

Ted Kaczynski's Motion for a Decision on the Return of Property

August 4 2003

... Kaczynski requests that this Court issue an order directing the government to refrain from disposing of any of the property at issue, or any photographs or photocopies thereof, until this Motion [for Return of Property], and any appeals of this Motion, have been decided. ...

DEFENDANT THEODORE JOHN KACZYNSKI, PRO SE
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**ORIGINAL
FILED**

AUG - 4 2003

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

THEODORE JOHN KACZYNSKI,

Defendant

CASE NUMBER

CR S-96-259 GEB

MOTION FOR DECISION

Defendant Theodore John Kaczynski has filed a Motion for Return of Property in this case, dated June 18, 2003, handed to prison officers for mailing on June 20, 2003, and received by the Office of the Clerk, Eastern District of California, on June 26, 2003, according to a U.S. Postal Service receipt. The Motion for Return of Property includes:

1.

"Request 1. Kaczynski requests that this Court assume jurisdiction, ancillary to its jurisdiction over Kaczynski's criminal case, to decide the present Motion [for Return of Property] as part of Kaczynski's criminal case and under the criminal case number, CR S-96-259 GEB." Motion at 48.

"Request 2. Kaczynski requests that this Court issue an order directing the government to refrain from disposing of any of the property at issue, or any photographs or photocopies thereof, until this Motion [for Return of Property], and any appeals of this Motion, have been decided." Motion at 49.

As of July 30, 2003, Kaczynski has received no explicit response to his Motion for Return of Property. However, Kaczynski has received an Order of this Court, dated and filed on July 11, 2003, establishing a civil case, CIV. S-03-1478 MCE KJM-PS. This Order presumably implies a denial of Request 1.

Kaczynski hereby requests that this Court promptly issue an order explicitly granting or explicitly denying each of Requests 1 and 2, *supra*, stating the reasons for its decision

2.

and citing the authorities on which the decision is based.

In connection with Request 2, Kaczynski points out the following:

A. Since the government has been holding the property at issue since April, 1996, without (as far as Kaczynski knows) disposing of any of it, it is not plausible to suppose that the government will suffer any significant prejudice as a result of being required to refrain from disposing of the property until this Court has decided its proper disposition. On the other hand, if the government is allowed to dispose of any of the property prior to this Court's decision, then Kaczynski may suffer irreparable harm, namely, loss of the property in question.

B. If there is any inadequacy in the way in which Kaczynski has presented Request 2 to this Court, then, because Kaczynski is proceeding pro se, this Court should construe Request 2 liberally and as seeking the proper remedy. See, e.g., U.S. v. Clagett, 3 F.3d 1355, 1356 n.2 (9th Cir. 1993); U.S. v. Clark, 84 F.3d 378, 381, 382 (10th Cir. 1996); Burgos v. Hopkins, 14 F.3d 787, 790 (2nd Cir. 1994);

3.

Onwubiko v. U.S., 969 F.2d 1392, 1397 (2nd Cir. 1992); U.S. v. Mosquera, 845 F.2d 1122, 1126 (1st Cir. 1988); Robles v. Coughlin, 725 F.2d 12, 15 (2nd Cir. 1983); Alexander v. Johnson, 217 F.Supp.2d 780, 795 (S.D.Tex. 2001); Matthews v. U.S., 917 F.Supp. 1090, 1103 (E.D. Va. 1996).

Dated:

July 30, 2003

Respectfully submitted,

Theodore John Kaczynski

THEODORE JOHN KACZYNSKI, Pro Se

On July 30, 2003, I placed the original and one copy of the present Motion for Decision in an envelope with first-class postage prepaid, and addressed to CLERK OF COURT, UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF CALIFORNIA, 501 I STREET, SUITE 4-200, SACRAMENTO CA 95814, and handed said envelope to an employee of the Federal Bureau of Prisons with instructions to deposit the envelope in the United States Mail.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 30, 2003

Theodore John Kaczynski

THEODORE JOHN KACZYNSKI

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
UNITED STATES OF AMERICA v. THEODORE JOHN KACZYNSKI
CASE NUMBER CR 5-96-254 GEB

PROOF OF SERVICE

On July 30, 2003, I, Theodore John Kaczynski, served a copy of each of the following documents in the above-named case:

MOTION FOR DECISION dated July 30, 2003, and
PROOF OF SERVICE for same

by placing said copy or copies in an envelope with first-class postage prepaid, and addressed to UNITED STATES ATTORNEY, EASTERN DISTRICT OF CALIFORNIA, 501 I STREET, TENTH FLOOR, SACRAMENTO CA 95814, and handing said envelope to an employee of the Federal Bureau of Prisons at the United States Penitentiary Administrative Maximum Facility at Florence, Colorado, with instructions to deposit the envelope in the United States Mail.

I declare under penalty of perjury that the foregoing is true and correct.
Executed on July 30, 2003.

Theodore John Kaczynski

THEODORE JOHN KACZYNSKI

The Ted K Archive

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<thesmokinggun.com/documents/crime/unabomber-wants-his-stuff-back>

www.thetedkarchive.com