

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

PHILLIP MATHEW SIERPUTOWSKI,)	CRIMINAL NO: 6:13-CR-270
Petitioner,)	
)	
vs.)	
)	
UNITED STATES OF AMERICA,)	
Respondent.)	
)	

**PETITIONER’S OPPOSITION TO THE GOVERNMENT’S
MOTION TO DISMISS OR FOR SUMMARY JUDGMENT**

COMES the Petitioner in the above-entitled action, Phillip Mathew Sierputowski, and opposes the Government’s Motion to Dismiss or for Summary Judgment for the following reasons.

There are a number of problems with the Government’s Motion to Dismiss or for Summary Judgment (“Government’s Motion”).

The first problem is that the Government didn’t *say* anything in its Motion.

The second problem, as Petitioner’s Response to the Government’s Motion illustrates, there are a number of issues that the Government ignores, sidesteps, or simply lies about.

E.g., there are a number of problems with the Government’s position concerning these issues. The most glaring examples are:

... (This waiver does not apply to claims of ineffective assistance of counsel or prosecutorial misconduct raised pursuant to 28 U.S.C. § 2255.)

Plea agreement, ¶ 6. [8/20/2013]

Government’s Motion, p. 2.

“Prosecutorial misconduct,” according to the Government’s own plea agreement, was not waived. As Sierputowski pointed out in his Memorandum of Law in Support of his 28 U.S.C. § 2255 petition, pp. 1-7, the practice is so widespread that it amounts to an epidemic.

It should be noted that Sierputowski entered a guilty plea to Counts one and four. Therefore, any challenges to the remaining counts are not cognizable.

Government’s Motion, p. 7.

Really?

This appears to introduce a legal principle unknown previously, which seems to say:

If a federal prosecutor introduces bogus counts on an indictment and a defendant’s counsel does not catch it or expose it, then the Government is not to be held accountable for fraud and/or criminal acts.

No practicing attorney would dare bring this criminal wrongdoing by federal prosecutors to the attention of anyone (including his own defendant) in the court system, let alone the public. His career as a lawyer would be over *immediately*.

The habit of lying in court proceedings is nothing new.

[King James I] being mightily disappointed in not getting any gold, Sir Walter Raleigh was tried as unfairly, and with as many lies and evasions as the judges and law officers and every other authority in Church and State habitually practiced under such a King.

Dickens, *A Child’s History of England*, p. 390 (Collier & Son 1900).

Neither is the practice of the courts ignoring legitimate grievances.

Tyranny cannot come to America except by a failure of the judiciary to consistently be intellectually honest . . .

Kilgore, *Judicial Tyranny*, p. 14 (1977).

The aggrieved party read and reread the briefs as well as the transcripts. His mind is fed on nothing else during the three months waiting for the action of the court. He knows every point raised. He can repeat every argument advanced. All his savings through a lifetime are tied up in the case. He knows he is right. Then comes the decision. It deals with none of the points argued. It shows on its face the court refused to read the brief. He had been tossed aside like a white chip. He knows, and his friends know, he has been denied his day in court. To that man, to his family and to his friends, organized society is organized iniquity.

And the present system is manufacturing citizens of such sentiments by the thousands every year.

Underneath the social unrest of the world today, as its main underlying cause, is the feeling in the breasts of the masses that justice is not for them. They do not know the cause, nor can they suggest the remedy,—and so they only want to destroy. Society to them has come to mean organized injustice.

John Rustgard, *Dry Bones—The Remedy for the Evil*, 88 Central Law Journal, p. 341, 344 (May 9, 1919).

The third problem (or set of problems) arises from Rule 56, F. R. C. P., itself.

Rule 56. Summary Judgment

(a) Motion for Summary Judgment or Partial Summary Judgment. A party may move for summary judgment, identifying each claim or defense—or the part of each claim or defense—on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion.

The Government did not identify each claim or defense nor mention *any* material fact as required further by Rule 56:

(c) Procedures.

(1) Supporting Factual Positions. A party asserting that a fact cannot be or is genuinely disputed must support the assertion by:

(A) citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials; or

(B) showing that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.

(e) **Failing to Properly Support or Address a Fact.** If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c), the court may:

- (1) give an opportunity to properly support or address the fact;
- (2) consider the fact undisputed for purposes of the motion;
- (3) grant summary judgment if the motion and supporting materials—including the facts considered undisputed—show that the movant is entitled to it; or
- (4) issue any other appropriate order.

WHEREFORE, Petitioner Phillip Sierputowski moves this Court to grant him the relief he is entitled to.

Respectfully submitted,

Dated: August ____, 2015

Phillip Sierputowski
25226-171 FCI
P.O. Box 725
Edgefield, S.C. 29824

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CERTIFICATE OF SERVICE

This certifies that I have on this _____ day of August, 2015, placed a true and exact copy
of the

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in the U. S. Mail, first class postage prepaid, addressed to:

William N. Nettles
United States Attorney
and
E. Jean Howard
Assistant U.S. Attorney
55 Beattie Place, Suite 700
Greenville, SC 29601
(864) 282-2100

Phillip Sierputowski
25226-171 FCI
P.O. Box 725
Edgefield, S.C. 29824