

STATE OF ILLINOIS  
IN THE CIRCUIT COURT OF THE 17<sup>TH</sup> JUDICIAL CIRCUIT  
COUNTY OF WINNEBAGO

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Case Nos. 01 CF 2701
	)	01 CM 8121
CLARENCE L. VANCE,	)	02 CM 637
	)	02 CM 3066
Defendant.	)	02 CM 6438

RESPONSE TO DEFENDANT’S MOTION TO DISMISS

NOW COME the People of the State of Illinois by Paul A. Logli, State’s Attorney for the County of Winnebago, Illinois and Charles J. Prorok, Assistant State’s Attorney and in response to the defendant’s Motion to Dismiss states the following:

1. The defendant is charged with the offense of Criminal Damage to Property.
2. The property the defendant is alleged to have damaged consists of soy bean plants belonging to Craig Dummer located on a parcel of property leased by Mr. Dummer from Alan Miller.
3. It is difficult to determine the substance of the legal argument relied upon by the defendant in his motion to dismiss but it would appear that the defendant alleges that Allan Miller did not own the land that he leased to Craig Dummer because the Bankruptcy Court proceedings through which Mr. Miller purchased the land were in violation of the *Rooker-Feldman* doctrine.

4. The *Rooker-Feldman* doctrine forbids a federal court, other than the Supreme Court to entertain an appeal from a decision by a State court. *Jones v. Brennan*, 2006 WL 2337610 (C.A. 7 (Ill.)).

5. The State court decision that the defendant alleges was appealed to the Bankruptcy Court was an Eminent Domain action filed in this circuit in 97 ED 1.

6. Apparently it is the defendant's contention that the court in 97 ED 1 entered a final judgment regarding the ownership of the property ultimately sold to Mr. Miller by the Bankruptcy court.

7. As this court knows, the issues in an action in eminent domain are to determine whether the plaintiff has the authority to exercise the right of eminent domain, that the property being sought is subject to that right, and that that right is not being improperly exercised. If all of those issues are found in favor of the plaintiff, the sole remaining issue is a determination of just compensation.

8. An action in eminent domain does not determine the ownership of the property. Anyone who might have an ownership interest in the subject property is named as a party defendant.

9. The actual judgment in 97 ED 1 was that the plaintiff, State of Illinois, had the authority to exercise eminent domain, that the property being sought was subject to eminent domain, that the right was being properly exercise and that just compensation amounted to \$8,043.00.

10. The Bankruptcy proceedings that resulted in the sale of the property to Mr. Miller did not attack any of the findings made by the court in 97 ED 1.

11. The *Rooker-Feldman* doctrine is inapplicable when the plaintiff is not attacking a state court judgment. See *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280, 291-94 (2005).

WHEREFORE, the People of the State of Illinois pray that the defendant's motion to dismiss be denied.

PEOPLE OF THE STATE OF ILLINOIS

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