

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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: UNITED STATES OF AMERICA, :  
: :  
: -against- : Criminal No. S3-05-CR-59 (DC)  
: :  
: OSCAR S. WYATT, JR., et. al : **NOTICE OF MOTION**  
: :  
: *Defendant.* :  
: :  
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**PLEASE TAKE NOTICE THAT**, upon the annexed affirmation of GERALD L. SHARGEL, dated the 5th day of May, 2006, the exhibits annexed thereto, the affirmation of HAROLD BRUFF, dated the 5th day of May, 2006, the exhibits annexed thereto, and the memorandum of law submitted herewith, the defendant Oscar S. Wyatt, Jr. will move this Court before the Honorable Denny Chin, United States District Judge, at the United States Courthouse for the Southern District of New York, 500 Pearl Street, New York, New York, on June 27, 2006, or on another date to be determined by the Court, for an Order:

I. Dismissing Count Two for failure to state an offense based on the incapacity of the Iraqi People and the United Nations Oil for Food Program to be victims of the charged scheme to defraud;

II. Dismissing Counts Three and Four for failure to state an offense based on an unconstitutional private delegation and *ultra vires* actions by the President;

III. Dismissing Count One for failure to state an offense or in the alternative striking references to Wire Fraud and/or violations of the Anti-Terrorism and Effective Death Penalty Act;

IV. Severing Defendant Wyatt pursuant to Rules 8 and 14 of the Federal Rules of Criminal Procedure;

V. Dismissing the Indictment based on selective, discriminatory and vindictive prosecution or in the alternative permitting discovery on these issues;

VI. Granting leave to conduct an evidentiary hearing as to any matters which the Court determines require additional factual development;

VII. Granting any additional relief this Court deems appropriate;

VIII. Defendant Wyatt hereby adopts the arguments and authorities presented in the pre-trial motions of the co-defendants in this case to the extent not inconsistent with his arguments; and

IX. Defendant Wyatt reserves the right to file additional motions to the extent necessitated by recently received discovery and other documents or evidence that may later be made available.

Dated: New York, New York  
May 5, 2006

Respectfully submitted,

/s/  
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