal Striking Order itself through and appeal like this, the scandalous, cowardly Striking Orders are **stolen**.

In Am Jur 2nd 493, it states:

> "In general, a motion/Order to strike is the proper method whereby to get rid of immaterial, irrelevent, and superflous matter. A motion to strike matter as immaterial or redundant is granted **only** if the material is **wholly** irrelevent, can have no bearing on the equities and have no influence on a decision".

Applying these standards appellant asserts his pleadings **were not** striken

for immaterial or redundant matters. To the contrary, appellant asserts his pleadings were striken because they prove that the perpetrators are attempting to destroy **innocent** appellant, his defense, lawsuits and **steal** rewards that are due him, not them, by withholding **all** transcripts and tapes, therefore the pleading cannot be superfluous as well. Appellant asserts by striking the pleading(s), perpetrators Whittemore et al quite obviously destroys appellant's defense in violation of the constitution. Furthermore, now that these **facts** are proven, it then means it was/is the **racketeering perpetrators** who continued to send **wholly** irrelevent, **scandalous, indecent** and **sham** etc documents to the courts and appellant since 1991 including all the malicious, illegal and unconstitutional **acts** connected to them.

In Am Jur 2nd 494, it states:

> "For allegations to be "scandalous and impertinent", and thus subject to being striken, the allegations must be immaterial and inappropriate to the proof of the cause of action....provide for striking out an entire pleading if scandalous or indecent matter is inserted therein and for striking out scandalous or impertinent matter alone".

Applying these standards appellant asserts his pleadings **were not** striken for immaterial matter **nor** was there any inappropriate or indecent matter in the pleading(s). To the contrary, appellant asserts one can only come to the conclusion the pleadings were **illegaly, maliciously** and **inappropriately** striken because of **convicting material matter** against the perpetrators/Risk Corp et al. Furthermore, appellant asserts the District Judge **did not** strike the **whole** pleading for indecent or scandalous matter therefore he should be made to respond to the **whole** pleading. Appellant again asserts one can only come to the conclusion the **whole** pleading was illegaly and **criminally** striken because of **their own** indecent, scandalous, racketeering behavior and **refusal to answer for the truth** since 1990/91.

In Am Jur 2nd 495, it states:

> "Striking a pleading, or part of a pleading, rest within the sound discretion of the court. However, it is recognized that striking a pleading is a **severe remedy** and should be resorted to only in cases palpably requiring it for the **administration of justice**....when striking, the court may, at times, make an

> appropriate order for an **ammendment**, and thus aid in curing a **defect**...the court should permit a **meritorious** plea to be filed if, in the circumstance, due **diligence** has been observed by the defendant, and the plaintiff is not prejudiced".

Applying these standards appellant asserts **it is obvious** that **the administration of justice** is not the agenda of this corrupt District Judge. Appellant asserts no Order for a **true** amendment came with the Striking Orders to cure a defect such as a request to amend a defect in the Nov 5, 2002 pleading regarding 18 U.S.C. 3059(a)(1). Appellant asserts he corrected the defect concerning 3059(a)(1) etc in his revised Feb 19, 2003 motion concerning law enforcement officers and false accusing informants/witnesses collecting **racketeered** reward money. Appellant asserts **due diligence** and **great care** was observed when he constructed the **fine** pleadings that **no lawyer** in the world was going to, or been able to create for him. Petitioner asserts the pleadings have an **abundance of merit** and the District Court Judge **did not** state in his Order that the U.S. Attorneys were prejudiced mainly because he knows the appellant is **substancially** assisting them with all sorts of pertinent material matter that will aid them in the investigation of future arrepertin sts, prosecutions and punishment of the perpetrators including Whittemore et al. Appellant asserts this District Judge is **severely** perverting and obstructing justice by **maliciously** and **prejudicially** striking appellant's pleadings to **protect** criminals and **his own** criminal, racketeering agenda (Doc 188-**8SR**,190, Doc 200,201).

In Am Jur 2nd 496, it states:

> "The power to strike out a pleading **as frivolous** is to be **cautiously exercised** and will not be exercised **except** in a **clear case.** In deciding whether to strike a pleading as a sham a trial court must resolve all doubts **in favor** of the pleading. The **duty** of the court is to determine whether the **issue of fact** is presented, not to try that issue...inartful pleadings or correctable mistakes etc".

Appyling these standards appellant asserts his pleading(s) were not striken because of frivolous reasons (Doc 190,201) as the pleading(s) were **very clear** as to what laws are being abused and violated concerning the whole or in part **racketeering** by the vicious perpetrators. Appellant asserts the **factual issues** were

presented as they were on June 20, July 3, Aug 3 and **attempted** on August 13-15, **2001** (but not limited to) yet appellant is constantly denied his constitutional right for a defense **attempting** to bring these **pertinent** and **factual** issues to trial. Appellant asserts the District Judge **did not** resolve all doubts in favor of the pleading(s) rather **the fact is** their is **no doubt** as to the **racketeering** agenda by striking the pleading(s) (Doc 188,200-pg 10). Furthermore, no order came from this District Judge informing appellant to correct a legal defect, mistake or inartful pleading. Appellant asserts his fine pleadings were artfully done (Doc **all**).

In Am Jur 2nd 497, it states:

> "The general rule is that a motion/Order to strike a pleading will be granted if its allegations are, in substance, **the** same as those of former pleadings to which demurrers have been sustained or which have been **previously** striken".

Appyling these standards appellant asserts his Nov 5, 2002 and Feb 19, 2003 pleadings which were prejudicially striken provided new and substancial information regarding **severe** corruption, racketeering and other criminal offenses related to the requested evidence. Appellant asserts the issues are **clear** and any judge who trully cared about the proper administration of justice would have caused the U.S. Prosecuter to answer the pleading(s), investigate the matter of missing transcripts, **tapes** and the illegal **racketeering** and **perjury** etc of the past. Appellant asserts by this judge **constantly** and **criminally** striking appellant's pleading(s) it is **obvious** that his **sick** prosecutor **friends** are being protected by not having to answer the excellent and **convicting** pleading(s). Appellant asserts one can only come to the conclusion this corrupt Judge is **obstructing** and **perverting** justice along with **the prosecuters** and the rest of the perpetrators. Appellant asserts other pleadings mentioned in the Feb 19, 2003 ten page motion such as **DATRA**- (Doc 200-**11SR**-pg 10) **did not** have demurrers and the corrupt district judge stated no legal grounds as to why it was striken. rather the Order said, "defendant didn't state what he wanted with the affidavit". Appellant asserts **DATRA** clearly

stated **criminal** violations committed by the **perjuring** perpetrators/witnesses and it was ludicrous, **scandalous** and **criminal** for this District Judge to strike **DATRA** for the reason he did, furthermore that particular striking Order **has been stolen** as well (Doc 145, Doc 142-**5SR**, **1SR**, **2SR**, **3SR**, **4SR**, etc).

In Am Jur 498, it states:

> "The action of the court in erroneously striking or refusing to strike a pleading is not reversable error **unless prejudicial.** If, however, the striking out results in depriving the pleader of some **substancial** right, or **deprives** the pleader of something that is **essential to his cause** of action, then it is **prejudicial,** and hence **reversable,** unless cured or waived.

Applying these standards appellant asserts his pleading(s) were maliciously and **prejudicially** striken and his Feb 19, 2003 pleading clearly stated his constitutional right and substancial reasons to obtain all transcripts, transcript tapes and discovery tapes etc. Appellant clearly stated it was essential that he be afforded **all** this evidence so he could file a proper brief to the Appellate or Supreme Court to **further** prove David P. Rhodes et al with **perjury** and **racketeering** etc. Furthermore, appellant asserts his pleading(s) simultaneously became **substancial information** for the new Attorney General, John Ashcroft as it proved racketeering and other criminal activity by the perpetrators. Appellant asserts he then becomes **maliciously** and **prejudicially deprived** of his constitutional right to obtain the evidence mentioned to receive a **fair** trial and also be of further **substancial** assistance to have the **perpetrators** prosecuted under the **new** Attorney General. Appellant asserts, applying these standards **all** of the **lower Courts** unconstitutional and prejudicial Orders and Striking Orders **need** to be **reversed.** (Doc 145 **Stolen(S)**, Doc 148(**S**), Doc 155, Doc 190(**S**), Doc 201, Doc **all**).

In Am Jur 2nd 502, it states:

> "FR Civ P. Rule 12(f) provides that the court may make an Order under the Rule "Upon the court's own initiative at any time" Although one court has concluded that it lacked the power to strike a defense without a motion to strike by a party, the prevailing view is that a District Court may expidite proceedings by striking **insufficient** defenses".

Applying these standards appellant asserts his latest pleading(s) **clearly** stated a defense as all his pleadings did that were **maliciously** and **prejudicially** striken or denied by the racketeering lower courts. Furthermore, appellant asserts his **defense** was **so clearly** defined that it caused the corrupt District Judge such alarm that he **could not** let the corrupt prosecutor or himself answer because it would be **further** evidence of **racketeering** and other **criminal** activity.

In Am Jur 2nd 506 *Practice Guide, it states:

> "The opportunity to present briefs and to make oral arguments might be considered essential where the legal issues presented by a defense are particularly complicated; **however**, in those circumstances, a motion/order to strike **would be an inappropriate vehicle** for the consideration of **complex issues**".

Applying these standards appellant asserts it is **obvious** his case is quite complex as even **the perpetrators** have corrupt officers and inmates making the **inappropriate**, conspiring, **scapegoat** statement "what a mess, etc". Appellant asserts whenever the perpetrators are exposed and **their sick plans** thwarted they call the failed agenda "a mess" and appellant "mixed up", **schizo** etc. Appellant has and will continue to prove this **whole** matter as malicious and **premeditated** no matter how much the perpetrators try to make "a mess" of it. Appellant asserts the **whole** matter **is not** a mess as he has straightened the whole matter out so the government can **prosecute** the perjuring and racketeering perpetrators. Appellant has clearly proven a complex racketeering scheme by the malicious perpetrators therefore it was **very inappropriate** for this judge to strike the excellent pleading(s) and then have the racketeering Striking Orders stolen. Furthermore, appellant asserts the Dubuque Bank and Trust (DB&T) and Iowa College Aid Commission (ICAC et al) promissory note **was not** falsified by someone in the Clinton Administration rather it **took place** under the Bush Administration and possibly without their knowledge between 1989-1992.

RELIEF SOUGHT

WHEREFORE, appellant respectfully requests the Honorable Court/Judges to investigate and recommend to the House of Representitives to have the corrupt judge(s) involved, **impeached** and **prosecuted.** Appellant respectfully requests the Court to investigate and recommend the **disbarrment** and **prosecution** of the corrupt attorneys involved. Appellant respectfully requests the Court **reverse** the District Court Order(s) and compel the lower Court to respond **correctly** to his pleading(s) because of the forementioned reasons and facts. Appellant respectfully requests the Court to **recommend** that the Attorney General prosecute the rest of the perpetrators involved including the **indictment** of Constance Reese et al who created the **vicious, racketeering** BOP study and who is now the Warden of this corrupt prison. Appellant prays and requests to represent himself pro se as no attorney can or will do the **correct** things or anything **for** the appellant.

I, HEREBY CERTIFY, that the statements made herein are true under penalty of perjury pursuant to 28 U.S.C. 1746. Dated and executed at Beaumont, Texas, this 29th April, 2003.

Kevin A. Wiederhold, pro se

CERTIFICATE OF SERVICE

I, HEREBY CERTIFY, that a true and correct copy of this brief was served upon U.S. Attorney Paul I. Perez Jr, 400 Tampa Street, Ste 3200, Tampa, FL, via First Class mail postage prepaid, this 29th day of April 2003.

CERTIFICATE OF COMPLIANCE

This is to certify that the page size, type size, and length requirements under Rule 32(a)(7) have been complied with herein. This is to certify that according to FRAP 31-1(c), this brief has been deposited in this Institutions legal mail box on 29th April before the due date of May 24th or within 40 days of the ruling on appellant's in forma pauperis motion April 14, 2003.

Kevin A. Wiederhold, pro se

Kevin A. Wiederhold#89849-079
Federal Corrections Inst
P.O. Box 26040 NA Medium
Beaumont, TX. 77720

April 29, 2003

To: Mr. Kahn, Clerk of Court
U.S. Court of Appeals
56 Forsyth Street, N.W.
Atlanta, GA. 77720

U.S.C.A. No: 03-11467-D
U.S.D.C. No: 8:00-CR-369-T-27TGW

Enclosed you will find two 30 page Interlocutory Appeal briefs on appeal 03-11467-D. I did not have enough postage to send the third in this package nor did I want to send such a heavy package. I will be sending the third brief out within a day or two of sending this package. The briefs are signed, dated and sent on April 29th, 2003 well before the due date of May 24th, 2003 according to FRAP 31-1(c). The in forma pauperis motion was signed on April 14th, 2003 and of course you and I know that according to FRAP 31-1(c) an appellant is given 40 days from the filing of the in forma pauperis Order to file his brief.

I have spoken to a Nicole Jones on the phone twice now since I filed the Extension of Time Motion on this appeal. I believe Ms. Jones is a deceptive person, harassing and insulting at times. I have not been impressed with any of the behavior I have seen from the clerks in either the District Court or the Appellate Court thus far. Ms. Jones has not sent the piece of paper I requested she sign, date and send back to me in the self addressed envelope concerning the arrival of my 4 page Extension Of Time Motion, nor have other questions been answered. So far the Supreme Court clerk has been proffesional but it remains to be seen how they handle this extremely corrupt, demonic, ruthless and racketeering case being perpetrated on me by the fools Whittemore et al. This case is completely solved and it is time the demonic idiots get prosecuted as their will be NO settling or compromising by me in this case. If the Supreme Court rules against my petition I will be renouncing my citizenship immediately to the Secreatary of State Mr. Powell. I will not be a part of a nation that behaves so corruptly like this. So far over 17 political asylum letters have been sent out and I will not hesitate to send the concluding briefs since last fall so the various countries can see how corrupt and childish America is. America has much growing up to do.

Lastly, a witness will be veiwing all documents being sent and the mailing. These large briefs take time, effort and knowledge and I do not appreciate them being carelessly denied without reason like Ms. Jones et al likes to do. I am also sending another self addressed stamped envelope for you to sign stating you have received these briefs on time. I did receive the inventory list signed by Nicole Jones on February 18, 2003 that listed 1SR-10SR Supplemental Records etc. Since your office already has these on record there is nor reason for me to send them again. I sent a copy of this inventory list to the Supreme Court with my Petition For Writ of Certiorari. I hope your office has not carelessly disgarded these Supplemental Records like it did in the past such as November, 2001 and February 2002. If this appeal is only answered in part or recommends the District Court only act in part I will be appealing the unanswered portions to the Supreme Court. Either way, this sick judge and attorneys are going to have to justify their filthy, racketeering briefs and Orders they are destroying me with, I will not give in to corruption. It seems I am the only one who is an good person and an adult in this matter thus far.

Sincerely,
Kevin A. Wiederhold

From: Mr. Kahn, Clerk of Court
United States Court of Appeals
56 Forsyth Street, N.W.
Atlanta, GA. 30303

Case No.03-11467-D, etc

This is to certify that the Clerk of Court, U.S. Court Of Appeals has received two 30 page Interlocutory Appeal Briefs and a one page letter stating a third brief will be sent on April 30th or May 1st 2003. This is to certify that the Briefs are dated April 29th 2003 and filed on time according to FRAP-31-1(c) or 40 days from the granting/filing of the in forma pauperis motion which was April 14th 2003.

sign it Nicole!! LOL [nh]

Postage Paid envelope provided thank you [nh]

To Sammy

[nh] hmmm

evin A. Wiederhold#89849-079
Federal Corrections Inst
P.O. Box 26040 NA Medium
Beaumont, TX. 77720

April 30th, 2003

To: Mr. Kahn, Clerk of Court
U.S. Court of Appeals
56 Forsyth Street, N.W.
Beaumont, TX. 30303

Case No:03-11467-D

Enclosed you will find the third, 30 page Interlocutory Appeal Brief I promised I would send your office. This brief is dated the 29th of April because the first package of (two) briefs was placed in the legal mail box on the evening of the 29th of April 2003. A witness veiwed the mailing and contents in each envelope so I would greatly appreciate you sending back the piece if paper stating you recieved these well done, extremely important briefs. A self addressed, stamped envelope has been placed in the first package sent, please use it.

I would like to add, this new 30 page Interlocutory Appeal Brief on the second insane strike by perpetrators Whittemore is differant than the first 30 page Interlocutory Appeal Brief that was illegaly denied by your office on March 4th, 2003. I realize the first brief was well done (LOL) but this new 30 page Interlocutory Appeal is new and improved with more vitamins and iron, I hope you like it. If you would like a sneak preview of some of the new information please turn to pages 22 and 23 or Am Jur 2nd 488 and read how Whittemore et al's corruption reaches well inside this sick, racketeering prison. Also, under BOP Rules 1040.40 the Warden is the one who has final say on the hiring and firing of inmates especially in controversial situations, therefore this racketeering warden fired me! LOL

It is time the Appellate judges are prompted to take a close look at my Brieifs because they have an abundance of merit and this prison system continues abusing me through this racketeering warden and it needs to be stopped. The racketeering judges are also heavily involved in this insane, defamation and abuse. I was completely correct in my first 30 page brief last February when I spoke of this prison being involved in the striking of my November 5th, 2003 ten page motion. What took place of the theft of the Briefing schedule and judge's November striking order was the X-Ray attempting to make me look, schizophrenic, mentally ill and/or incompetent. Now this has all failed and even according to 18 3059(e)(1), I am entitled to at least 2 times the amount of back pay for the last year. This means that Mr. Bell's accidental figure on the October informa pauperis affidavit of me making $1200.00 may actually come true LOL! This error was mentioned to the Supreme Court in my in forma pauperis affidavit. Could you please call them up and tell them to add this payment to my release when they (hopefully) rule in my favor.

This is s good way to get Mr. Bell out of a strange situation with his substancial error I mentioned to the Supreme Court. As well you can also make Mr. Bell into the mind reading, psychic (scapegoat) that everyone falsely accuses me of being LOL. Okay, enough all ready, please send the second piece of paper I am enclosing in this package with the first piece of paper stating you received my briefs/letters. Thank you!

Sincerely,

Kevin A. Wiederhold

From: Mr. Kahn, Clerk of Court
United States Court of Appeals
56 Forsyth street, N.W.
Atlanta, GA, 30303

The Clerk of Court, U.S. Court of Appeals has received a packet with two 30 page Interlocutory Appeal Briefs dated the 29th of April 2003, a one page letter dated the 29th of April 2003, a self addressed envelope, and a piece of paper to sign stating that these documents were sent on time and before the due date of May 24th, 2003 according to FRAP 31-1(c). (Re: April 14th in forma pauperis order).

The Clerk of Court, U.S. Court of Appeals has received a packet with one 30 page Interlocutory Appeal Brief dated the 29th of April 2003, a one page letter dated the 30th of April 2003, and the February 19th, 2003 ten page motion(11SR) that was criminally striken from the file March 10th 2003 quoting some Local Rule "2.03(d)" Doc 200, 201. The Clerk has received all these documents on time according to FRAP 31-1(c) and before the due date of May 24th, 2003.

sign this Nicole !! [nh]

Postage prepaid envelope provided
in last packet, Thankyou for being nice LOL ..

To Sammy