

No. 05-20319

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

—————
**UNITED STATES OF AMERICA,
APPELLEE**

v.

**JAMES A. BROWN, DANIEL BAYLY, ROBERT S. FURST, WILLIAM R. FUHS,
APPELLANTS**

—————

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS**

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**RESPONSE OF THE UNITED STATES TO DEFENDANT BROWN'S
MOTION FOR RELEASE ON CONDITIONS *INSTANTER***

The United States, through the undersigned counsel, does not oppose defendant James A. Brown's motion for release on bond pending appeal. On August 1, 2006, this Court reversed three of the five counts on which Brown was convicted. The United States is currently considering whether to file a petition for rehearing en banc of the panel's decision and has moved for an extension of time until September 14, 2006, to file a rehearing petition. The government agrees, however, that if the Court does not grant rehearing of the panel decision, Brown is entitled to be resentenced on his convictions on Counts 4 and 5 of the superseding indictment. The government

therefore does not object to Brown's release pending resolution of further proceedings concerning the panel's decision reversing three of Brown's counts of conviction.

Respectfully submitted,

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Assistant Attorney General
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_____/s/_____
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CERTIFICATE OF SERVICE

The undersigned counsel certifies that the foregoing Response of the United States to Defendant Brown's Motion for Release on Conditions *Instanter* was this day delivered to the Court by electronic mail and overnight mail. Likewise, counsel certifies that the foregoing Response was this day delivered by electronic mail and overnight mail to counsel for the appellants at the following addresses:

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DATED: AUGUST 4, 2006

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