No. 08-1230

In The

Supreme Court of the United States

In re
Brian Kilcullen

Petitioner

President Barack Obama
Department of Justice
Department of the Treasury
Department of Homeland Security

Respondents

On Petition for the extraordinary
Writs of Prohibition and Mandamus

PETITION FOR WRITS OF PROHIBITION & MANDAMUS

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QUESTIONS PRESENTED FOR REVIEW

1.) Does 21 USC 881 (Asset Forfeiture) violate the 4th, 5th & 8th Amendments by providing the government an open-ended (*non-particularized*) warrant for any and all (*excessive*) subject properties and/or monies in perpetuity; thereby affording law-enforcement the arbitrary and *unreasonable* power to remove property rights from subsequent (innocent) owners without probable cause, compensation or substantive due-process of law?

2.) Does the 5th Amendment *"No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury"* clause guarantee a citizen, just as in the early days of the United States, the right to direct and unhindered access to a federal grand jury for the purpose of bringing a capital, or otherwise infamous criminal indictment?

3.) Does Article III of the United States Constitution convey upon the Judiciary the power to command Executive officers and departments to prosecute their sworn duties where otherwise a refusal to, constitutes an abrogation of a constitutional right or guarantee?

4.) Should a federal officer/official/employee be removed from and disqualified *to hold and enjoy any Office of honor, Trust or Profit under the United States*, for violation of their constitutional and statutory affirmation (Article VI, Clause 3; 5 USC 3331)?

5.) Does the Bill of Rights protect a citizen's right to defend his person and property (*Life & Liberty*) from federal officials known to be acting under color of law only, by disavowing them and if necessary, use of force?

PARTIES TO PROCEEDINGS

President of the United States, Barack Obama

Attorney General, Eric Holder

IG for the Department of the Treasury,
Dennis Schindel

IG for the Department of Homeland Security,
Richard L. Skinner

IG for the Department of Justice,
Glen A. Fine

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BASIS OF JURISDICTION

The impetus for this Petition is the Department of Homeland Security's (US Customs ~ formerly under Treasury) & Department of Justice's abuse of discretion in the application of our laws. Exercised in such an inequitable manner as to protect a criminal organization within their ranks and deny constitutional rights; an abrogation of our Constitution in its totality. That being to *establish Justice, insure domestic Tranquility, provide for the common defense; and, promote the general Welfare*.

Petitioner, a non-attorney acting *pro se,* believing both original and appellate jurisdictions applicable, invokes direct Article III jurisdiction. *The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States*(Article III, Section 2, Clause 1)

Further:
1.) This Petition is in aid of the Court's appellate jurisdiction as this subject matter/constitutional due process pursuit has exhausted the Courts' procedural processes without any substantive due process. See Kilcullen v. Lewis, et al. (543 U.S. 1000, 1131, 125 S. Ct. 627, 1107).

2.) This Court's discretionary powers are essential to bring an end to an extrinsic fraud that has by overt predicate acts of obstruction of justice and fraudulent misrepresentation of the material facts, perpetrated fraud on District, Circuit and Supreme Courts.

3.) All procedural due process avenues, to include but not limited to FOIA requests, criminal complaints and civil actions have met with unfettered and unyielding criminal dereliction; thereby barring relief in any other form or from any other court.

CONSTITITIONAL PROVISIONS
&
STATUTES

Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. — That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,"

Article I, Section 8, Clause 18: "To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all Powers vested by this Constitution in the Government of the United States, or in any Department of Officer thereof."

Article II, Section 1, Clause 8: '"Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:-- "I do solemnly swear that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, Protect and defend the Constitution of the United States."

Article III, Section 2, Clause 1: "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made,"

Article III, Section 3, Clause 2: "The Congress shall have Power to declare punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted."

Article VI, Clause 2: "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof, and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby,"

Article VI, Clause 3: "The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution."

Preamble to the Bill of Rights: "The Convention of a number of the States, having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best ensure the beneficent ends of its institution."

Amendment 4: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath of affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Amendment 5: "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury," "nor be deprived of life, liberty, or property, without due process of law;"

Amendment 8: "Excessive bail shall not be required, nor excessive fines imposed,"

Amendment 9: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

5 USC 3331: I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God."

18 USC 1961, 1962, 1964: Racketeering

18 USC 641: Purloining of Public Money, Property or Records

21 USC 881: Forfeiture

STATEMENT OF THE CASE

This panel is duly notified that this Petition and its underlying impetus do not derive from the good faith prosecution of the law or the due administration of justice; but rather a criminal organization that has capitalized on the unconstitutionally worded statue, 21 USC 881, and the law enforcement offices of this Nation with which to perpetrate crimes and obstruct justice.

Extending from on or about October 31, 1991, through present, a criminal organization, as per 18 USC 1961, 1962, 1964, comprised of US Customs agents, US Attorneys and civilian contractors and individuals, by use and abuse of federal statute, sovereign offices and powers, did cause the United States of America to be defrauded in its processes, lawful function and monies. Said organization used its sovereign positions and powers with respect to the US Treasury Asset Forfeiture Program, to extort innocent victims by unlawful application of 21 USC 881, and defraud the United States by purloining of assets, monies and other valuable goods acquired by 21 USC 881. In so doing, creating and controlling an unlawful interstate commerce by violations of a number of federal racketeering statutes. Racketeering predicates to include but not limited to: conspiracy, wire-fraud, mail-fraud, falsification of government paperwork, fraud (intrinsic & extrinsic), fraudulent misrepresentation, coercion, extortion, obstruction of justice and obstruction of criminal investigations. Factual support as follows:

Dent Fraud Scheme:

On April 30, 1997, the United States of America was defrauded of monies and value exceeding $400,000.00. On

this day, the Department of the Treasury, by and through its principle contractor, EG&G Dynatrend, Inc. (EG&G), auctioned off a 1979 Swearingen "Merlin" IIIB aircraft. Seized on October 31, 1991 by both US Customs and IRS criminal investigators, under a number of violations of federal statute, to include but not limited to 21 USC 881, the Merlin aircraft, all its maintenance log books, all its avionics (aircraft radios) and other valuable inventory, were subsequently adjudicated in 1993 by criminal trial (USA v. Rodney Matthews), as proceeds of criminal activity.

The aircraft, its maintenance log books and avionics were appraised in 1991, immediately following its seizure, at $606,021.50, by an independent aircraft appraiser who noted all maintenance log books and avionics present. In 1993, EG&G employee, John Dent, used as an expert witness in the Rodney Matthews trial, testified as to his evaluation of this aircraft at $750,000.00; acknowledging use of the aircraft's log books to do so. In 1994, the Inspector General for the GAO and US Customs personnel performed an oversight inspection of the subject Merlin aircraft and its inventory which found nothing missing. Yet, at auction the Merlin aircraft only sold for $365,000.00. The disparity in valuation resulted from the following conspiracy and overt criminal acts.

While in the care, custody and control of EG&G and US Customs, a number of EG&G employees, to include but not limited to John Dent, and US Customs agents falsified government documents and inventories, such that a number of the aircraft's valuable log books, avionics, and other inventory were now shown missing. In furtherance of this conspiracy, said secreted inventory was hidden from Drug Enforcement Agency (DEA) agents who had performed an inspection in 1996 to determine whether the subject Merlin

aircraft would be useful in DEA operations. When the DEA declined to utilize the Merlin aircraft because of a devaluation of the some $444,000, which they attributed to missing records (log books) and avionics, the aircraft was then ordered to be sold at public auction in Ft. Lauderdale, Florida on April 30, 1997.

Subsequent to the DEA's inspection, pursuant to this ongoing conspiracy and racketeering enterprise, EG&G employees (Dent & others) placed advertising in numerous trade publications, deliberately worded to reduce the number of interested buyers. Said advertising falsely stated that the subject Merlin aircraft had "No log books," inferred missing avionics and listed none of the valuable inventory that accompanied it. On the advertised dates for public viewing, US Customs and EG&G personnel collectively displayed some log books and some avionics, but withheld from the general public those secreted avionics, logbooks and other valuable inventory; disavowing any knowledge of their whereabouts. Conversely, EG&G personnel (Dent) did permit two individuals, on behalf of a Roy Butler, Sr. from Texas, to examine and review the withheld logbooks, avionics and other inventory, at a time and place unauthorized by the Department of the Treasury; giving these confederates valuable insight which would have permitted them to outbid the general public and then utilize their winning position with which to consummate the conspiracy. That is, to pay these EG&G and US Customs personnel monies for those Merlin's log books and avionics that had been secreted from view; purloined per 18 USC 641.

Evidence shows that these co-conspirators from Texas did attend, register for, and display the requisite $25,000 minimum bid to participate in the auction, but dropped out of bidding shortly after participating. Nevertheless, the

foregoing predicates of mail–fraud, wire-fraud, conspiracy, falsified government documentation and acts of fraudulent misrepresentation, caused the Department of the Treasury to be defrauded of some $400,000.00.

Black Hole Conspiracy:

Ultimately, the bid for the Merlin aircraft was won by Brian Kilcullen (Kilcullen) of SkyKnight Air Services, Inc. (SkyKnight). Upon payment, Kilcullen took possession of the subject Merlin and all its logbooks, avionics and other valuable inventory from John Dent of EG&G, on behalf of US Customs. EG&G personnel had to turn over all inventory in their possession, as the US Customs "Custody Receipt for Seized Property" forms (#6051's) that Kilcullen was required to sign, itemized each secreted avionic, missing log books and withheld valuable inventory that was inventoried with the aircraft when originally seized on October 31, 1991.

The co-conspirator from Texas (Butler), who had criminal knowledge of the Dent Fraud Scheme, apparently unhappy with Kilcullen's win-fall, sent a letter by US Mail to the US Customs Office of Internal Affairs (Ft. Lauderdale), complaining that he believed US Customs had been defrauded at this auction. Said complaint letter, inferred by false statement that Kilcullen was involved; causing the Office of Internal Affairs to open a criminal investigation.

The investigating Internal Affairs Special Agents consulted with Assistant US Attorney Terrence Thompson of the Ft. Lauderdale US Attorneys Office, the prosecutor in the Rodney Matthews case from which the subject aircraft was forfeited. As a result of this meeting, one of the agents signed an affidavit for a seizure-warrant for all avionics and all log books belonging to the subject aircraft; attesting that

there were no log books and no avionics whatsoever with this aircraft when seized originally from Rodney Matthews in 1991; nor displayed or sold at this subsequent auction. Consequently, the grounds for this "re-seizure," were that since *apparently* these valuable log books and avionics had not been seized, adjudicated and forfeited with the aircraft itself, then they were now subject to 21 USC 881 (h) as illicit proceeds.

Subsequent sworn testimony and evidence shows that this affidavit for re-seizure was prepared by AUSA Thompson, the prosecutor: (1) who in the company of stated US Customs & IRS criminal investigators, prior to the Rodney Matthews trial, examined the subject Merlin aircraft and all its log books and avionics in the presence of EG&G employee John Dent; (2) who had utilized Dent as an expert witness in the Rodney Matthews trial, and witnessed him (Dent) testify as to both his possession of this aircraft's log books, as well, its value ($750K); (3) and, who himself, utilized an enlarged photo of the subject aircraft's instrument panel with which to cross examine Rodney Matthews as to the numerous "avionics" (Thompson's own words) displayed.

Prior to re-seizure, Kilcullen and retained counsel notified the US Customs seizing agent that the Merlin aircraft had been displayed at public showings with some logbooks and some avionics; and that EG&G had provided those missing logbooks and avionics to Kilcullen. Further advising US Customs that Kilcullen and counsel had possession of the 6051's, substantiating US Customs' and EG&G's prior possession of these logbooks and avionics. US Customs ignored this statement by counsel.

On July 15, 1997, pursuant to this warrant, the US Customs Service and Department of Justice executed the re-seizure of

property which was both known to not be subject to 21 USC 881, as the subject log books and avionics were known to the Justice Department (AUSA Thompson) to have already been seized and forfeited for the crimes of its previous owner (Rodney Matthews); and done so with reckless disregard for its (warrant) truth or falsity as the US Customs Internal Affairs agents had no investigation or evidence which could have led any reasonable person to believe these log books and avionics were not sold and provided to Kilcullen. When Kilcullen advised that it would be financially unfeasible to remove, in their entirety, all the avionics built into the aircraft, the seizing agent stated that pursuant to this most recent warrant, the aircraft itself was to be considered under seizure as well, and commanded that it not be moved, flown or sold.

These precipitating facts show an unlawful and unconstitutional taking of property in violation of the 4th Amendment. Property, which unbeknown to its innocent owner (Kilcullen), had just been purloined from the Department of the Treasury.

Immediately following this re-seizure, Kilcullen, in his individual capacity, claimed possessory right to the seized property and requested the court to direct US Customs to show cause, as the previous history was as yet, unknown. The court responded that it did not have jurisdiction in a *civil forfeiture* such as this and directed Kilcullen to file suit.

In two separate meetings with Kilcullen and counsel, AUSA Thompson steadfastly refused to return Kilcullen's property; stating he needed to know the logbooks' and avionics' value apart from the aircraft itself and asserted he had evidence of false statements and collusion. After eight months and filing two legal actions, Kilcullen was eventually successful in

obtaining the release of the aircraft, complete with all of its logbooks and avionics. Nevertheless, Kilcullen incurred the expense: of both these actions, including Costs assigned by the court, for having brought them; the loss of business in their pursuit; and, the loss of credit, in his individual capacity, totaling over $700,000.00. Because of an extrinsic fraud, this travesty of justice has yet to be rectified.

Extrinsic Fraud:

The civil pursuit of due process of law for the unlawful seizure in this matter is of both an extraordinary and egregious nature. The crimes committed within the Asset Forfeiture program and the obvious confederation between law enforcement (US Customs), contractors (EG&G) and the Department of Justice itself has created a loose-knit organization, which bars any equitable, let alone, constitutional redress.

The record is succinct in that at no time did Kilcullen permit any relevant statute of limitations to expire. The confederation, concealment and conspiracies, stated above, and to follow, have barred not only due process for Kilcullen, but more importantly, the due administration of justice in the prosecution of crimes against the United States.

The following is a brief overview of the procedural pursuit of due process by Kilcullen; due process (substantive) which as of the filing of this Petition, has yet to take place:

97-CIV-7027: SkyKnight v. USA/US Customs
Filed on August 25, 1997, case was summarily dismissed on September 29, 2000 by Sovereign Immunity; with no discovery permitted. Government sought and obtained an 18 month stay of civil proceedings in order to complete a

criminal investigation which resulted in no arrests or convictions. All filings by the government were peculiarly consistent with its contractor, EG&G; even though both parties changed their positions with respect to the subject aircraft's log books and avionics a number of times. Although, Kilcullen was cleared of all wrong doing, the seizing agent stated it was his belief that John Dent had made false statements to him.

97-CIV-3765: SkyKnight v. EG&G

Filed on October 27, 1997, after nearly a year of EG&G refusing to participate in discovery, this case was dismissed September 30, 1998; on the grounds that the plaintiff did not have a contractual agreement with EG&G and that plaintiff could prove no set of facts to support his claims. EG&G only proffered an incomplete and heavily redacted discovery response some weeks prior to dismissal. Discovery was redacted and screened by the Department of Justice attorney defending US Customs (97-CIV-7027).

Criminal Complaint: Inspector General ~ Treasury

On or about October of 2001, Kilcullen filed a criminal complaint with the Inspector General's Office for the Department of the Treasury. Upon a cursory debriefing by a Special Agent Dennison (OIG), a criminal investigation was opened on November 16, 2001. Some years later, it was learned that the Treasury OIG Office had concluded that John Dent had perjured himself in civil depositions taken in this matter, as well, before a grand jury convened by AUSA Thompson. Further, Special Agent Dennison noted in his Report of Investigation, "Dent is prevaricating in my presence," during interview. The Treasury OIG brought this to the attention of the Department of Justice, but the Ft. Lauderdale US Attorneys Office refused to prosecute.

FRCP Rule 60(b)(3): Kilcullen Motion, *pro se*

Filed on December 24, 2001, Kilcullen, no longer able to afford counsel due to the losses directly attributed to this matter, sought the Ferguson court's equitable jurisdiction (97-CIV-7072 & 3765) to: overturn the fraudulently obtained judgments; sanctions against EG&G, US Customs and counsel; and, opening of the grand jury testimony convened by AUSA Thompson. Although, the government responded to this motion, EG&G, having had an ex-parte communication with the court, did not. Judge Ferguson never acknowledged this motion.

02-60964: Kilcullen/SkyKnight v. Guy Lewis, et al.

Having heard nothing from the Ferguson court, in order that the relevant statute of limitations did not expire, as permitted by FRCP Rule 60(b)(3), on July 15, 2002, Kilcullen, acting *pro se*, brought a combined Racketeering (18 USC 1964) and constitutional (Biven's) action, seeking due process of law for the unlawful taking of his property and redress for the fraudulent misrepresentations of EG&G. The named defendants furthered the extrinsic fraud initiated in Kilcullen's original due process pursuit (97-CIV-7027 & 3765) by further concealing all evidence determinative to the defrauding of the Treasury (Aircraft Auction) and Kilcullen. This was done so by: once again, outright refusing to comply with discovery; placing before the court, false statements of material fact such that the crimes and conspiracies of the defendants would be concealed; and, raising inappropriate affirmative defenses, only made possible by said defendants' *collective* concealment. The court (Judge Zloch) dismissed this equitable pursuit, without any discovery or evidentiary hearing into the clearly disputed material facts displayed in court filings by granting of said affirmative defenses.

03-12108H: Kilcullen/SkyKnight v. Guy Lewis, et al.
Kilcullen, acting *pro se*, appealed 02-60964 to the 11th Circuit Court of Appeals on April 18, 2003. Both EG&G and the government, furthered the extrinsic fraud by sending through the US Mail, responses which repeated known false statements of material fact, in order that the court be defrauded in its judgment. The 11th Circuit affirmed Judge Zloch's decision without opinion.

Subsequently, Kilcullen re-petitioned the 11th Circuit, *en Banc*, but said petition was denied.

Rule 60(b)(3): On February 19, 2004, Kilcullen filed another equitable motion before Judge Zloch seeking to reopen 02-60964. Even though this motion expounded upon and provided evidence of fraud on the court by the defendant parties, Judge Zloch was unavailing. Kilcullen then motioned the judge to recuse himself, but Zloch was equally unavailing.

04-197: Kilcullen/SkyKnight v. Guy Lewis, et al.
Kilcullen, having received permission to file out of time by Justice Kennedy, appealed to the Supreme Court by Writ of Certiorari, on June 4, 2004. The government and Texas (Butler) defendants did not respond, but on October 27, 2004, the EG&G defendants, by and through counsel, perpetrated fraud on the court in order that the Supreme Court be defrauded in its lawful function and judgment. Said fraud, sent by US Mail, was brought to the Solicitor General's attention, but he remained silent. The court denied Kilcullen's petition on November 29, 2004. Kilcullen, re-petitioned the court on December 23, 2004, but the Supreme Court denied said re-petition on January 24, 2005. Neither the Supreme Court nor Department of Justice (FBI), duly notified of fraud, both intrinsic and extrinsic, made inquiry or

investigation into this matter.

From on or about 1997 through 2006: Kilcullen filed a number of Freedom of Information Act (FOIA) requests with the relevant federal law enforcement agencies (US Customs, Treasury, Homeland Security, IRS). As of the filing of this Petition, pursuant to said FOIA requests, no information or evidence known to be in possession of the relevant office or agency, determinative to these crimes, has been received. In some instances FOIA is ignored altogether. (ie. Justice Dept.)

From on or about 1997 through 2006: Kilcullen filed a number of criminal complaints with pertinent federal law enforcement agencies (US Customs, Treasury, Homeland Security, IRS, FBI). Except for the Treasury OIG investigation referenced, no criminal investigations are brought. For example: Kilcullen gave a four and one-half hour statement (complaint), complete with documentation, to IRS criminal investigators, to include the original case agent in the Rodney Matthews case; only to be told subsequently that she was no longer permitted to talk to Kilcullen. Afterwards, a FOIA request for any information or investigation deriving from this complaint was filed with the IRS, but as of the filing of this Petition, there has been no response or acknowledgement.

As of the filing of this Petition, the Treasury has not been remunerated for the losses purloined in the sale of the subject aircraft; John Dent and others, have not been held accountable for the enumerable crimes committed; a number of individuals masquerading as law enforcement, both named and unnamed, are still occupying sovereign positions crucial to national security; and, Kilcullen has yet to see substantive due process or any redress for the losses attributed to this criminal organization.

Further, Kilcullen is barred entry into most federal law enforcement agencies and for all intents and purposes, enjoys no rights or protections afforded by the Constitution of the United States.

July 4, 2008: Enemies in War,

Kilcullen, pursuant to the 5th Amendment *capital, or otherwise infamous crime* clause, brings a direct constitutional criminal indictment against all named defendants. Said indictment, was served upon the then President, George Bush, then Attorney General, Michael Mukasey, Inspector Generals for the Departments of Treasury, Homeland Security and Justice, the entire Senate and House, and this Court. As of the filing of this Petition, no response whatsoever from those government offices and officials served, has been received.

ARGUMENT

This Petition seeks prosecution and redress for crimes and cover-ups which strike at the heart of this Nation and its very legitimacy; a final Petition of the most rudimentary constitutional nature.

The United States of America is a self-governing republic, in which its Constitution is the supreme *Law of the Land* (Article VI, Clause 2); not the government nor any of its officers. Yet, the forgoing account reveals that not only do many in our government no longer adhere to their constitutional oaths of affirmation (Article II, Section 1, Clause 8 ~ Article VI, Clause 3) to support and defend this Constitution, but that these fellow citizens have perverted the institutions and processes of this Nation to wield inequitable and unconstitutional powers over its People; a direct subversion of the foundation upon which this Nation was founded. That being, that all men are created equal!

This constitutional attack is the crux upon which this case and Petition rest, because in the end, if we as citizens are held accountable to the law, but as evidenced here, those in government service are not, then the resulting inequity makes apparent, that we are no longer equal. That those who have entered government service now enjoy greater latitude and command greater powers over the very People who empower them. Not only a most inequitable and unconscionable scenario, but a criminal one; as those whom have gained access to these sovereign offices and powers have only done so by taking said oath to support and defend this Constitution. A constitutional affirmation they could have only taken with *purpose of evasion*; perjury by any other name.

Just Powers:

Article 1, Section 8, Clause 18: grants the Legislature the powers to make *all Laws which shall be necessary and proper for carrying into Execution* only what is permissible under this Constitution. Based on the premise of our Declaration of Independence, our Nation's charter provides for governance where *all men are equal* and defines *just powers* as only those powers to which the governed consent.

The historical fact is that these States did not *consent,* or *unite,* upon the ratification of the Constitution in 1789. Fearing an empowerment of a new government that would quickly descend into tyranny and despotism, most States demanded written protections for the rights of the individual. Essentially, a limitation on the powers afforded this new government, because they knew first-hand that *power corrupts and absolute power corrupts absolutely*. It was not until 1791, upon the ratification of the Bill of Rights by three/ fourths of the States that the People *consented* to the governance of the *United States of America*.

Those first ten amendments, the Bill of Rights, brought to *prevent misconstruction and abuse* of the powers afforded this new government, *for all intents and purposes*, became an integral part of our Constitution. Each Amendment and clause therein, carries the same weight and effect as that of any Article or clause in the Constitution's main body; making equal the powers of the People from whom the *powers* of this Nation derive, to that of any of its officers, offices or the United States government as a whole. Hence, this sovereign's *just powers* only extend to where the individuals' powers begin; the Bill of Rights.

Once this Bill of Rights is breached (unlawfully), no matter the rationalization, whatever form of government to emerge is neither just nor equitable, and the injuries to the People it is supposed to serve, limitless.

21 USC 881:
Asset Forfeiture
(Civil & Criminal)

The 4th Amendment states in no uncertain terms, *The right of the People to be secure in their person's, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath of affirmation, and particularly describing the place to be searched, and the persons or things to be seized*.

The 5th Amendment mandates that no citizen can "*be deprived of life, liberty, or property, without due process of law;*"

The 8th Amendment states "*nor excessive fines imposed,*"

Yet, Congress has legislated a statute which surreptitiously makes available to the government the ability to seize and forfeit property:

- Without just (probable) cause.
- Without compensation.
- Retroactively, for crimes which predate an innocent owner.
- With no statute of limitation.
- With no limit on the fine to be imposed.
- In a prejudicial manner that does not afford an innocent owner, due process of law.

Under the premise of combating illegal drugs, 21 USC 881 plainly states that all *houses, papers and effects*, to include real and personal property, conveyances, monies and/or firearms are subject to seizure and forfeiture for use, intended use and/or traceable to proceeds from any of the violations of law cited. But no where in the statute does it state that the person or persons using or intending to use these properties must own or have a possessory right to said properties, nor properties traceable to such activity. In so doing, assigning animation to inanimate objects, or more to the point, holding property itself criminally liable for its own crime.

By driving a literary wedge, fabricated from the sheer idiocy of what an inanimate object does, did or thought of doing, between an object and its lawful (innocent) owner, the government has colored an unequivocal violation of the 4th Amendment, lawful; termed Civil Forfeiture.

The definition of property (*effects*) is anything that can be owned or to which a possessory claim can be made; by a person. Clearly, the Constitution's framers never envisioned that the Legislature would re-define the English language by creating a whole new class of property. Property, which in and of itself, can now perpetrate or contemplate perpetration of crimes; autonomous from its owner and in so doing, be held accountable for said violation.

The historical cites brought forth to date by the government and these courts, look to pre-Judeo-Christian practices, the Bible (deodands), old British law and the early American colonies for justification of such forfeitures. (Calero-Toledo v. Pearson Yacht Leasing Co., 416 U.S. 663) Clearly, these courts have forgotten that this Nation was born out of a revolution fought to free us from the very same oppressive authority to which they now look for justification. Looking

to ancient history, the old Testament and colonial British law for authority with which to justify our laws is not only incredulous, but tantamount to a negation of the Declaration of Independence and Constitution of the United States in their entirety.

This statute not only allows the government to assign a criminal violation to an inanimate object, but does so with no statute of limitations. Paragraph (h) Vesting of Title in United States: states in no uncertain terms that all right, title and interest, vest in the United States upon commission of the act giving rise to this statute. Essentially, securing an open-ended (General Warrant) warrant which never expires; leaving any and all subsequent innocent owners to suffer an unwarranted loss of property (value) in perpetuity; no matter whether or not there was a good faith purchase of said property.

Further, the overly broad formation and wording of the statute, provides for the government a prejudicial advantage, while at the same time, placing an innocent owner in an untenable position. As evidenced here, the government possesses the ability to merely infer, or in this instance, invent a violation in order to seize property, then is conveniently positioned to bar access to the very discovery and evidence with which an innocent owner could disprove such allegation. No where in the statute does it afford the owner of any and all properties, the ability to defeat such prejudice; let alone such criminal application as evidenced herein.

These courts have found that "a forfeiture can only be applied to those cases in which the means that are prescribed for the prevention of a forfeiture may be employed." Needless to say, this does not bear out in this case, as this historical

extrinsic fraud, still intact today, makes clear that the statutory wording of 21 USC 881 is woefully inadequate, if not non-existent, when it comes to protecting the rights of an innocent owner. (Peisch v. Ware, 4 CRANCH 347, 363)

Treason was the only crime for which the framers sought open ended forfeiture. (Article III, Section 3, Clause 2) If it had been their intent to follow in the foot steps of the Crown with *deodands* and *general warrants*, they would have enumerated it for all to see; instead of drafting the 4th Amendment which was specifically brought to prevent such generalized warrants. Of which the retroactive forfeiture of properties, that are not even known to exist when a crime is prosecuted, let alone possessed by a person with criminal knowledge or intent, is nothing short of an open-ended general warrant. This is why our Bill of Rights expounds in its preamble that these *further declaratory and restrictive clauses should be added; to prevent misconstruction and abuse* of the powers afforded this government.

In addition, the 9th Amendment makes clear, it was not to be construed that other rights not enumerated, could be denied or disparaged. Just because the Constitution's framers didn't write a charter of the size and depth of the Federal Rules of Civil Procedure, didn't grant the courts the power to point to what was not stated, as justification for such *misconstruction*.

And even though an argument could be put forth for the constitutional application of Criminal Asset Forfeiture under 21 USC 881, the absence of a limitation on the fine to be imposed is conveniently missing; directly conflicting with our 8th Amendment, *"nor excessive fines imposed,"* clause.

In short, 21 USC 881, a colorful master piece of artifice and whimsical hyperbole, is absolutely not a *necessary and*

proper law for *carrying into Execution the Powers vested by this Constitution*. More significantly, it has been totally ineffective in its inferred purpose, as drug convictions have been steadily escalating since its legislation some thirty years ago; right along with the number of fraud, waste and abuse schemes it engenders.

An unconstitutional law is no law at all and all Americans should disavow both its implement and any sovereign officer or office which seeks to wield such usurpation; no matter what legitimate nature in which it cloaks itself.

The Racket:

Beyond the obvious, that being theft of property (Sovereign's & Kilcullen's), the first and foremost casualty of 21 USC 881 is the 5th Amendment due-process clause. "*...nor be deprived of life, liberty, or property, without due process of law,"* mandates that where an invasion of a person's privacy and/or rights has taken place, our courts must permit investigation accordingly to insure the lawfulness of such invasion. To bar such accountability is to not only negate the impetus for our Bill of Rights entirely, but to encourage the very misconstruction and abuse of the People's powers that they were drafted to protect. Precisely what has occurred in this instance.

This is the thread which binds the ongoing pursuit of due-process in the Statement of Case. In spite of enumerable petitions for criminal prosecution and due-process the officers of stated departments, agencies and offices, repeatedly and doggedly violate their respective oaths of office. FOIA's are incomplete or ignored entirely; Criminal Complaints are not prosecuted or ignored entirely; Civil Actions are dismissed without ever permitting discovery by

granting of premature affirmative defenses; and, a lawful indictment (Enemies in War,) served upon the highest law enforcement offices and officers of this Nation is ignored.

These law-enforcement agencies, departments and officers of the Department of the Treasury (IRS), Homeland Security (Customs & Border Protection) and the Department of Justice (Criminal Division, FBI), are not afforded any such discretion in the application of the law where its own agents and offices are involved.

The *President* (Article II, Section 1, Clause 8), the *Senators, Representatives and all executive and judicial officers, shall be bound by Oath or Affirmation, to support this Constitution* (Article VI, Clause 3). It is made abundantly clear that upon taking office, all must affirm to *support and defend this Constitution,* and *well and faithfully discharge the duties of the offices* on which they enter (5 USC 3331). Done so to remove from these officers any arbitrary or capricious discretion which could be abused to sway or otherwise corrupt the due administration of justice. But yet, here we are some eleven years and millions of dollars later, whilst a number of Executive officers noticed of a criminal element in their ranks: repeatedly violate their oaths; shun their sworn duties; and abandon our Constitution. In the defense of those who were and are criminally derelict in the protection of our borders no less.

Our Constitution sets the boundaries and infrastructure of not just any government, but a government where all men are equal. It is the very premise and foundation upon which it was drafted. To that end, it is not a guide or reference that affords discretion or broad interpretation. It is to be construed rigidly; as it is within its articles, clauses and amendments that that underlying premise of equality lay.

Evidenced by the foregoing factual account in this matter, our government today has, under the color of law, breached this balance; this equality. Over time, self-importance and pride has corrupted those in government into perceiving that they know more than what our Constitution's framers knew; that they possess greater wisdom. A miss-perception, which deludes them into rationalizing that they, mere men, are better suited to wield the power of the People, than the People themselves. As the balance of power tilts further from center (equality) the empowered, drunk on the arrogance of power, see themselves in an ever increasing skewed perception of reality. They continually see themselves far wiser than they actually are; the People as far less worthy of equality; and, the Constitution, a mere impediment, to be misconstrued, abused and ultimately, negated.

In this ever spiraling pursuit of justness and security to rationalize such usurpations as 21 USC 881, justness and security themselves become fleeting, as these supposed lawful officials, both unwilling and unable to reign in their own misguided powers, now find themselves on the wrong side of the Bill of Rights; on the wrong side of the Law. Just as represented in the Statement of Case, once these law-enforcement officials recognize their predicament, it becomes a natural evolutionary response to think first of themselves and their own transgressions; instead of the Constitution they affirmed to defend and the duties they swore to discharge.

It is at this moment that the wisdom of the People of those early American States comes into view. The Bill of Rights was not brought just to protect the People from government, but to protect our form of self-government from the people whom elect to serve in it. *Power corrupts and absolute power corrupts absolutely.* This, the people of those early American colonies knew first hand, but many of those in

government today have lost sight that they are not the government, but merely the custodians serving at the behest of the People who empower this Constitution. The balancing and mitigating force that should be ever present in the *United States of America* has been, is and should always remain its Bill of Rights. Primarily for those people who serve in government, as they are the ones subjected to the insidious corruptive nature of power; an amalgamation which has indisputably been the downfall of every political entity throughout time.

SUMMATION:

In the absence of judicial review, criminal prosecution and redress for the crimes, evidenced in the Statement of Case and indictment, Enemies in War, a jurist could only reasonably deduce that the citizens of this Nation are now subject to an undeclared, arbitrary and as yet, unwritten law. A usurpation by those in government that utilizes the Constitution of the United States as a mere artifice by which to defraud; in the end, a deliberate and willful criminal scheme that relies greatly on *purpose of evasion* and perjury (5 USC 3331) to deceive the People. In so doing, removing those most basic inalienable rights to which all men are entitled and relegating We the People to the governance of criminals.

If, in fact, the Constitution of the United States is still valid and these crimes and those criminal persons and entities named are neither sanctioned nor acting within their respective job descriptions, as set forth, then this court is constitutionally bound to issue a Writ of Mandamus to command those Executive offices and officers named, to execute their sworn duties to prosecute those indicted (Enemies in War,). Or in the alternative, just as in the early days of the United States, empower the Petitioner with the powers of the court: to impanel a grand jury; command officers; subpoena persons and evidence; issue warrants; and, prosecute accordingly. Further, the issuance of a Writ of Prohibition against the further application of 21 USC 881 on the basis of its patent unconstitutionality and demonstrated unlawful implement is mandated.

Free men cannot subjugate to such oppression, such criminality and remain free. Therefore, if this panel should deny this last ditch effort to rectify this aberration of law,

then Petitioner Brian Kilcullen, a free man, will have no choice but to reject this sovereign's authority, substitute his own and seek equity on his own terms. Since, it will be plainly evident that the Constitution of the United States is no longer the law of this land.

Respectfully submitted, April 1, 2009.

_____

Brian Kilcullen, *pro se*
PO Box 11111
Ft. Lauderdale, FL 33339
Tel: (954) 858-5312

APPENDIX

A-1: U.S. Court of Appeals - 11th Circuit - Order

A-2: U.S. Court of Appeals - 11th Circuit - Order

A-3: U.S. Court of Appeals - 11th Circuit - Order

A-4: U.S. Court of Appeals - 11th Circuit - Mandate

B-1: U.S. District Court - Southern District of Florida - Final Order of Dismissal

A-1

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 03-12108
Non-Argument Calender

D.C. Docket No. 02-60964-CV-WJZ

BRIAN KILCULLEN,

Plaintiff-Appellant,

versus

GUY A. LEWIS,
TERRENCE THOMPSON,
ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the
Southern District of Florida

(November 5, 2003)

Before TJOFLAT, DUBINA and MARCUS, Circuit Judges.

PER CURIAM:

Brian Kilcullen appeals the district court's order of March 19, 2003 dismissing this action, which presents claims under the Racketeer Influenced and Corrupt Organization Act (RICO), 18 U.S.C. 1964(c), the Supreme Court's decision in Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388, 395-97, 91 S.Ct. 1999, 2004-05, 29 L.Ed.2d 619 (1971), and various state laws. Stripped to its core, Kilcullen's appeal challenges the district court's holdings that (1) the district court lacked jurisdiction to review another district judge's decision, (2) Kilcullen lacked standing to assert his claims, and (3) the statute of limitations barred all but one of his claims.

The district court's March 19 order addressed each of these points comprehensively and at length. We find no error in the court's analysis or the conclusions it reached.

AFFIRMED.

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

November 5, 2003

THOMAS K. KAHN
CLERK

A-2

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 03-12108

BRIAN KILCULLEN,

Plaintiff-Appellant,

versus

GUY A. LEWIS,
TERRENCE THOMPSON,
ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the
Southern District of Florida

BEFORE: TJOFLAT, DUBINA and MARCUS, Circuit Judges.

BY THE COURT:

Appellant's motion "for sanctions and disciplinary action ..." is DENIED.

The Butler Appellees' motion for sanctions against Appellant pursuant to Eleventh Circuit Rule 27-4, for filing a frivolous motion, is GRANTED in the

amount of $437.50 in attorney's fees.

The EG&G Appellees' request to strike the Rule 11 letters and Affidavit of Appellant attached to Appellant's motion for sanctions is DENIED. The Court notes that it will not consider those documents in its review of the merits of this appeal.

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

November 5, 2003

THOMAS K. KAHN
CLERK

A-3

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 03-12108

BRIAN KILCULLEN,

Plaintiff-Appellant,

versus

GUY A. LEWIS,
TERRENCE THOMPSON,
LAURIE RUCOBA,
HOWARD WEINTRAUB,
MICHAEL CONSAVAGE, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the
Southern District of Florida

ON PETITION (S) FOR REHEARING AND PETITION (S) FOR REHEARING EN BANC (Opinion_____, 11th Cir., 19__, ____F.2d____).

Before: TJOFLAT, DUBINA and MARCUS, Circuit Judges.

PER CURIAM:

The Petition (s) for Rehearing are DENIED and no Judge in regular active service on the Court having requested that the Court be polled on rehearing en banc (Rule 35, Federal Rules of Appellate Procedure), the Petition (s) for Rehearing En Banc are DENIED.

ENTERED FOR THE COURT:

"s/ illegible"
UNITED STATES CIRCUIT JUDGE

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

JAN 28 2004

THOMAS K. KAHN
CLERK

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 03-12108

BRIAN KILCULLEN,

Plaintiff-Appellant,

versus

GUY A. LEWIS,
TERRENCE THOMPSON,
LAURIE RUCOBA,
HOWARD WEINTRAUB,
MICHAEL CONSAVAGE, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the
Southern District of Florida

JUDGEMENT

It is hereby ordered, adjudged, and decreed that the attached opinion included herein by reference, is entered as the judgment of this Court.

Entered: November 5, 2003
For the Court: Thomas K. Kahn, Clerk
By: Gilman Nancy

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

Nov 5, 2003

THOMAS K. KAHN
CLERK

ISSUED AS MANDATE
FEB 05, 2004
US COURT OF APPEALS
ATLANTA, GA.

B-1

Note: Though the following adjudication states that the facts adopted by the Court for this Order were as set forth by the Plaintiff (Petitioner), the presiding judge, in many cases, not only cites material facts as plead by the defendants', but fabricated a number of relevant anomalies on his own accord; contentions that are neither supported by the record or based in fact. Further, coloring the allegations as set forth in the Complaint (DE-1) as civil in nature instead of the criminal allegations plead by the Complainant (Petitioner).

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 02-60964-CIV-ZLOCH

BRIAN KILCULLEN,

FINAL ORDER OF DISMISSAL

Plaintiff,

vs.

GUY LEWIS, TERRENCE THOMPSON, LAURIE RUCOBA, HOWARD WEINTRAUB, MICHAEL CONSAVAGE, JOHN DEVANEY, MICHAEL PALMER, EG&G TECHNICAL SERVICES, INC., formerly EG&G Dynatrend, Inc., EG&G, INC., GEORGE MELTON, JERRY HAWKINS, JOHN DENT, ROY BUTLER, SR., ROY BUTLER, JR., and PATRICK HOLMES,

Defendants,
_____/

THIS MATTER is before the Court upon Defendants, Roy Butler, Sr., Roy Butler, Jr., and Patrick Holmes' Motion to Dismiss Plaintiff's Amended Complaint With Prejudice And Motion to Strike Demand For Punitive Damages (DE 77), Defendants, EG&G, Inc., EG&G Technical Services, Inc., George Melton, Jerry Hawkins and John Dent's Motion To Dismiss Plaintiff's Amended Complaint For Monetary Damages And Injunctive Relief With Prejudice And Motion To Strike Demand For Punitive Damages (DE 78) and Defendants, Guy Lewis, Terrence Thompson, Laurie Rucoba, Howard

Weintraub, Michael Consavage, John Devaney and Michael Palmer's Second Motion To Dismiss For Failure To State A Claim (DE 80). The Court has carefully reviewed said Motions, the entire court file and is otherwise fully advised in the premises.

I. Background

Plaintiff, Brian Kilcullen (hereinafter "Kilcullen") commenced the above-styled cause by filing a Complaint For Monetary Damages (DE 1) on July 15, 2002. The Complaint (DE 1) filed by Brian Kilcullen "pro se" named as Plaintiffs "SkyKnight Air Services, a Florida Corporation and Brian Kilcullen, President", contained 335 numbered paragraphs on fifty-six (56) pages, listed nine (9) Counts against various groups of Defendants and included one hundred pages of exhibits. By prior Order (DE 15) the Court required Kilcullen and SkyKnight Air Services, Inc. (hereinafter "SkyKnight") to "file a short and plain statement of their cause of action in compliance with Rule 8 of the Federal Rules of Civil Procedure" and identified specific information that Kilcullen and SkyKnight were required to provide. Also, in that Order (DE 15) the Court noted that failure to comply with its provisions would result in dismissal. Kilcullen "pro se" on behalf of SkyKnight and himself as president filed a thirty-one (31) page response (DE 32) to the Court's Order (DE 15). Additionally, Kilcullen "pro se" on behalf of SkyKnight and himself as president filed a thirty-one (31) page "RICO Case Statement Per Local Rule 12.1" (DE 41).

Noting that a corporation cannot appear pro se, by prior Order (DE 63) the Court required SkyKnight to

retain legal counsel by December 2, 2002 and stated that failure to retain counsel would result in SkyKnight's claims being dismissed. SkyKnight did not retain legal counsel, however Kilcullen filed a "Motion For Rule 24(a)-2 Intervention Of Right And/ Or Rule 25(c) Substitution Of Parties" (DE 65) seeking to modify the Complaint (DE 1) and to substitute Kilcullen as a Plaintiff in place of SkyKnight. By prior Order (DE 68) the Court, noting that pro se pleadings must be construed liberally, construed Kilcullen's Motion to Intervene (DE 65) as a Motion to Amend the Complaint which the Court granted. The Court noted, however, that Kilcullen "must establish standing for any action brought in his own name" and, in any action on behalf of SkyKnight, the corporation must be represented by an attorney. On December 27, 2002, Kilcullen acting pro se on behalf on himself only filed an Amended Complaint For Monetary Damages and Injunctive Relief (DE 73) listing, in 490 numbered paragraphs and eight five (85) pages, nine (9) Counts against various groups of Defendants and including one hundred pages of exhibits.[1] Furthermore, on January 25, 2003, Kilcullen filed a fifty (50) page "Amended RICO Case Statement Per Local Rule

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1 The Court notes that the Amended Complaint (DE 73) violates Fed.R.Civ.P. 8 in that it is not a "short and plain statement" of Kilcullen's claims. Moreover, by prior Order (DE 15), the Court required Kilcullen to comply with this rule. Nevertheless, as pro se pleadings are to be construed liberally, e.g. Loren v. Sasser, 309 F.3d 1296, 1301 (11th Cir. 2002), the Court will consider the factual allegations broadly and consider any cause of action which may be based thereon.

12.1" (DE 79).

The Amended Complaint (DE 73), like the original Complaint (DE 1), is based on a series of events which occurred in 1997. Kilcullen is the sole employee, officer and shareholder of SkyKnight a corporation organized and existing under the laws of the State of Florida and having it's primary place of business in Broward County Florida. See DE 1, P 1; DE 73, P 8.[2] On or about October 31, 1991, a 1979 Swearingen Merlin III aircraft registration number N802ME and its associated inventory (collectively hereinafter the "aircraft") was seized by the United States Customs Service (hereinafter the "USCS") from Rodney Matthews in relation to a criminal investigation and indictment. In due course, the USCS inventoried, valued and put up for auction the aircraft. Significant to the above-styled cause, the aircraft's logbooks which are necessary for proper registration and maintenance of the aircraft were not properly inventoried. As a result, although the USCS originally appraised the aircraft as if it was accompanied by a complete set of logbooks, later inventories and valuations demonstrate an incomplete set of logbooks. Moreover, documents concerning the auction of the aircraft and the eventual price for the aircraft at auction on April 30, 1997 evidence an incomplete set of logbooks.

Defendant, EG&G Technical Services, Inc. (under its

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2 Unless otherwise specified, the facts adopted by the Court for the purpose of this Final Order of Dismissal are those set forth by Kilcullen in his Amended Complaint (DE 73).

former name, EG&G Dynatrend, Inc.) was contracted by the USCS to possess and maintain the aircraft pending the outcome of the Matthews investigation and trial. EG&G Technical Services, Inc. and its parent company Defendant, EG&G, Inc. and their employees Defendants, George Melton, Jerry Hawkins and John Dent (collectively hereinafter the "EG&G Defendants") allegedly (either negligently or intentionally and as part of a conspiracy) altered USCS documents and mislead potential buyers as part of a plan to devalue the aircraft. During April 1997, the EG&G Defendants, acting on behalf of the USCS, advertised and displayed the aircraft in preparation for a public auction. Among the viewers and eventual bidders were Kilcullen on behalf of SkyKnight and Defendants, Roy Butler, Jr., and Patrick Holmes on behalf of Defendant, Roy Butler, Sr. (collectively hereinafter the "Butler Defendants"). On April 30, 1997, SkyKnight's offer of $365,000 was the high bid in an auction conducted by the EG&G Defendants and on May 13, 1997 SkyKnight took possession of the aircraft. Upon taking possession, SkyKnight discovered logbooks and other avionics not inventoried or disclosed by the EG&G Defendants and, on May 15, 1997, SkyKnight offered the aircraft for sale with complete logbooks and all associated inventory for $495,000.

After contacting SkyKnight regarding the resale of the aircraft, Defendant, Roy Butler, Sr. contacted by telephone and sent a letter dated May 21, 1997 to Defendant, Howard Weintraub of the USCS noting Butler, Sr.'s concern regarding the "possible criminal defrauding of the U.S. Government." Soon thereafter the USCS and the Office of the United States

Attorney for the Southern District of Florida commenced an investigation SkyKnight's purchase of the aircraft at auction and SkyKnight's proposed resale of the aircraft. Defendants, Howard Weintraub, Michael Consavage, John Devaney and Michael Palmer of the USCS, Assistant United States Attorneys, Defendants Terrence Thompson and Laurie Rucoba and the United States Attorney for the Southern District of Florida at the time, Defendant Guy Lewis, (collectively the "Federal Defendants") were allegedly involved in the criminal investigation and subsequent civil litigation regarding the aircraft. On June 18, 1997, SkyKnight entered into a contract to sell the aircraft to Pat Grasch of PATCO, however, the sale was stalled because of liens which interfered with title to the aircraft. On July 15, 1997, in compliance with a subpoena, SkyKnight turned the aircraft's logbooks over to the USCS and pursuant to a warrant the aircraft was seized. Soon after the seizure of the aircraft, SkyKnight allegedly could no longer "conduct business."

On July 20, 1997, Kilcullen filed an Emergency Motion For Relief From Seizure Order which, on July 30, 1997 was denied for lack of jurisdiction by United States Magistrate Judge Lurana Snow. Subsequently, on August 25, 1997, SkyKnight through legal counsel and based on the facts outlined above filed a "Complaint For Return Of Seized Property, Monetary Damages, and Injunctive Relief" against the United States and the USCS. This case was assigned to Judge Wilkie Ferguson of the United States District Court for the Southern District of Florida under docket number 97-7027-CIV. Through this Complaint, SkyKnight sought damages and

injunctive relief arising out of an "unlawful seizure". A multitude of discovery issues were raised and litigated by the parties. On September 29, 2000,[3] Judge Ferguson granted summary judgment in favor of the defendants ruling that the United States had not waived sovereign immunity to allow a property owner to seek damages for a violation of constitutional rights. Judge Ferguson subsequently granted in part the defendants' Motion to Tax Costs.

On October 27, 1997, based on the same facts outline above SkyKnight, through Legal counsel, filed, in Florida state court, a "Complaint and Demand For Trial By Jury" against EG&G, Inc. and EG&G Dynatrend, Inc. This case was removed to federal court, assigned the docket number 97-3765-CIV and transferred to Judge Ferguson. In this Complaint, SkyKnight sought relief based on Breach of Contract, Breach of Implied Contract, Negligent Misrepresentation and Tortious Interference with a Business Contract. A multitude of discovery issues were raised and litigated by the parties. On September 30, 1998, Judge Ferguson dismissed this action for failure to state a claim. Judge Ferguson subsequently denied SkyKnight's Motion For Reconsideration and granted in part the defendants' Motion To Tax Costs.

On February 9, 1998, the aircraft was released by the USCS. Though not acknowledged by Kilcullen in the Amended Complaint (DE 73), SkyKnight sold the

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3 The Court notes that Case no. 97-7027-CIV-FERGUSON was stayed for approximately eighteen months while a criminal investigation was pending.

aircraft at a profit in April, 1998. See DE 80, p.3. The remainder of the Amended Complaint's factual allegations concern interactions with the various Defendants regarding pleadings entered in and evidence offered in the two cases presented to Judge Ferguson. In the Amended Complaint and in his various responses to the instant Motions (DE Nos. 77, 78, 80[4]), Kilcullen specifically relies on alleged discovery violations which occurred during the prosecution of the two cases before Judge Ferguson as a basis for his action and as grounds to deny the instant Motions to Dismiss.

The Amended Complaint (DE 73) has nine (9) labeled Counts. Each Count, in violation of Fed. R. Civ. P. 8, includes multiple causes of action allegedly committed by all or various groups of the Defendants. The Counts are labeled: "Count I-Negligent Misrepresentation"; "Count II-Fraudulent Misrepresentation"; "Count III-Fraud In The Inducement"; Count IV-Unlawful Seizure"; "Count V-Tortious Interference With A Business"; "Count VI-

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The Court notes that Kilcullen's Response To Defendants Guy Lewis, Terrence Thompson, Laurie Rucoba, Howard Weintraub, John Devaney, Michael Consavage, Michael Palmer's Second Motion To Dismiss (DE 89) was filed in violation of Rule 5.1(A) (4) of the Local Rules of the United States District Court for the Southern District of Florida. Kilcullen, after the Court by prior Order (DE 87) denied his Motion for Leave to File in Excess of 20 Pages (DE 85), reduced the page margins of his pleading below one inch. As Kilcullen's Response (DE 89) merely restates arguments already before the Court, however, the Court does not strike this pleading.

Civil Conspiracy To Cover-Up Fraud, Unwarranted Seizure, Perjury And Obstruction Of Justice"; "Count VII- Fraudulent Non-Disclosure And Fraudulent Concealment"; Count VIII- Intentional Infliction Of Emotional Distress"; and "Count IX-Injunctive Relief From Court Orders Closing 97-CIV-7027 & 97-CIV-3765 And Awarding USA/USCS & EG&G Dynatrend, Inc. Tax For Costs." As a subheading to each of these Counts, Kilcullen alleges violations of the federal RICO Act, 18 U.S.C. 1962, the Florida RICO Act, Fla. Stat. ch. 772.103 and the Fourth and Fifth Amendments to the United States Constitution.

In their Motion (DE 77), the Butler Defendants suggest five grounds upon which the Court should dismiss all or part of Kilcullen's Amended Complaint. The are: (1) Kilcullen lacks standing to pursue these causes of action, (2) the applicable statutes of limitations bar these claims, (3) failure to state a claim upon which relief may be granted, (4) the claims are barred by the doctrine of collateral estoppel, and (5) the court lacks jurisdiction to review orders issued by Judge Ferguson.

In their Motion (DE 80), the Federal Defendants suggest eight grounds upon which the Court should dismiss all or part of Kilcullen's Amended Complaint. They are: (1) failure to comply with the pleading requirements of Fed. R. Civ. P. 8, (2) Kilcullen lacks standing to pursue these causes of action, (3) the applicable statutes of limitations bare these claims, (4) the federal RICO claim has not been properly plead, (5) federal employees are not subject to state common law claims for acts within the scope of their employment, (6) Defendants, Lewis, Thompson and

Rucoba as government attorneys are absolutely immune for acts within the scope of their employment, (7) the non-attorney Federal Defendants are entitled to qualified immunity, and (8) the claims are barred by the doctrine of collateral estoppel.

In their Motion (DE 78), the EG&G Defendants suggest five grounds upon which the Court should dismiss all or part of Kilcullen's Amended Complaint. They are: (1) Kilcullen lacks standing to pursue these causes of action, (2) the claims are barred by the doctrine of collateral estoppel and res judicata, (3) failure to state a claim upon which relief may be granted, (4) the applicable statutes of limitations bar these claims, and (5) the court lacks jurisdiction to review orders issued by Judge Ferguson.

II. Subject Matter Jurisdiction

Subject matter jurisdiction is a threshold issue for the Court. Steel Co. v. Citizens For A Better Env't, 523 U.S. 83, 94-95 (1998). In determining subject matter jurisdiction the Court must look to the allegations of Kilcullen's Amended Complaint (DE 73). McMaster v. United States, 177 F. 3d 936, 940 (11th Cir. 1999). The Court notes that the Eleventh Circuit requires that pro se pleadings be construed liberally. E.g. Loren, 309 F.3d at 1301; Brown v. Sikes, 212 F.3d 1205, 1209 (11th Cir. 2000). The pleadings of a pro se plaintiff, nevertheless, must comply with the jurisdictional and procedural requirements of this Court. See Taylor v. Appleton, 30 F.3d 1365, 1366 (11th Cir. 1994) (jurisdiction); Lowe v. Hart, 157 F.R.D. 550, 553 (M.D. Fla. 1994) (procedure).

A. Jurisdiction To Enjoin Or Modify Judge Ferguson's Orders

"Count IX" of Kilcullen's Amended Complaint (DE 73) "requests injunctive relief or whatever relief this Court deems just or equitable, from court orders closing 97-CIV-7027 & 97-CIV-3765 and granting previous defendants, USA/USCS and EG&G Dynatrend, Inc., Tax for Costs." This Court does not have jurisdiction to review, modify or enjoin a final order or decision of another judge in the Southern District of Florida; that is the role of the United States Court of Appeals for the Eleventh Cirsuit. See 28 U.S.C. s 129l (2002). Accordingly, "Count *X" must be dismissed.

B. Standing

Standing is a threshold issue of jurisdiction. Warth v. Seldin 422 U.S. 490, 498-99 (1975). As stated by the United States Supreme Court:

> In its constitutional dimension, standing imports a justiciability: whether the plaintiff has made out a "Case or controversy: between himself and the defendant within the meaning of Art. III [of the United States Constitution]. This is the threshold question in every federal case, determining the power of the court to entertain the suit. As an aspect of the justiciability, the standing question is whether the plaintiff has alleged such a personal stake in the outcome of the controversy as to warrant his invocation of federal-court jurisdiction and to justify the court's remedial powers on his behalf. The Art. III judicial power exists only to redress or

> otherwise to protect against injury to the complaining part, even though the court's judgment may benefit others collaterally. A federal court's jurisdiction therefore can be invoked only when the plaintiff himself has suffered some threatened or actual injury resulting from the putatively illegal action.

Id. at 498-99.

A corporation is a legal entity and may, through legal counsel, sue and be sued. An officer or shareholder may not pro se represent a corporation. See Nat'l Indep. Theater Exhibitors, Inc. v. Buena Vista Dist. Co., 748 F.2d 1381, 1385 (11th Cir, 1985). Palazzo v. Gulf Oil Corp., 764 F.2d 602 (11th Cir. 1985). By prior Order (DE 68), the Court again advised Kilcullen of this rule of law and required that he "must establish standing for any action brought in his own name." Similarly, a non-attorney shareholder may not appear pro se in a derivative action brought on behalf of a corporation pursuant to Fed. R. Civ. P. 23.1. See First Hartford Corp. Pension Plan and Trust v. United States, 194 F.3d 1279, 1291-92 (Fed. Cir. 1999).

Kilcullen, in his Amended Complaint (DE 73), asserts standing based on two theories - (1) he is the "alter ego" of SkyKnight, see pp 9-21, and (2) for injuries he suffered in his personal capacity. See pp 23. Kilcullen's first theory is unavailing as, under applicable Florida law, "when a person chooses the privilege of doing business as a corporation, even where he is the sole shareholder, he forfeits his right to claim that he is the alter ego of the corporation." See In re Woolum, 279 B.R. 865, 870 (Bankr. M.D.

Fla. 2002); see also Unichem Mfg. Co., Inc. v. Witco Chemical Corp., 522 So. 2d 98, 98 (Fla. 3d Dist. Ct. App. 1988); Resorts Int'l, Inc. v. Charter Air Ctr., Inc., 503 So. 2d 1293, 1295-96 n.l (Fla. 3d Dist. Ct. App. 1987). Accordingly, Kilcullen only has standing if he was injured in his personal capacity.

(1) State Law Claims

To determine whether a claim by a shareholder is derivative or brought in his individual capacity the Court must look to the body of the complaint and the gravamen of the injuries asserted. See Gill v. Three Dimension Sys., Inc., 87 F. Supp. 2d 1278, 1286 (M.D. Fla. 2000) (citing Alario v. Miller, 354 So. 2d 925, 926 (Fla. 2d Dist. Ct. App. 1978)); Hill v. Brady; 737 So. 2d 1243, 1244 (Fla. 5th Dist Ct. App. 1999). A derivative claim is one in which a shareholder seeks to enforce a right of action existing in a corporation - i.e. the injury sustained is the same as that sustained by any shareholder of the corporation. Gill, 87 F. Supp. 2d at 1286 (citing Leppert v. Lakebreeze Homeowners Assoc., 500 So. 2d 250, 252 (Fla. 1st Dist. Ct. App. 1986)).

In the instant matter, it is undisputed that it was Skyknight, not Kilcullen individually, which purchased, possessed and resold the aircraft and it was SkyKnight, not Kilcullen individually, which was a party to the two cases before Judge Ferguson. As a result, whatever injury stemmed from the seizure of the aircraft or the alleged discovery violations in the earlier cases, whether or not legally compensable as damages, were borne by SkyKnight and not Kilcullen individually. Claims based on these injuries, therefore, are derivative and Kilcullen lacks standing to pursue these claims in his individual capacity. See

Alario, 354 So. 2d at 926; see generally Palafrugell Holdings, Inc. v Cassel, 825 So. 2d 937, 940 (Fla. 3d Dist. Ct. App. 2001) noting that "[t]he money no longer belonged to the investors individually after they deposited it into the [corporation's] account and received stock certificates. Although the investors were indirectly injured, loss of the money was a direct and primary injury to [the corporation]."). Moreover, as noted above, a derivative claim cannot be pursued pro se. See First Hartford Corp. Pension Plan & Trust, 194 F. 3d at 1291-92.

All of Kilcullen's state law and common law claims rely on the injuries allegedly suffered by SkyKnight arising out of the purchase and subsequent investigation of the purchase of the aircraft. Accordingly these claim must be dismissed. As noted above, the Amended Complaint imbeds other claims within the labeled "Counts", therefore, it is not possible for the Court to specify which Counts must be dismissed. This reasoning, however, extinguishes any cause of action based on the allegations of the Amended Complaint (DE 73) except those seeking relief under the federal and Florida RICO statutes and for violations of the Fourth and Fifth Amendments.

(2) RICO Claims

Initially, the Court notes that Florida's RICO statutes, Fla. Stat. chs. 772l103, 895.05, have been interpreted using federal case law. See All Care Nursing Serv. V. High Tech Staffing, 135 F.3d 740, 745 (11th Cir. 1998); RLS Bus. Ventures, Inc. v Second Chance Wholesale, Inc., 784 So. 2d 1194, 1196 n.2 (Fla. 2d Dist. Ct. App 2001).

Under the federal RICO statute, 18 U.S.C ss 1961 et seq., a person whose injuries result merely from the defendant's unlawful acts towards a third party lacks standing. See Maiz v. Virani, 253 F.3d 641, 654 (11th Cir. 2001) (citing Bivens Gardens Office Bldg., Inc. v Barnett Banks of Fla., Inc., 140 F.3d 898, 906 (11th Cir. 1998) (hereinafter "Bivins Gardens II"). A shareholder, therefore, does not have standing for injuries visited on a corporation which was the target of a RICO violation. Id. at 654-55 (citing Bivens Gardens II, 140 F.3d at 906). A shareholder may, however, have standing in a RICO action in his/her own right if the shareholder can show that s/he was also the target of a RICO violation. Id. at 655. To establish that the shareholder individually was a target and to satisfy the principle underlying the RICO standing doctrine, Kilcullen must show that he will not be able to obtain a "double recovery" - i.e. that he will not be able to collect damages for the same violation in his capacity as an individual and in his capacity as a corporate shareholder. Id. at 656.

In Maiz, the individual plaintiffs were able to show standing apart from that of their corporations because the RICO violations were aimed at them as individuals before the corporations were established and additional RICO violations targeted at the individual plaintiffs occurred after formation of the corporations. Id. at 655-57. In Bivens Gardens II, the plaintiffs asserted standing in their individual capacities as shareholder, a limited partner and creditor. The Eleventh Circuit held that "the test for RICO standing is whether the alleged injury was directly caused by the RICO violation", rejected the

Second Circuit's looser RICO standing test of "reasonably foreseeable" harm and affirmed summary judgment because the plaintiffs lacked RICO standing in their individual capacities. Bivens Gardens II, 140 F.3d at 908.

In the instant case, Kilcullen lists his RICO injuries as:
(1) loss of $750,000 loaned to Skyknight to purchase the aircraft, (2) loss of money spent in pursuing SkyKnight's litigations, (3) loss of SkyKnight's profits when it ceased operation in 1997, (4) loss of other future profits from Skyknight and unspecified other business ventures, (5) extreme emotional distress resulting from his being the subject of a criminal investigation, the seizure of the aircraft, the threat of suit by PATCO (SkyKnight's buyer for the aircraft in July 1997), and the loss of money already noted and (6) "[l]oss of family well-being from afore mentioned distress." DE79, Kilcullen's Amended RICO Case Statement Per Local Rule 12.1, pp. 16-17. While the Court is not unsympathetic to the costs and stress resulting from being involved in a criminal investigation and civil litigation, these injuries are not direct to Kilcullen individually.[5] Monies spent by and on behalf of SkyKnight are direct losses only to SkyKnight. See Bivens Gardens II, 140 F.3d at 908. While

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5 The only exception is Kilcullen's assertion that he suffered emotional harm as the subject of a criminal investigation. Emotional harm is not a compensable RICO injury and thus this exception does not foreclose dismissal of Kilcullen's claim. Grogan v. Platt, 835 F.2d 844, 847 (11th Cir. 1988).

SkyKnight and Kilcullen in a derivative action have standing to bring these claims,[6] allowing Kilcullen individually to bring these claims would impermissibly risk "double recovery" Maiz, 253 F.3d at 641.

Accordingly; Kilcullen's federal and state RICO claims must be dismissed for lack of standing.

(3) Civil Rights Claims

It is well established that a shareholder, even a sole corporate shareholder, does not have standing to maintain an action for civil rights violations causing injury to a corporation. See, e.g., Potthoff v. Morin, 245 F.3d 710, 717 (8th Cir. 2001); Flynn v. Merrick, 881 F.2d 446, 450 (7th Cir. 1989); E.A. Gregory v. Mitchell, 634 F.2d 199, 202 (5th Cir. 1981).[7] As noted above, Kilcullen's alleged injuries are those suffered by SkyKnight, a corporation, thus he does not have standing to pursue a civil rights claim based upon them.

C. Conclusion

Kilcullen's failure to establish standing for any of the causes of action included in his Amended Complaint (DE 73) absents this Court of jurisdiction to consider the merits of the above-styled cause. The

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6 Though SkyKnight and Kilcullen in a derivative action would have RICO standing, the Court does not hold, or even suggest, that such a claim would succeed on the merits or even survive a motion to dismiss.

7 The Court notes that decisions of the Fifth Circuit prior to September 30, 1981 have been adopted by the Eleventh Circuit as binding. Stein v. Reynolds Secs., Inc., 667 F. 2d 33, 34 (11th Cir. 1982).

Defendants' Motions to Dismiss (DE Nos. 77, 78, 80), therefore, must be granted.

III. Statute of Limitations

The expiration of the statute of limitations also blocks further consideration by the Court. If Kilcullen had alleged facts sufficient to establish standing, therefore, as discussed below with one exception the Amended Complaint must nevertheless be dismissed as time barred.

The appropriate statutes of limitations to apply to each of the state and common law causes of action listed in Kilcullen's Amended Complaint (DE 73) are set forth in Florida Statutes s 95.11. Section 95.11 provides that any action for fraud, taking or detaining property, negligence or any intentional tort must be brought within four years of the discovery of an injury resulting therefrom. Fla. Stat. ch. 95.11(3) (2003). Under applicable Florida law, a person need not know with legal certainty that a wrong has been committed to begin the running of the statute of limitations but rather the person need only have "notice of a possible invasion of their legal rights." Senger Bros. Nursery, Inc. v. E.I.Dupont du Nemours & Co., 184 F.R.D. 674, 684 (M.D. Fla. 1999) (citing University of Miami v. Bogorff, 583 So. 2d 1000, 1004 Fla. 1991) and Doe v. Cutter Biological, 813 F. Supp. 1547, 1555 (M.D. Fla. 1993), aff'd, 16 F.3d 1231 (11th Cir. 1994)). Kilcullen, like any reasonable individual, was aware of the alleged wrongs against him at the time the aircraft was seized on July 15, 1997. Kilcullen demonstrated his awareness of the possible invasion of his legal rights by bringing suit against the United States, the USCS and the EG&G Defendants later that same year. See 97-7027-CIV-

FERGUSON, 97-3765-CIV-FERGUSON. More that four years passed between the date the aircraft was seized (July 15, 1997) and the date the original Complaint (DE1) in the above-styled cause was filed (July 15, 2002). Accordingly, these claims are time barred.

Similarly, Kilcullen's civil rights claims are time barred. The statute of limitations applied to civil rights claims is that applied to state claims for personal injury. See Kelly v. Serna, 87 F.3d 1235, 1238 (11th Cir. 1996) (citing Wilson v. Garcia, 471 U.S. 261 (1985)). As previously noted, under Florida law personal injury actions, whether intentional or negligent are subject to a four year statute of limitations. Fla. Stat. ch. 95.11(3). Thus Kilcullen's civil rights claims are time barred.

The statute of limitations for federal civil RICO claims is also four years. See McCaleb v. A.O. Smith Corp., 200 F.3d 747, 751 (11th Cir. 2000) (citing Klehr v. A.O. Smith Corp., 521 U.S. 179, 183 (1997)). The statute of limitations for a federal civil RICO claim begins to run when a plaintiff discovered, or reasonable should have discovered, that s/he is entitled to civil RICO damages for his/her injury. Id. More specifically, the time period begins to run when plaintiff discovered, or reasonably should have discovered, "both the existence and source of his injury, and that the injury is part of a pattern." Id. (quoting Bivens Gardens Office Bldg., Inc. v. Barnett Bank, Inc., 906 F.2d 1546, 1554-55 (11th Cir. 1990)).

Kilcullen had notice of his alleged injuries, its source and the existence of an alleged pattern on July 15,

1997 - the date of the seizure of the aircraft. On that date, he knew of the earlier misrepresentations by the EG&G Defendants regarding the aircraft's value and knew that the Federal Defendants were investigating the events leading up to the seizure. This is the core of the factual allegations upon which the federal civil RICO claim relies, thus, Kilcullen must have had notice of the injury, its source and the alleged pattern which according to the Amended Complaint ties the EG&G Defendants, the Federal Defendants and eventually the Butler Defendants together. Similarly, in McCaleb the Eleventh Circuit held that knowledge of a series of misrepresentations leading up to the discovery of an injury makes the date of the injury the day upon which the statute of limitations for a civil RICO claim begins to run. 200 F.3d at 751. It is immaterial whether Kilcullen had knowledge of the Butler letter on July 15, 1997, because, according to the facts alleged in the Amended Complaint, when the aircraft was seized he reasonably should have known of the RICO pattern based on the actions of the EG&G Defendants and the Federal Defendants alone. Moreover, the litigation-related acts which comprise the remainder of the Amended Complaint's factual allegations cannot serve as predicate acts for a civil RICO claim, see McMurtry v. Brasfield, 654 F. Supp. 1222, 1225-56 (E.D. Va. 1987) (citations omitted), and thus do not prolong the statute of limitations. Kilcullen's federal civil RICO claim is time barred.

Finally, the Court notes that Florida's civil RICO statute provides a five year limitations period. Fla. Stat. ch. 772.17 (2003). Kilcullen filed his original Complaint (DE 1) on the last day of the limitations

period. See McMillen v. Hamilton, 48 So. 2d 162, 163-64 (Fla. 1950) (holding that the statute of limitations period begins the day after the day the injury is discovered). Assuming Kilcullen had standing to bring this claim, which as discussed above Kilcullen does not, it would not be time barred.

Accordingly, after due consideration, it is ORDERED AND ADJUDGED as follows:

1. Defendants, Roy Butler, Sr., Roy Butler, Jr., and Patrick Holmes' Motion To Dismiss Plaintiff's Amended Complaint With Prejudice And Motion To Strike Demand For Punitive Damages (DE 77), Defendants, EG&G, Inc., EG&G Technical Services, Inc., George Melton, Jerry Hawkins and John Dent's Motion To Dismiss Plaintiff's Amended Complaint For Monetary Damages And Injunctive Relief With Prejudice and Motion To Strike Demand For Punitive Damages (DE 78) and Defendants, Guy Lewis, Terrence Thompson, Laurie Rucoba, Howard Weintraub, Michael Consavage, John Devaney and Michael Palmer's Second Motion To Dismiss For Failure To State A Claim (DE 80) be and the same are hereby GRANTED;

2. Brian Kilcullen's Amended Complaint For Monetary Damages And Injunctive Relief (DE 73) is DISMISSED with prejudice; and

3. To the extent not otherwise disposed of herein, all pending Motions are hereby DENIED as moot.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 19th day of March, 2003.

"s/WILLIAM J. ZLOCH"
WILLIAM J. ZLOCH
Chief United States District Judge
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Filed by ____ D.C.
March 19, 2003
illegible
Clerk of the Court
S.D. of Fla. Ft. Laud.