

## **OPPOSITION OF THE UNITED STATES TO DEFENDANT'S MOTION**

Yet again, Defendant submits a motion to this court consisting almost entirely of *ad hominem* attacks upon the character of the Attorney General and nearly bereft of citations to relevant authority of any kind. This motion, as Defendant's previous motion, should be summarily denied in its entirety.

### **I. The Defendant's Motion is Unavailable under Rule 12(b) or Any other Rule**

For a second time, the Defendant apparently invokes Federal Rule of Civil Procedure 12(b) to seek dismissal of the charges against him. The prosecution declined to raise this point in its opposition to Defendant's motion to dismiss because a motion to dismiss is also available under the rules of criminal procedure. But there is no motion, under either the civil or criminal rules, that can dismiss criminal charges on the basis of "conflict of interest" or "dereliction of prosecutorial responsibility," even *if* the novel claims were true--which they are not. *See generally* Fed. R. Civ. P. 12.; Fed. R. Crim. P. 12.

### **II. At Best, Defendant's Motion is Barred as an Attempt to Re-file a Motion to Dismiss**

Even if the instant motion were to be construed as a legitimate motion--which it is not--it would need to be construed as a motion to dismiss: Defendant seeks dismissal of the charges against him and Defendant claims to have brought the motion pursuant to Federal Rule of Civil Procedure Rule 12(b), which governs motions to dismiss. Because Defendant has already filed, and lost, a motion to dismiss, the instant motion should be denied.

Defendant is not entitled to file and re-file motions to dismiss as new arguments happen to occur to him. *See, e.g.,* Fed. R. Civ. P. 12(g)(2) ("[A] party that makes a motion under [Rule 12] must not make another motion under this rule raising a defense or objection that was available to the party but omitted from its earlier motion."); Fed. R. Crim. P. 12, Notes of Advisory Committee on Rules ("All . . . defenses and objections must be included in a single motion.") . For this reason alone, the motion should be denied in its entirety.

### **III. A Prosecutor's Previous Judicial Position Is Irrelevant**

Defendant's position appears to be, despite failure to cite to authority of any kind, that the Attorney General has a conflict of interest because the Attorney General has previously ruled that the Defendant violated the Constitution. As a matter of law--and common sense--this is not and cannot be a conflict of interest.

First, Defendant cites no authority for its claim that a "conflict of interest" is a defense to criminal charges. For this reason alone, this argument should be rejected.

Second, the factual and legal issues in the instant case differ from those at issue in the cases brought before the Sierra Supreme Court: specifically, whether the Defendant

violated federal criminal laws in acting as he did--not whether he technically acted within the bounds of the constitution as a matter of civil law. Moreover, while perhaps instructive, the decisions the Attorney General authored as Chief Justice of Sierra are not dispositive in the instant case.

Third, the Code of Federal Regulations does not contemplate the alleged “conflict of interest” to in fact be a conflict of interest. The requirement of “impartiality” pertains to matters like preexisting “personal and business relationships” with relevant parties. 5 C.F.R. § 2635. They do not relate to litigation vaguely related to the performance of past public duties.

[META: In the alternative, this is preposterous and should be meta-stricken. If ethical rules preclude anyone in the sim from prosecuting anyone else in the sim due to a “prior relationship”, then no one can ever be prosecuted.]

#### **IV. The Attorney General’s Statements Were Legitimate and Non-Prejudicial**

The Model Rules of Professional Conduct do not constitute a criminal defense; accordingly, this argument has no place in the instant motion. If Defendant wishes to file a complaint with the American Bar Association, or a separate complaint regarding the Attorney General’s conduct, then it can do so.

Regardless, the Attorney General has complied fully with the Model Rules of Professional Conduct. Under the American Bar Association’s Criminal Justice Standards for the Prosecution Function, “the prosecutor may make statements that inform the public of the nature and extent of the prosecutor’s or law enforcement actions and serve a legitimate law enforcement purpose.” Here, all of the Attorney General’s statements served to inform the public and a legitimate law enforcement purpose. The Attorney General’s statement announcing the arrest of the Defendant served the purpose of informing the public of the arrest and of the nature of the charges against the Defendant. Defendant’s entire argument about an ethical violation hinges entirely upon the term “concentration camp,” which is an accurate descriptor of what Defendant attempted to do. The definition of a concentration camp is “a place where large numbers of people, especially political prisoners or members of persecuted minorities, are deliberately imprisoned in a relatively small area with inadequate facilities.” Concentration Camp, *Oxford English Dictionary*. Defendant attempted to send “large numbers” of “political prisoners” (Republicans) and “persecuted minorities” (white citizens) to “small areas” with likely inadequate facilities.

The Attorney General letter to the Chairman of the Judiciary Committee on January 6 likewise accurately described the Defendant’s actions and, moreover, served a legitimate law enforcement objective: preventing the Chairman from his ongoing efforts to interfere with the prosecution of the instant case.

Defendant's claims about "obstruction of justice" lack any citation to fact or law, have no basis in reality, and should be dismissed as well.

[META: This should also be meta-stricken. If this rule to be enforced in the way that Defendant wishes it to be enforced, the ability of an Attorney General to act as a political appointee within the context of the sim would be completely neutralized.]

## **V. Conclusion**

For the aforementioned reasons, Defendant's motion--whatever it might be--should be denied in its entirety.

Respectfully submitted

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