

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

Case No. 4:10-cv-142-D

)	
MARK DANIEL LYTTLE,)	
)	ICE DEFENDANTS'
Plaintiff,)	MOTION TO DISMISS
)	
v.)	
)	
UNITED STATES OF AMERICA, et al.,)	
)	Fed. R. Civ. P. 12(b)(6)
Defendants.)	
)	

THE ICE DEFENDANTS' MOTION TO DISMISS

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Dashanta Faucette, Dean Caputo, and Robert Kendall (collectively referred to as the "ICE defendants") move to dismiss Counts 1-3 in their entirety. In support of this motion, the ICE defendants rely upon the attached memorandum of law and accompanying exhibits.

Respectfully submitted this 24th day of June 2011,

TONY WEST
Assistant Attorney General, Civil Division

C. SALVATORE D'ALESSIO, JR.
Acting Director, Torts Branch

JAMES R. WHITMAN
Trial Attorney, Torts Branch

/s/ David G. Cutler
DAVID G. CUTLER
IL Bar No. 6303130
Trial Attorney
United States Department of Justice
Torts Branch, Civil Division

P.O. Box 7146, Ben Franklin Station
Washington, D.C. 20044-7146
Tel: (202) 616-0674
Fax: (202) 616-4314
E-mail: david.g.cutler@usdoj.gov

GEORGE E.B. HOLDING
United States Attorney

W. ELLIS BOYLE
Assistant United States Attorney
Civil Division
310 New Bern Avenue
Suite 800 Federal Building
Raleigh, N.C. 27601-1461
Tel: (919) 856-4530
Fax: (919) 856-4821
E-mail: ellis.boyle@usdoj.gov
N.C. Bar No. 33826

*Attorneys for Dashanta Faucette,
Dean Caputo, and Robert Kendall*

CERTIFICATE OF SERVICE

I certify under penalty of perjury that on June 24, 2011, I electronically filed the foregoing "Motion to Dismiss" using the Court's CM/ECF system, which will send notification of such filing to the following counsel of record:

COUNSEL FOR PLAINTIFF:

Jeremy L. McKinney
jeremy@mckinneyandjustice.com

Ann Marie Dooley
annmarie@mckinneyandjustice.com

Michael E. Johnson
michael.johnson@troutmansanders.com

Brian P. Watt
brian.watt@troutmansanders.com

Alexandria J. Reyes
alex.reyes@troutmansanders.com

Katherine L. Parker
acluncklp@nc.rr.com

Judy Rabinovitz
jrabinovitz@aclu.org

COUNSEL FOR DEFENDANT NORTH CAROLINA DEPARTMENT OF CORRECTION:

Joseph Finarelli
jfinarelli@ncdoj.gov

/s/ David G. Cutler
DAVID G. CUTLER
IL Bar No. 6303130
Trial Attorney
United States Department of Justice
Torts Branch, Civil Division
P.O. Box 7146, Ben Franklin Station
Washington, D.C. 20044-7146
Tel: (202) 616-0674
Fax: (202) 616-4314
E-mail:david.g.cutler@usdoj.gov