



# Federal District Court Judge: How Mandatory Minimums Forced Me to Send More Than 1,000 Nonviolent Drug Offenders to Federal Prison

McNabb Associates, P.C. (International and Transnational Criminal Defense Lawyers)

Submitted at 9:49 AM October 26, 2012

The Nation on October 24, 2012 released the following:

Judge Mark W. Bennett  
"Reuters/Joshua Lott

Growing up in blue collar Circle Pines, Minnesota, in the 1950s, raised by parents from the "Greatest Generation," I dreamed only of becoming a civil rights lawyer. My passion for justice was hard-wired into my DNA. Never could I have imagined that by the end of my 50s, after nineteen years as one of 678 federal district court judges in the nation, I would have sent 1,092 of my fellow citizens to federal prison for mandatory minimum sentences ranging from sixty months to life without the possibility of release. The majority of these women, men and young adults are nonviolent drug addicts. Methamphetamine is their drug of choice. Crack cocaine is a distant second. Drug kingpins? Oh yes, I've sentenced them, too. But I can count them on one hand. While I'm extremely proud of my father's service in World War II, I am greatly conflicted about my role in the "war on drugs."

You might think the Northern District of Iowa—a bucolic area home to just one city with a population above 100,000—is a sleepy place with few federal crimes. You would be wrong. Of the ninety-four district courts across the United States, we have the sixth-heaviest criminal caseload per judge. Here in the heartland, I sentence more drug offenders in a single year than the average federal district court judge in New York City, Washington, Chicago, Minneapolis and San Francisco—combined. While drug cases nationally make up 29 percent of federal judges' criminal dockets, according to the US Sentencing Commission, they make up more than 56 percent of mine. More startling, while meth cases make up 18 percent of a judge's drug docket nationally, they account for 78 percent of mine. Add crack cocaine and together they account for 87 percent.

Crack defendants are almost always poor African-Americans. Meth defendants are generally lower-income whites. More than 80 percent of the 4,546 meth defendants sentenced in federal courts in 2010 received a mandatory minimum sentence. These small-time addicts are apprehended not through high-tech wiretaps or sophisticated undercover stings but by common traffic stops for things like nonfunctioning taillights. Or they're caught in a search of the logs at a local Walmart to see who is buying unusually large amounts of nonprescription cold medicine. They are the low-hanging fruit of the drug war. Other than their crippling meth addiction, they are very much like the folks I grew up with. Virtually all are charged with federal drug trafficking conspiracies—which sounds ominous but is based on something as simple as two people agreeing to purchase pseudoephedrine and cook it into meth. They don't even have to succeed.

I recently sentenced a group of more than twenty defendants on meth trafficking conspiracy charges. All of them pled guilty. Eighteen were "pill smurfers," as federal prosecutors put it, meaning their role amounted to regularly buying and delivering cold medicine to meth cookers in exchange for very small, low-grade quantities to feed their severe addictions. Most were unemployed or underemployed. Several were single mothers. They did not sell or directly distribute meth; there were no hoards of cash, guns or countersurveillance equipment. Yet all of them faced mandatory minimum sentences of sixty or 120 months. One meth-addicted mother faced a 240-month sentence because a prior meth conviction in county court doubled her mandatory minimum. She will likely serve all twenty years; in the federal system, there is no parole, and one serves an entire sentence minus a maximum of a 15 percent reduction rewarded for "good time."

Several years ago, I started visiting inmates I had sentenced in prison. It is deeply inspiring to see the positive changes most have made. Some definitely needed the wake-up call of a prison cell, but very few need more than two or three years behind bars. These men and women need intensive drug treatment, and most of the inmates I visit are working hard to turn their lives around. They are shocked—and glad—to see me, and it's important to them that people outside prison care about their progress. For far too many, I am their only visitor. If lengthy mandatory minimum sentences for nonviolent drug addicts actually worked, one might be able to rationalize them. But there is no evidence that they do. I have seen how they leave hundreds of thousands of young children parentless and thousands of aging, infirm and dying parents childless. They destroy families and mightily fuel the cycle of poverty and addiction. In fact, I have been at this so long, I am now sentencing the grown children of people I long ago sent to prison.

For years I have debriefed jurors after their verdicts. Northwest Iowa is one of the most conservative regions in the country, and these are people who, for the most part, think judges are too soft on crime. Yet, for all the times I've asked jurors after a drug conviction what they think a fair sentence would be, never has one given a figure even close to the mandatory minimum. It is always far lower. Like people who dislike Congress but like their Congress member, these jurors think the criminal justice system coddles criminals in the abstract—but when confronted by a real live defendant, even a "drug trafficker," they never find a mandatory minimum sentence to be a just sentence.

Many people across the political spectrum have spoken out against the insanity of mandatory minimums. These include our past three presidents, as well as Supreme Court Justices William Rehnquist, whom nobody could dismiss as "soft on crime," and Anthony Kennedy, who told the American Bar Association in 2003, "I can accept neither the necessity nor the wisdom of federal

mandatory minimum sentences." In 2005, four former attorneys general, a former FBI director and dozens of former federal prosecutors, judges and Justice Department officials filed an amicus brief in the Supreme Court opposing the use of mandatory minimums in a case involving a marijuana defendant facing a fifty-five-year sentence. In 2008, The Christian Science Monitor reported that 60 percent of Americans opposed mandatory minimums for nonviolent offenders. And in a 2010 survey of federal district court judges, 62 percent said mandatory minimums were too harsh.

Federal judges have a longstanding culture of not speaking out on issues of public concern. I am breaking with this tradition not because I am eager to but because the daily grist of what I do compels me to. In 1999, Judge Robert Pratt of the Southern District of Iowa, a courageous jurist whose brilliant opinion in *Gall v. United States* led to one of the most important Supreme Court sentencing opinions in my professional life, wrote a guest editorial in The Des Moines Register criticizing federal sentencing guidelines and mandatory minimums. He ended by asking, "If we don't speak up, who will?" I hope more of my colleagues will speak up, regardless of their position on the fairness of mandatory minimum sentences for nonviolent drug offenders. This is an issue of grave national consequence. Might there be a problem when the United States of America incarcerates a higher percentage of its population than any nation in the world?"

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# “Madoff Has Met His Match: Mortgage Fraud Crime of the Century”

McNabb Associates, P.C. (International and Transnational Criminal Defense Lawyers)

Submitted at 12:54 PM October 26, 2012

Forbes on October 26, 2012 released the following:

John Wasik, Contributor

“With less than 88 years left in this century, it’s awful tough to say what the crime of this century will be.

Will it be the \$60 billion Madoff Ponzi scam? The Dot-Com bubble? My candidate is a slam dunk so far: Mortgage fraud.

Mortgage fraud took place on so many levels for so many years that it eclipses Madoff by a factor of 100. That’s my humble estimate because nobody really knows how pervasive it was. Prosecutors are still issuing indictments more than six years after the real estate market peaked.

The recent \$1 billion suit against Bank of America /Countrywide alleging that the bank sold defective loans to Fannie Mae and Freddie Mac is but a small piece of this unraveling series of financial flim-flams, which rival most scams because of its pervasive nature and involvement of thousands of financial institutions and intermediaries. The bank says the government’s claims are “simply false.”

Why is mortgage fraud such a Tyrannosaurus Rex in the world of scamdom? Because it combined easy money, greed and securitizing that avarice all over the world. It was based on the myth that home prices don’t decline and quick profits could be had by nearly anyone. You, too, could become an investment banker! More importantly, it may prove to be the mother of all swindles because it nearly took down the world’s largest financial system. And we’re not out of the woods yet.

We have some idea of how many mortgage crimes were out there thanks to the suspicious activity reports supplied to the FBI by banks, starting in the first quarter of 2006. These weren’t necessarily fraud cases that resulted in prosecution. In fact, very few ended up as court cases in which people went to jail, which has been a widespread problem in mortgage fraud.

Starting in 2006, the FBI got wind of some 7,500 suspicious mortgage activities. By 2008, that figure doubled and peaked in the second quarter of last year at nearly 30,000, according to the Financial Crimes Enforcement Network or FinCen. The number of fraud filings dropped 41 percent from the second quarter of last year through this year’s second quarter.

What do these numbers mean? That bankers suspected foul play in the origination or refinancing of mortgages. And these reports were the proverbial tip of the iceberg, because they only looked at the problem from one step in the process. Here’s what else was going on, although we don’t have any hard numbers:

- Mortgage Foreclosure “Rescues.” Companies would set up shop to promise defaulting homeowners that they could halt the foreclosure process. They’d fleece the hapless homeowner for

a steep fee, then move on.

- Appraisal Scams. Individuals would hire crooked appraisers to under-appraise a home, obtain a mortgage, then sell it at a much-higher price.
- Securitization Swindles. This may be the biggest scam of all. Junk mortgages were bundled, given the highest credit ratings, then sold to investors in vehicles like collateralized mortgage obligations. These “sub-prime loans” are still on the books of some of our largest banks, Fannie Mae and Freddie Mac.
- Robo-Signing. Banks eager to sell loans to Wall Street hurried the process along by creating automated, illegitimate pipelines. State attorneys general settled with the banks on this issue, although no one seems to have been prosecuted for these crimes and it’s done little to stem the foreclosure wave.
- Predatory Lending. Low-income areas were targeted by rapacious brokers and bankers to sell mortgages and home-equity loans with high rates and fees to people who couldn’t afford them.

How much did all of this cost Americans? Again, there’s no reliable estimate, but when this massive house of cards came tumbling down at the end of 2008, trillions were lost. Wall Street and AIG insurance got a \$700-billion-plus bailout and American homeowners are still down some \$7 trillion in terms of lost equity, according to Robert Reich, an economist and former labor secretary.

While a handful of hedge fund gurus and contrarian investors won big on betting against this mammoth mortgage swindle, “Wall Street’s excesses almost ruined the economy,” Reich said. If the Federal Reserve, U.S. Treasury, Congress, George W. Bush and President Obama hadn’t teamed up to bail out the banks, this year would’ve been worse than 1932, instead of a sluggish 2012.

And the beat goes on as prosecutors dig through layers of the mortgage fraud. Here’s just a typical sampling of some recent activity from the FBI and federal prosecutors:

“A federal indictment charged 17 defendants in Charlotte, North Carolina, and elsewhere with racketeering, investment fraud, mortgage fraud, bank bribery, and money laundering. The government alleges a criminal enterprise engaged in an extensive pattern of racketeering activities, consisting of investment fraud, mortgage fraud, bank fraud, money laundering, and distribution of illegal drugs. Members of the enterprise also bribed bank officials and committed perjury before the grand jury. The co-conspirators stole more than \$27 million from more than 50 investor victims. Rather than investing victims’ money as promised, the enterprise diverted victims’ money to finance its mortgage fraud operations and to support its members’ lifestyles.”

I wouldn’t be exaggerating if I predicted that there are hundreds more mortgage frauds yet to be discovered and prosecuted. The states are finding them all the time, some four years after the collapse of Lehman Brothers.

The larger problem is that the perpetrators are still at large and the system that allowed huge derivative gambles on mortgages is still in place. The mega-banks behind this devilish casino got larger, and still need to be broken up. Fannie Mae and Freddie Mac, the two quasi-public mortgage insurers that bought warehouses of bad mortgages, are still wards of the state. And foreclosures continue to ravage communities from California to Florida.

After what will certainly be one of the closest and contentious elections in decades, Congress needs to get to work to bust up hobbled giants like Bank of America and Citigroup. Then it needs to institute the Volcker rule to isolate speculation from federally insured banking activities or bring back Glass-Steagall, which completely separated trading from regulated lending as part of New Deal reforms.

A tax on speculative trading would also reduce systemic risk. I don’t care if banks gamble on their trading desks, but they shouldn’t do it expecting a big bailout on the taxpayers’ backs.

What can you do? You can report suspicious activity to your state attorney general or the Department of Justice, through its financial crimes site [stopfraud.gov](http://stopfraud.gov). You may not help the government land a big crook — they all seem to be enjoying their fat compensation packages in the Hamptons — but you could give prosecutors a leg up on shutting down an ongoing scam.”

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# Central Africa new drug transit hub: Interpol

McNabb Associates, P.C. (International and Transnational Criminal Defense Lawyers)

Submitted at 9:37 AM October 26, 2012

Bloomberg Businessweek on October 26, 2012 released the following:

“By Divine Ntaryike

DOUALA, Cameroon (AP) — The arrest of a Nigerian allegedly smuggling heroin here highlights what officials say is a growing problem of drug trafficking in Central Africa.

Egboka Ikechukwu, 28, appeared in court in Douala, Cameroon’s economic hub, Thursday to respond to charges of cross-border drug trafficking.

Ikechukwu was arrested Tuesday night by police at Douala International Airport shortly after arriving on a Kenya Airways flight. He has been formally charged with the possession of 7 kilograms (15 pounds) of heroin.

“The passenger’s behavior betrayed suspicion which prompted an exhaustive search of his person and luggage by customs agents,” said Customs Subdivision Commander, Gregoire Biloa. “They found three empty carryalls whose stitches had been tampered with to hide the powder which has been tested and confirmed to be heroin.”

Ikechukwu faces up to 10 years imprisonment and fines that could amount to 10 million CFA francs (\$20,000), said Biloa.

Speaking to The Associated Press from his jail cell, Ikechukwu denied the charges. He insisted he is a prosperous businessman in Nigeria and he flew to Bujumbura, Burundi via Nairobi, Kenya on October 18 to visit a friend.

“I don’t know who put the drug in my bag. I don’t know whether it’s in my hotel room in Bujumbura that they did this thing to me. In my life, I’ve never pushed drugs before. I don’t know anything about drugs,” said Ikechukwu.

“I’m a businessman. I have my own shop in Nigeria and I’m doing well. I went to Bujumbura to visit my friend and from there; I came back to Cameroon to see one of my friends, that’s all. And now I find myself in all this mess. It’s a setup,” he argued.

Despite his denials, Ikechukwu is one of a growing number of suspected drug traffickers here, according to the state prosecutor and customs and police departments. The arrest is the latest in a steadily swelling series in recent months which show that Cameroon and Central Africa are fast becoming a transit zone and marketplace for South America’s drug cartels, according to Biloa.

There has been a dramatic increase in seizures of cocaine and heroin amounting to hundreds of kilograms, according to data from border police

and customs departments at air and sea ports in the sub-region. That is a significant increase from a few grams a couple of years ago.

The neighboring region of West Africa has already become established as a transit point to Europe for South American traffickers, according to a report issued in July by regional Interpol officials.

According to them the bulging seizures confirm that Central Africa is not only fast becoming a South American drug passageway, but also a consumption base.

“A few decades ago, it was zero,” Lawrence Tang Enow, Senior Police Superintendent and Interpol Regional Training Officer in Cameroon told AP.

“After some time, we started seizing a few grams. Now we got to a situation where last year we seized 140 kilograms (308 pounds) at the Douala International Airport alone.”

Separate Interpol country reports based on police and customs statistics show increased seizures of Europe-bound cocaine and heroin and rising numbers of arrests of peddlers. The South American cartels and their local accomplices turning Central Africa into a stepping stone along their “cocaine route” to Europe by exploiting local weaknesses such as deficient controls at ports, poor traveler inspection equipment, porous land and sea borders and endemic corruption overwhelming security and customs departments, according to Interpol.

In February, the UN Office on Drugs and Crime, UNODC, estimated that cocaine smuggling in West and Central Africa currently generates some \$900 million annually, up from \$800 million in 2009.

Particularly worrying is the suspected involvement of Al Qaidi in the Islamic Maghreb (AQIM) and Nigeria’s Islamist terrorist group, Boko Haram, who may be involved in trafficking to fund their activities, according to a report published last year by the US Drug Enforcement Administration.

“When the drug dealers come in, they influence the politics of countries, criminal activities and corruption. It is a very serious problem,” said Conrad Atefor Ntsefor, official at the Interpol Central Africa Regional Bureau in the Cameroonian capital, Yaoundé.

According to him, the wealthy and powerful cartels, whose bank accounts sometimes dwarf the state budgets in some African countries, can easily buy off government officials.

UNODC has warned that Central Africa also risks increased in piracy off its coasts, illegal arms circulation, human trafficking and general instability.

“The fear is that if we don’t act and act in time, this phenomenon will become a serious cankerworm,”

Atefor warned.

The Central Africa Regional Interpol Bureau has been working with various country police and customs departments to merge and coordinate intervention strategies, reinforce databases on the movements and activities of suspects and encourage prompt information sharing to facilitate the tracking down of traffickers.

Officials say the work is paying off gradually. “We try to share information, intelligence and better coordinate through our secure communications system. I must admit here that that is what has been the driving force for the arrests of drug traffickers,” Atefor added.

The regional efforts add to periodic crackdowns being jointly organized across West and Central Africa and Latin America by the World Customs Organization, UNODC and Interpol. Between November and December 2011, one operation, staged across 25 airports in West-Central Africa and Brazil, resulted in the arrests of some 50 suspects, the seizure of over 500 kilograms (1,100 pounds) of cocaine, heroin, amphetamines, guns, counterfeit medicines, ivory and over \$3.2 million in cash.”

Douglas McNabb – McNabb Associates, P.C.’s INTERPOL Red Notice Removal Lawyers

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## Top court to hear arguments over government spying

McNabb Associates, P.C. (International and Transnational Criminal Defense Lawyers)

Submitted at 9:18 AM October 26, 2012

Reuters on October 26, 2012 released the following:

“By Terry Baynes

(Reuters) – A debate over how freely the U.S. government can eavesdrop on international communications reaches a climax on Monday in the country’s highest court.

At issue is a law passed by Congress in 2008 allowing the government to monitor the overseas communications of individuals without obtaining a warrant for each target.

The government has said it needs flexible

surveillance power to help prevent strikes by foreign militants such as the attacks of September 11, 2001.

But a group of attorneys, journalists and human rights organizations has challenged the law, saying thousands or even millions of innocent Americans are likely being monitored merely because they are communicating with people overseas.

In oral arguments on Monday, the U.S. Supreme Court will consider whether the challengers have the right to bring a suit against the law.

The government argues that, because the surveillance is secret, the challengers cannot prove they have been harmed by the law and therefore do not have standing to challenge it.

The challengers argue that they are harmed

because they must travel to meet their clients and sources in person, to avoid wiretaps. Human Rights Watch, one of the challengers, has had to pay for more plane tickets, translators, drivers and guides because of the law, the group’s general counsel, Dinah PoKempner, said.

Although the question of standing is a technical one, a victory for the government could end the challenge to the law.

If the government prevails at this stage, it will have shielded its surveillance laws from review by the courts, said Jameel Jaffer, a lawyer who represents the individuals and organizations challenging the law.



# Two Chicago-Area Defendants Charged with Alleged Commodities Fraud in Separate Federal Criminal Cases

McNabb Associates, P.C. (International and Transnational Criminal Defense Lawyers)

Submitted at 8:17 AM October 26, 2012

The Federal Bureau of Investigation (FBI) on October 25, 2012 released the following: "CHICAGO—Two defendants were charged with commodities fraud in unrelated cases, federal law enforcement officials announced today. In one case, an investment firm officer was charged with defrauding customers of approximately \$2.5 million. In the other case, a former clerk for a lean hogs futures trader was arrested today and charged with manipulating trades to generate a profit of more than \$225,000 for herself.

Joshua T. J. Russo, 30, of Chicago, a former vice president of alternative investments for Olympus Futures Inc. (previously Peak Trading Group), was charged with a single count of commodities fraud in a criminal information filed today. In a separate case, Nicole M. Graziano, 32, of Roselle, a former trading clerk, was charged with four counts of commodities fraud in an indictment returned yesterday by a federal grand jury.

Graziano was arrested this morning and later released on a \$10,000 unsecured bond after pleading not guilty before U.S. District Judge James Zagel. Russo was not arrested and will be arraigned at later date in federal court.

The charges were announced by Gary S. Shapiro, Acting United States Attorney for the Northern District of Illinois, and William C. Monroe, Acting Special Agent in Charge of the Chicago Office of the Federal Bureau of Investigation.

Each count of commodities fraud carries a maximum penalty of 10 years in prison and a \$1 million fine, and restitution is mandatory. If convicted, the court must impose a reasonable sentence under federal sentencing statutes and the advisory United States Sentencing Guidelines.

The government is being represented in both cases by Assistant U.S. Attorney Christopher McFadden.

The investigation falls under the umbrella of the Financial Fraud Enforcement Task Force, which includes representatives from a broad range of federal agencies, regulatory authorities, inspectors general, and state and local law enforcement who, working together, bring to bear a powerful array of criminal and civil enforcement resources. The task force is working to improve efforts across the

federal executive branch and, with state and local partners, to investigate and prosecute significant financial crimes, ensure just and effective punishment for those who perpetrate financial crimes, combat discrimination in the lending and financial markets, and recover proceeds for victims of financial crimes. For more information on the task force, visit [www.stopfraud.gov](http://www.stopfraud.gov).

An indictment contains only charges and is not evidence of guilt. The defendants are presumed innocent and are entitled to a fair trial at which the government has the burden of proving guilt beyond a reasonable doubt.

The details of each case follow.

United States. V. Russo, 12 CR 836  
Between March 2007 and April 2011, Russo fraudulently obtained approximately \$2.5 million from at least six investors and caused losses of more than \$1.3 million, including approximately \$208,000 in commissions for himself that he spent on gambling, vacations, clothing, theater tickets, meals, and entertainment, the charges allege. Russo obtained the funds by misrepresenting to investors that their funds would be used to purchase various investments, including shares of the Peak Performance Fund, which he knew had never accepted individual investors, and no money was ever invested with the fund. Russo allegedly made false statements about his prior performance investing in commodity futures, the level of risk, the existence and trading performance of the Peak Performance Fund, and the uses of the funds he obtained from investors. He concealed the fraud by creating and distributing false e-mails, spreadsheets, statements, and audit reports, the charges allege.

Instead of investing the funds as he purported, Russo misappropriated the money to make speculative trades—and regularly lost money—in various commodity futures, including energy sources, precious metals, agriculture products, foreign currencies, and stock indices. After providing one investor with false information about positive returns, Russo successfully encouraged that investor to refer friends and relatives to open accounts through him, resulting in additional victims.

The Commodity Futures Trading Commission and the National Futures Association assisted in the investigation.

United States. V. Graziano, 12 CR 834

Between September 2009 and August 2010, Graziano, who was a clerk for a floor trader at the Chicago Mercantile Exchange, now CME Group, secretly inserted trade cards for her own personal orders into the decks of trade cards submitted by public customers that she provided to floor traders to execute during the opening and closing brackets of trading in lean hogs futures contracts, the charges allege. She then fraudulently allocated lower purchase prices to her buy orders, and higher prices to her sell orders, to the detriment of public customers, according to the indictment. Graziano allegedly submitted at least 104 fraudulent trade cards to the appropriate clearing firms, resulting in illegal profits to her of \$13,390 during the opening bracket and \$213,680 during the closing bracket. The CME Group assisted in the investigation."

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## Mastros will fight extradition

McNabb Associates, P.C. (International and Transnational Criminal Defense Lawyers)

Submitted at 10:03 AM October 26, 2012

The Seattle Times on October 26, 2012 released the following updated story:

"Former fugitives Michael R. and Linda Mastro have hired a French lawyer and intend to fight extradition to the U.S., their Seattle attorney said Thursday.

Bankruptcy fraud — the principal crime with which the former Seattle couple have been charged — may not be an offense subject to extradition under French law, James Frush said.

The Mastros, fugitives for 16 months, were arrested by French police at the request of the FBI shortly before 3 a.m. Seattle time Wednesday in a town on Lake Annecy, in the French Alps.

They appeared before a French judge Thursday

and were ordered to remain in jail pending further proceedings, Frush said. Their next court appearance probably will be in about two weeks, he added.

Meanwhile, a federal grand jury in Seattle indicted the Mastros Thursday on 43 counts of bankruptcy fraud and money laundering — 37 more counts than they had been charged with previously in a criminal complaint issued in August 2011 that was the basis for their arrests.

Frush said the Mastros had been living in the Lake Annecy area for about a year. Le Dauphiné Libéré, a French newspaper, reported the Mastros had been renting a house under their own names in Doussard, on Lake Annecy.

The Mastros disappeared in June 2011 after failing to comply with a bankruptcy judge's order that they turn over two giant diamond rings valued at \$1.4 million. The judge later ruled the rings

belonged to Michael Mastro's creditors.

Mastro, 87, a longtime Seattle real-estate developer and lender, was pushed into one of Washington's largest bankruptcies ever in 2009 after the recession undermined his real-estate empire.

His debts to unsecured creditors have been estimated at \$250 million.

The new grand-jury indictment — product of a federal investigation that began nearly three years ago — charges that Mastro, anticipating bankruptcy, engaged in a series of illegal transactions aimed at putting several valuable assets off-limits to creditors.

Those assets included the rings and the Mastros' Medina waterfront mansion, purchased for \$15



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It's unclear how the high court will rule. Since the September 11 attacks, the court has shown a reluctance to intervene in the executive branch's national security and intelligence-gathering procedures. The fact that the court took the case means that at least four justices saw problems with a lower court ruling allowing the case to proceed.

Congress passed the original Foreign Intelligence Surveillance Act in 1978 to clamp down on government spying, which had escalated in the 1960s and 1970s. The law required the government to submit a surveillance application to a special court for each overseas individual it was targeting.

After the attacks of September 11, 2001, President George W. Bush authorized the National Security Agency's use of warrantless wiretaps in the hunt for people with ties to al Qaeda and other militant groups. The Bush administration ended that program in 2007, but Congress legalized parts of it in an overhaul of the Foreign Intelligence Surveillance Act in 2008.

Under the new law, the government no longer has to provide the court with specific names, phone numbers or email addresses of people to be tapped. Instead, it can apply for permission to conduct mass surveillance merely by stating that it plans to monitor non-U.S. persons overseas to gather foreign intelligence.

The challengers filed a lawsuit saying the new procedures violate the U.S. Constitution's Fourth Amendment protection against unreasonable search and seizures by allowing the government to sweep up communications with little judicial oversight.

One of the challengers, David Nevin, who is a lawyer for the accused September 11 mastermind Khalid Sheikh Mohammed, said the 2008 law puts lawyers on the "horns of a dilemma."

Ethics rules prohibit lawyers from holding sensitive conversations with clients when there's a

## MASTROS

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million in 2006. A bankruptcy judge has since ruled the house, like the rings, rightfully belongs to creditors, and it has been sold.

The rings' whereabouts still are unknown.

The Mastros also failed to disclose to court officials a bank account they used to make more than \$761,000 in personal purchases after Mastro entered bankruptcy, the indictment says.

Those purchases included \$107,000 in gold coins. The indictment also alleges the Mastros made false statements about the assets under oath or penalty of perjury on numerous occasions.

Most of the information in the charges was developed by James Rigby, the court-appointed trustee charged with finding and liquidating Mastro's assets and distributing them to creditors.

Frush said he doubts prosecutors can prove the Mastros engaged in an intentional scheme to defraud.

"Basically, they're trying to criminalize activities that frequently occur in bankruptcy cases," he said.

Federal officials said the Mastros flouted the law. "The allegations against the Mastros are serious, and the FBI is committed to ensuring that they face those charges," Steven Dean, assistant special agent in charge in the FBI's Seattle office, said in a prepared statement.

Before the Mastros can be tried, however, they must be returned from France. And that may not be easy, or quick.

Bankruptcy fraud appears to be an offense subject to extradition under the treaty between the U.S. and France, said Douglas McNabb, an extradition

attorney in Washington, D.C. chance the government is eavesdropping, he said. As a result, Nevin limits what he says by phone and email and instead travels to Guantanamo Bay, Cuba, to talk to his client. But those constraints can make it harder to provide the effective legal assistance that ethical rules also require.

"We've gone back to the Stone Age," said Tina Foster, a human rights lawyer who joined a brief in support of the challengers. "It's like eliminating the benefit of telecommunication and access to information."

In 2009 a federal district court in New York found that the challengers failed to prove they had been harmed by the law. But in 2011 the 2nd U.S. Circuit Court of Appeals disagreed, allowing the suit to proceed based on the plaintiffs' fear of surveillance and the cost of trying to avoid it.

The government then petitioned the Supreme Court, arguing that the challengers did not have standing to bring their suit. To have standing, the challengers had to show that their injuries were "actual or imminent, not conjectural or hypothetical," the government said in its petition.

Six former U.S. attorneys general have submitted a brief supporting the government, warning that allowing the suit to proceed would open the floodgates to litigation that would risk exposing state secrets.

The Justice Department declined to comment before Monday's oral arguments.

In separate litigation, civil liberties groups tried to hold phone companies including AT&T Inc, Sprint Nextel Corp and Verizon Communications Inc accountable for helping the government eavesdrop on private conversations. A federal appeals court in December found the companies immune to the suits, and the Supreme Court this month declined to review that case.

The case before the U.S. Supreme Court is Clapper

attorney in Washington, D.C.

But if the Mastros exercise all their appeals, it could take a year or two before they are sent home, he added.

The treaty says people can be extradited if they are charged with crimes punishable by at least a year in prison in both countries. Bankruptcy fraud carries such a sentence in the U.S., McNabb said, but he's not certain if it does in France.

When word of the Mastros' arrest broke Wednesday, Joe and Gayle Colello, of Seattle, opened a good bottle of white wine that night and toasted the news.

They were among about 200 individual "Friends & Family" investors in Mastro's ventures, loaning the real-estate magnate a total of about \$100 million in return for pledges of above-market interest payments.

Most of that investment has disappeared. Investors have gotten back about a penny on the dollar so far, and Rigby has said they probably won't get much more.

"I'm glad they got him," Joe Colello said of Mastro Thursday.

"He's really caused tremendous hardship to a lot of families. He's a man without a conscience.""

Douglas McNabb – McNabb Associates, P.C.'s International Extradition Lawyers Videos:  
[International Extradition – When the FBI Seeks Extradition](#)  
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et al v. Amnesty International et al, No. 11-1025."

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We previously discussed the [extradition treaty between the United States and France](#) here.

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# 87-year-old Seattle developer, wife indicted

McNabb Associates, P.C. (International and Transnational Criminal Defense Lawyers)

Submitted at 8:07 AM October 26, 2012

King5.com on October 25, 2012 released the following:

“SEATTLE (AP) — An 87-year-old Seattle real-estate developer and his wife, arrested in France after 16 months on the lam, were indicted Thursday on dozens of charges of bankruptcy fraud and money laundering.

The 43-count grand jury indictment accuses Michael Mastro and his wife, Linda, of fraudulently transferring interest in their \$15 million home in the tony Seattle suburb of Medina; failing to disclose a bank account that contained hundreds of thousands of dollars; and lying about the whereabouts of two huge diamonds valued at \$1.4 million, all to conceal those assets from creditors in a bankruptcy proceeding.

It also alleges the couple withdrew more than \$760,000 from their secret account to pay for a variety of personal expenses, including payment on their Bentley and Rolls Royce automobiles.

The Mastros vanished 16 months ago, after a judge ordered them to turn over the 27.8- and 15.9-carat diamonds. French police arrested the pair Wednesday in Annecy, a lake town near the Swiss border in southeastern France.

“Those who flaunt the law and ignore our legal process will be held to account,” First Assistant U.S. Attorney Annette L. Hayes said in a written statement. “Thanks to the unrelenting efforts of law enforcement both here and abroad, the Mastros have been arrested and will face the charges that the grand jury returned in their indictment today.” Michael Mastro’s lawyer, James Frush, said

Thursday the charges simply rehash allegations made during the bankruptcy proceeding. And, he suggested, if it was such serious criminal activity, the government could have charged them long ago. “This is an attempt to criminalize behavior that occurred in this bankruptcy proceeding and that occurs commonly in others,” Frush said. “There’s a real lack of evidence that this was part of a scheme to defraud.”

Frush said of his client: “He got out over his skis in a bad real-estate market and like a lot of other people, went broke. But he’s not a criminal.” Frush acknowledged that the Mastros refused to turn over the diamonds in violation of a court order. But he said that’s a civil offense, not a criminal one.

The indictment references many false statements the Mastros are accused of making with regard to the diamonds and other assets as part of the bankruptcy.

Mastro was a developer and money lender who oversaw commercial and residential projects worth an estimated \$2 billion over a 40-year career. But the market’s crash left him short, and three banks forced him into bankruptcy in 2009. He owes more than \$200 million to creditors, who are expected to receive just pennies on the dollar.

The Mastros are being held without bail in France, Frush said. He said they will fight extradition to the U.S.

Frush said the Mastros had been living under their own names in Annecy, where they had rented an apartment.

Many of the couple’s personal items have been sold at auction to repay Michael Mastro’s creditors. Dozens of designer handbags sold for up to \$900 apiece, a baby grand piano sold for \$17,000, and a

Dale Chihuly chandelier sold for \$35,000. Their 2007 Bentley convertible went for \$92,500.”

Douglas McNabb – McNabb Associates, P.C.’s International Extradition Lawyers Videos: [International Extradition – When the FBI Seeks Extradition](#) [International Extradition – Wire Transfer – Email – Telephone Call](#)

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## Termaine Washington was Indicted by a Federal Grand Jury in Pittsburgh Alleging Charges of Violating the Federal Bomb Threat Hoax Laws

McNabb Associates, P.C. (International and Transnational Criminal Defense Lawyers)

Submitted at 8:48 AM October 26, 2012

The Federal Bureau of Investigation (FBI) on October 25, 2012 released the following: “Local Man Charged with Conveying Hoax Bomb Threats

PITTSBURGH—A resident of Pittsburgh, Pennsylvania has been indicted by a federal grand jury in Pittsburgh on charges of violating federal bomb threat hoax laws, United States Attorney David J. Hickton announced today.

The six-count indictment, returned on October 23, 2012, named Termaine Washington, 22, as the sole defendant.

According to the indictment presented to the court, on September 15, 2012 through September 19, 2012, Washington conveyed several false bomb threats by telephone to the Allegheny County 911 Center, saying that a bomb would go off at Allegheny County Jail, PNC Park, and the T-station.

The law provides for a maximum total sentence of 60 years in prison and a fine of \$1.5 million. Under the Federal Sentencing Guidelines, the actual sentence imposed would be based upon the seriousness of the offenses and the prior criminal history, if any, of the defendant.

Assistant United States Attorney Shardul S. Desai is prosecuting this case on behalf of the government.

The Federal Bureau of Investigation conducted the investigation leading to the indictment in this case.

An indictment is an accusation. A defendant is presumed innocent unless and until proven guilty.”

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## “FBI issues subpoenas to MWAAs airports board; IG has questioned board’s contracting practices”

McNabb Associates, P.C. (International and Transnational Criminal Defense Lawyers)

Submitted at 12:29 PM October 26, 2012

The Washington Post on October 26, 2012 released the following:

“By Associated Press ARLINGTON, Va. — The FBI has subpoenaed documents from the board that oversees the D.C. region’s two major airports following an audit that questioned the board’s contracting policies.

A spokeswoman for the Metropolitan Washington Airports Authority confirmed Friday that the board has received subpoenas, but said it has not received any official notice of an FBI investigation.

An FBI spokeswoman declined to confirm or deny whether an investigation is under way.

The board has overhauled its ethics policies recently after facing scrutiny for its management of the \$5.6 billion project to extend the region’s Metrorail system to Dulles International Airport.

An interim audit from the Department of Transportation’s inspector general earlier this year questioned the board’s use of no-bid contracts.

The FBI subpoenas were first reported by the Washington Examiner.”

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# U.S. District Judge David Briones Issued on Thursday an Order Scheduling a Re-arraignment For Christopher Tappin

McNabb Associates, P.C. (International and Transnational Criminal Defense Lawyers)

Submitted at 9:53 AM October 26, 2012

Fox News on October 26, 2012 released the following:

“British man in missiles-to-Iran case to enter new plea

Associated Press

EL PASO, Texas – A British man accused of trying to buy missile parts from undercover U.S. agents for sale to Iran is to return to federal court in El Paso to enter a new plea.

Christopher Tappin had pleaded not guilty after his extradition from the United Kingdom in February. He was released on a \$1 million bond in April and is scheduled for trial Nov. 5.

U.S. District Judge David Briones issued on Thursday an order scheduling a re-arraignment of the 65-year-old Brit for Nov. 1. The U.S.

Attorney’s Office didn’t comment, and there’s no immediate reply to messages left with Tappin’s lawyer’s office.

Two other men indicted in the scheme have already been sentenced to prison.”

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