

CERTIFICATE OF SERVICE

LAMBROS vs. U.S.A., Civil No. 0:99-CV-00028 (Judge Rosenbaum); Criminal No.  
4-89-CR-82(5)


FOR FILING:

I hereby state under the penalty of perjury that a true and correct copy of the following:

- a. SUPPLEMENTAL INFORMATION TO ASSIST THE COURT AND THE GOVERNMENT IN THEIR RESPONSE TO PETITIONER'S MOTION TO VACATE ALL JUDGMENTS AND ORDERS, AS ORDERED BY JUDGE ROSENBAUM ON SEPTEMBER 14, 2001, FILED ON SEPTEMBER 18, 2001. This Motion is dated: September 20, 2001.

was served on the following this 21st day of September, 2001, via U.S. Mail through the U.S. Penitentiary Leavenworth mailroom, to:

1. CLERK OF THE COURT  
District of Minnesota  
U.S. Federal Courthouse  
316 North Robert Street  
St. Paul, Minnesota 55101  
U.S. CERTIFIED MAIL NO. 7001-0320-0003-3598-9635  
  
One original and one copy for filing.
2. U.S. ATTORNEY'S OFFICE  
District of Minnesota  
U.S. Federal Courthouse, Suite 600  
300 South 4th Street  
Minneapolis, Minnesota 55415
3. IMMEDIATE RELEASE TO ALL "BOYCOTT BRAZIL" SUPPORTERS AND HUMAN RIGHTS GROUPS GLOBALLY FOR REVIEW, COMMENT, AND RELEASE.
4. LAMBROS' family members.

  
John Gregory Lambros, Pro Se  
Reg. No. 00436-124  
U.S. Penitentiary Leavenworth  
P.O. Box 1000  
Leavenworth, Kansas 66048-1000 USA  
Web site: [www.brazilboycott.org](http://www.brazilboycott.org)

1. FILED OR

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

JOHN GREGORY LAMBROS,                   \*  
  \*     CIVIL CASE NO. 0:99-CV-00028  
  \*     Criminal Case No. 4-89-CR-82(5)  
vs.                                       \*  
UNITED STATES OF AMERICA,           \*     JAMES M. ROSENBAUM, U.S. District Chief Judge.  
  \*     AFFIDAVIT FORM

---

SUPPLEMENTAL INFORMATION TO ASSIST THE  
COURT AND THE GOVERNMENT IN THEIR RESPONSE  
TO PETITIONER'S MOTION TO VACATE ALL JUDGMENTS  
AND ORDERS, AS ORDERED BY JUDGE ROSENBAUM  
ON SEPTEMBER 14, 2001, FILED SEPTEMBER 18, 2001.

---

NOW COMES the Petitioner, JOHN GREGORY LAMBROS, (hereinafter MOVANT)  
and requests this Court and the Government to review and consider the attached  
August 20, 2001, letter from Movant LAMBROS to Warden M. Ray, U.S. Penitentiary  
Leavenworth, Leavenworth, Kansas 66048-1000, where Movant is presently incarcerated.

Movant believes the following facts contained within Movant's August 20,  
2001 letter to Warden Ray will assist this court:

1.       The August 20, 2001 letter documents information as to U.S. Attorney  
ROBERT G. HENNER's investigation, indictment, trial procedures, and sentencing of  
Movant LAMBROS in 1976, in U.S. vs. LAMBROS, Docket Number CE-3-76-17, District of  
Minnesota.
2.       The letter proves that two (2) JUDGMENT ORDERS exist within the  
U.S. Bureau of Prisons files as to the criminal conviction described in paragraph  
one (1).
3.       The letter proves Movant LAMBROS can not be guilty of either  
JUDGMENT ORDER, as one JUDGMENT ORDER states Movant was convicted of TITLE 18,  
U.S.C., Section 111 and 114, dated June 21, 1976; and the other JUDGMENT ORDER

states Movant was convicted of TITLE 18, U.S.C., Sections 111 and 1114, dated June 21, 1976.

4. Title 18 U.S.C. Section 114: Describes MAIMING WITHIN MARITIME AND TERRITORIAL JURISDICTION, as defined within Title 18 U.S.C. Section 7. Thus the alleged crime must of occurred on land owned by the United States Government. Movant alleged crime occurred within the property owned by Movant LAMBROS in St. Paul, Minnesota, as described within Movant's Presentence Investigation Report.

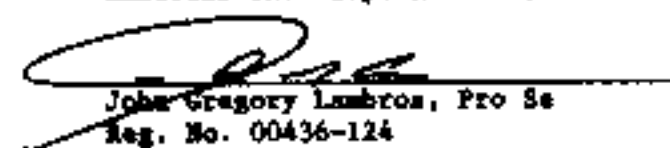
5. Title 18 U.S.C. Section 1114: Describes acts of MURDER and MANSLAUGHTER, "Whoever kills or attempts to kill . . . shall be punished as provided under Sections 1111 and 1112 of this title. . . ." Movant LAMBROS did not kill anyone and Movant's Presentence Investigation Report proves same. Also Movant indictment clearly states ASSULT. Both JUDGMENT ORDER's state ASSAULT.

CONCLUSION:

6. Movant thinks the attached letter will assist this Court and the Government in proving that U.S. Attorney ROBERT G. KENNER, in 1976, illegally indicted and prosecuted Movant in U.S. vs. LAMBROS, Docket Number CR-3-76-17, District of Minnesota.

7. I JOHN GREGORY LAMBROS declare under penalty of perjury that the foregoing and attached exhibit is true and correct, as per Title 28 U.S.C.A. §1746.

EXECUTED ON: September 20, 2001.

  
John Gregory Lambros, Pro Se  
Reg. No. 00436-124  
U.S. Penitentiary Leavenworth  
P.O. Box 1000  
Leavenworth, Kansas 66048-1000 USA  
Web site: [www.brazilboycott.org](http://www.brazilboycott.org)

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
4-49-CR-42 (3)

John Lapierre )

vs )

United States of America )

ORDER

The Court hereby directs the government to respond to petitioner's motion to  
vacate all judgments and orders (Dec-#237) by Monday, October 22, 2001

IT IS SO ORDERED:

Dated: September 27, 2001

  
JAMES M. ROSENBAUM  
United States District Chief Judge

John Gregory Lambert  
US Penitentiary  
00436-124  
Box 1000  
Leavenworth, KS 66048-1000

Case:0199-cv-00028

SEP 18 2001

FILED

U.S. DISTRICT COURT

ST. PAUL, MINN.

CLERK

U.S. DISTRICT COURT

ST. PAUL, MINN.

August 20, 2001

John Gregory Lambros  
Reg. No. 00435-124  
U.S. Penitentiary Leavenworth  
P.O. Box 1000  
Leavenworth, Kansas 66048-1000  
Web site: [www.brazilboycott.org](http://www.brazilboycott.org)

Warden K. Ray  
U.S. Penitentiary Leavenworth  
1300 Metropolitan Ave.  
Leavenworth, Kansas 66048

RE: DNA ANALYSIS BACKLOG ELIMINATION ACT OF 2000  
U.S. vs. LAMBROS, Docket No. CR-3-76-17, District of Minnesota

Dear Warden Ray:

As per our conversation today, I've attached the two (2) JUDGMENT AND PROBATION/ COMMITMENT ORDERS that appear within my U.S. Bureau of Prisons file here at Leavenworth, both initialed by Unit Manager Jones as delivered on May 06, 2001, as to U.S. vs. LAMBROS, Docket Number CR-3-76-17, District of Minnesota. This case is currently being used as a DETAINEE by the U.S. Parole Commission.

Please note that the two (2) JUDGMENT ORDERS differ as to the alleged violations I committed and was sentenced to:

- a. Title 18, U.S.C., Sections 111 and 114, dated June 21, 1976;
- b. Title 18, U.S.C., Sections 111 and 1114, dated June 21, 1976.

The alleged assault described in the above judgment orders occurred at my private duplex house in St. Paul, Minnesota on or about February, 24, 1976.

FACTS:

1. Title 18 USC Section 111: Describes assaulting a officers.
2. Title 18 USC Section 114: Describes waining within MARITIME AND TERRITORIAL JURISDICTION. The term SPECIAL MARITIME AND TERRITORIAL JURISDICTION OF THE UNITED STATES is defined within Title 18 U.S.C. Section 7.
3. Title 18 USC Section 1114: Describes "Whoever kills or attempts to Kill . . . shall be punished as provided under sections 1111 and 1112 of this title, except that any person who is found guilty of attempted murder shall be imprisoned for not more than twenty years."
4. Title 18 USC Section 1111: Describes the penalty for MURDER.
5. Title 18 USC Section 1112: Describes the penalty for MANSLAUGHTER. (The unlawful KILLING of a human being without malice.)

DNA TESTING WITHIN U.S. PENITENTIARY LEAVENWORTH:

The DNA ANALYSIS BACKLOG ELIMINATION ACT OF 2000 (hereinafter "ACT") directs the collection, analysis, and indexing of DNA samples from LAMBROS due to the following

August 20, 2001

LAMBROS' letter to Warden Ray

RE: DNA ANALYSIS TESTING

alleged qualifying federal offenses described within U.S. vs. LAMBROS, Docket No. CR-3-76-17, District of Minnesota; Title 18 U.S.C. Sections: 1114 and 1111. (federal offenses that involve or are related to MURKIN as per Department of Justice 28 CFR Part 28 [OAG 1011; A.G. Order No. 2464-2001] RIN 1105-AA78.)

Also upon review of Department of Justice 28 CFR Part 28, as described above, it states:

"[P]aragraph (1)(F) of subsection (d) includes as qualifying federal offenses several types of offenses under the major crimes act ON INDIAN COUNTRY (18 U.S.C. 1153). This is the provision under which the federal government has JURISDICTION to prosecute most serious crimes committed in INDIAN COUNTRY. The specific offense types referenced in paragraph (1)(F) are murder, . . . MURKIN, . . . Where federal law provides a general definition for such an offense in areas subject to EXCLUSIVE FEDERAL JURISDICTION, the case is charged under the pertinent federal law provision, WITH JURISDICTION PROVIDED ON 18 U.S.C. 1153. This is true, in particular, of MURKIN (18 U.S.C. 1111), MURKIN (18 U.S.C. 1112), kidnapping (18 U.S.C. 1201(a)(2)), MURKIN (18 U.S.C. 114), . . ."

(Attached is page 34363 of Department of Justice, 28 CFR Part 28, as to the above quoted paragraph)

Again, I did not commit the alleged assault on INDIAN COUNTRY OR ON FEDERAL PROPERTY.

The record as to LAMBROS entering a guilty plea in U.S. vs. LAMBROS, Docket Number CR-3-76-17 is available within the law library in U.S. vs. LAMBROS, 544 F.2d 962, 963-64 (8th Cir. 1976), which clearly states that LAMBROS pled guilty to:

"[Y]our Honor, the defendant as part of the negotiation will also this morning tender to the Court a change of plea to Count I of that other indictment in 3-76-17 pertaining to an ASSAULT AND RESISTANCE against certain Deputy U.S. Marshals and narcotics officers. That is a non-negotiated plea. That is, the offense carries a MAXIMUM PENALTY OF TEN YEARS AND \$10,000 and Mr. LAMBROS will simply enter a plea of guilty."

On January 28, 1980, the Eighth Circuit stated in U.S. vs. LAMBROS, 614 F.2d 179, 180 (8th Cir. 1980), as to LAMBROS' §2255, that:

". . . , Lambros withdrew previously entered pleas of not

Page 3  
August 20, 2001  
LAMBROS' letter to Warden Ray  
RE: DNA ANALYSIS TESTING

guilty and entered guilty pleas to one count of possession of cocaine with intent to distribute in violation of 21 U.S.C. 841(a)(1), and one count of ASSAULT WITH A DEADLY WEAPON upon a United States Marshal and agents of the Drug Enforcement Administration in violation of 18 U.S.C. §§ 111 and 1114."

I JOHN GREGORY LAMBROS did not plead guilty to any federal offenses in U.S. vs. LAMBROS, CR-3-76-17, District of Minnesota that occurred within INDIAN COUNTRY or within the terms of "SPECIAL MARITIME AND TERRITORIAL JURISDICTION OF THE UNITED STATES," as defined within Title 18 U.S.C. § 7. The alleged assault occurred within the property owned by JOHN GREGORY LAMBROS in St. Paul, Minnesota, as described within LAMBROS PRESENTENCE INVESTIGATION REPORT.

I JOHN GREGORY LAMBROS did not commit any type of murder, manslaughter, and/or crime related to homicide in U.S. vs. LAMBROS, CR-3-76-17.

THEREFORE, I am requesting the U.S. Bureau of Prisons to investigate any and all alleged QUALIFYING FEDERAL OFFENSES that may subject LAMBROS to the collection of DNA samples by BOP officials, as per the "ACT."

LAMBROS does not want to offer a DNA sample to the BOP and believes false documents exist within his central records that expose him to DNA sampling.

Thanking you in advance for your consideration and investigation into this matter.

Respectfully submitted,

  
John Gregory Lambros

7.





copy

DEPARTMENT OF JUSTICE

28 CFR Part 28

[Docket No. 191; A.G. Order No. 2444-2001]

RIN 1105-AA73

[Redacted]

**SUBJECT:** Department of Justice.  
**ACTION:** Interim rule with request for comment.

**SUMMARY:** The Department of Justice is publishing this interim rule to implement section 3 and related provisions of the DNA Analysis Backlog Elimination Act of 2000. The rule specifies the federal offenses that will be treated as qualifying offenses for purposes of collecting DNA samples from federal offenders, sets forth the responsibilities of the Bureau of Prisons for collecting DNA samples from individuals in its custody, and sets forth related responsibilities of the Federal Bureau of Investigation for analyzing and indexing DNA samples.

**DATES:** *Effective Date:* This interim rule is effective June 28, 2001.

*Comment Date:* Written comments must be submitted on or before August 27, 2001.

**ADDRESSES:** Send comments to David J. Karp, Senior Counsel, Office of Legal Policy, Room 4603, Main Justice Building, 850 Pennsylvania Avenue NW., Washington, DC 20530.

**FOR FURTHER INFORMATION CONTACT:** David J. Karp, Senior Counsel, Office of Legal Policy, Room 4603, Main Justice Building, 850 Pennsylvania Avenue NW., Washington, DC 20530. Telephone: (202) 514-3273.

**SUPPLEMENTARY INFORMATION:** All 50 states authorize the collection and analysis of DNA samples from convicted state offenders, and entry of resulting information into the Combined DNA Index System ("CODIS"), which the Federal Bureau of Investigation ("FBI") has established pursuant to 42 U.S.C. 14132. Until recently, however, there was no statutory authorization to collect DNA samples from convicted federal, military, and District of Columbia offenders. Congress acted to fill this gap in the DNA identification system through provisions of Public Law 106-549, the DNA Analysis Backlog Elimination Act of 2000 (the "Act").

Section 3 of the Act addresses the categories of federal offenders from whom DNA samples will be collected, the responsibility of the Bureau of Prisons ("BOP") and federal probation offices to collect DNA samples from

offenders in their custody or supervision, and the responsibility of the FBI to analyze and index DNA samples. This interim rule is issued pursuant to subsection (e) of section 3, which provides that, with the exception of the activities of the probation offices, the section shall be carried out under regulations prescribed by the Attorney General. The rule also addresses certain responsibilities of BOP and the FBI under other sections of the Act that are closely related to the matters addressed in section 3.

The rule adds a new part 28 to title 28 CFR relating to the DNA identification system. The new part contains subparts A and B, that relate respectively to the federal offenses for which DNA samples will be collected, and the responsibilities of BOP and the FBI in collecting, analyzing, and indexing DNA samples.

**Subpart A—Qualifying Federal Offenses for Purposes of DNA Sample Collection**

Subpart A of the rule specifies qualifying federal offenses for purposes of DNA sample collection. Section 3 of the Act, in part, requires BOP and probation offices to collect DNA samples from individuals in their custody or supervision who are, or have been, convicted of a "qualifying Federal offense." Subsection (d) of section 3 of the Act states that qualifying federal offenses are those in a specified list "as determined by the Attorney General." Since the statutory list is, for the most part, explicit about which code sections are covered, there is relatively little for the Attorney General to determine in this regulation. The specifications about covered federal offenses in section 3(d) of the Act, and their interpretation in subpart A of the new part 28 added by this rule, are as follows:

Paragraph (1)(A) of subsection (d) states that qualifying federal offenses include several offenses that involve or are related to homicide, identified by descriptive terms and code section citations—18 U.S.C. 1111, 1112, 1113, 1114, 1116, 1118, 1119, 1120, and 1121. The regulation accordingly lists offenses under these provisions as qualifying federal offenses. However, only offenses of voluntary manslaughter are covered under 18 U.S.C. 1112, because the statutory reference to "voluntary manslaughter" in connection with this section indicates a clear legislative intent not to include involuntary manslaughter.

Paragraph (1)(B) of subsection (d) states that qualifying federal offenses include most of the offenses in the sex offenses chapters of the federal criminal

code—18 U.S.C. 2241, 2242, 2243, 2244, 2245, 2251, 2251A, 2252, 2421, 2422, 2423, and 2425. The regulation accordingly lists offenses under these provisions as qualifying federal offenses.

Paragraph (1)(C) of subsection (d) provides that qualifying federal offenses include the offenses under the peonage and slavery chapter of the criminal code (chapter 77). The regulation accordingly states that offenses under that chapter are qualifying federal offenses.

Paragraph (1)(D) of subsection (d) includes offenses under the federal criminal code that amount to kidnapping as defined in 18 U.S.C. 3559(c)(2)(E). The federal criminal code offenses that correspond most closely to this definition are the general kidnapping offense (defined in 18 U.S.C. 1201), and the hostage-taking offense defined in 18 U.S.C. 1203, which is essentially a form of kidnapping in which the purpose is to coerce a third party or governmental organization. The regulation accordingly lists offenses under these provisions as qualifying federal offenses.

Paragraph (1)(E) of subsection (d) includes as qualifying federal offenses several offenses under the robbery and burglary chapter of the criminal code (chapter 103)—18 U.S.C. 2111, 2112, 2113, 2114, 2116, 2118, and 2119. The regulation accordingly lists offenses under these provisions as qualifying federal offenses.

Paragraph (1)(F) of subsection (d) includes as qualifying federal offenses several types of offenses under the major crimes act for Indian country (18 U.S.C. 1153). This is the provision under which the federal government has jurisdiction to prosecute most serious crimes committed in Indian country. The specific offense types referenced in paragraph (1)(F) are murder,

manslaughter, kidnapping, maiming, felonies under the sexual abuse chapter of the criminal code (chapter 109A), incest, arson, burglary, and robbery. Where federal law provides a general definition for such an offense in areas subject to exclusive federal jurisdiction, the case is charged under the pertinent federal law provision, with jurisdiction premised on 18 U.S.C. 1153. This is true, in particular, of murder (18 U.S.C. 1111), manslaughter (18 U.S.C. 1112), kidnapping (18 U.S.C. 1201(a)(2)), maiming (18 U.S.C. 114), felony sexual abuse (various offenses under title 102A of title 18), arson (18 U.S.C. 81), and robbery (18 U.S.C. 2111). Where federal law provides no such definition, the case is charged under the law of the state where the offense occurred, with jurisdiction premised on 18 U.S.C. 1153.

X  
X  
X