

FILED

2014 Dec-18 AM 09:37  
U.S. DISTRICT COURT  
N.D. OF ALABAMA  
2014 Dec-04 PM 03:58  
U.S. DISTRICT COURT  
N.D. OF ALABAMA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA

2014 DEC -3 A 11:12 SOUTHERN DIVISION

CV-14-BE-8061-E

UNITED STATES OF AMERICA )

v. )

ROY DANIEL ELLENBURG )

Case No.:

1:14-cr-85-KOB-JHE-1

**DEFENSE MOTION REQUESTING SPECIAL DISCOVERY HEARING  
TO DETERMINE IF THE LEVEL OF COURT APPOINTED REPRESENTATION  
WAS ADEQUATE, PURSUANT TO 18 U.S.C. § 3006A**

COMES NOW, the accused ROY DANIEL ELLENBURG in PRO-SE by necessity in the above styled action, within his rights to due processes of law to be heard, and his Constitutionally protected "RIGHT" to petition the government for a redress of grievances, and hereby MOVES this court to demand the presence of the accused, the government's attorney, all appointed defense attorneys, investigators for the defense, and experts for the defense, to present to this court evidence that the accused did in fact have "ADEQUATE" representation pursuant to 18 U.S.C. § 3006A(a). In support, the accused shows the court the following:

- 1) It is stated in 18 U.S.C. § 3006A(a) in part that, "Each United States district court...shall place in operation throughout the district a plan for furnishing representation for any person financially unable to obtain adequate representation in accordance with this section...Each plan shall provide the following:"
- 2) 18 U.S.C. § 3006A(a)(1) states that "Representation shall be provided for any financially person who..."
- 3) 18 U.S.C. § 3006A(a)(1)(H) states that "is entitled to

appointment of counsel under the Sixth Amendment of the Constitution..."

- 4) In this action, the accused has been deprived of his liberty due to [VOID] felony conviction and is therefore eligible for the "ASSISTANCE" of counsel pursuant to the Sixth Amendment.
- 5) This court, on or about March 18, 2014, entered into record a judicial determination that the accused was indigent and unable to obtain adequate representation on his own.
- 6) The court as yet not made available to the accused adequate representation pursuant to 18 U.S.C. § 3006A(a).

#### ARGUMENT

It is indisputable that this statute, enacted by Congress, makes clear that the accused in any felony proceeding cannot be prejudiced due to poverty, and the district court is responsible for not only appointing representation, but upholding the rights of the accused of adequate representation. Any district judge who finds that court appointed counsel has failed in any way to provide adequate counsel, such as:

- 1) Refuses to file motions for the defense;
- 2) Refuses to investigate the case for possible defenses;
- 3) Refuses to hire investigators and/or experts;
- 4) Refuses to take witness testimony;
- 5) Refuses to subpoena evidence; or
- 6) Fails to provide a defense for the accused in any other way;

Is duty bound to act pursuant to this statute, and appoint "ADEQUATE" representation pursuant to 18 U.S.C. § 3006A.

DEFENSE MOTION TO APPOINT ADEQUATE COUNSEL  
TO PETITION THE SUPREME COURT FOR  
WRIT OF HABEAS CORPUS  
PURSUANT TO 28 U.S.C. § 2241


The accused hereby moves this court to appoint ADEQUATE counsel for the purpose of executing his petition to the Supreme Court of the United States for Writ of Habeas Corpus, as it is clear that the accused is imprisoned in violation of the Constitution of the United States. The defense shows the court the following:

- 1) The accused is convicted based upon:
  - A) Plead under duress and threat.
  - B) Accused denied First Amendment right to petition the government for redress of grievances.
  - C) District court failed to appoint adequate representation.
  - D) Conflict of interest for defense counsel to file Notice of Appeal for Ineffective Assistance of Counsel against himself; etc...
- 2) The accused requests that this court expedite its response to this motion as it may be necessary to prepare his Notice of Appeal to the Supreme Court of the United States.

WHEREFORE, above premises considered, the accused MOVES this court to ISSUE an ORDER granting this [his] motion and all relief required herein, and all other relief required by LAW, LIBERTY, and EQUITY.

Done This 28th Day of November, 2014

Respectfully Submitted,

x 


Roy Daniel Ellenburg, PRO-SE  
31541-001  
Federal Correctional Institution  
P.O. Box 5000  
Oakdale, LA 71463

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I have served a copy of this pleading upon the Clerk of the Court, properly addressed, First-Class Postage prepaid. The accused further requests that a copy of this [his] motion be forwarded to all parties as he is detained, indigent, and has no other means.

Done This 28th Day of November, 2014

Respectfully Submitted,

x 

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