No. 18-5357

IN THE
SUPREME COURT OF THE UNITED STATES

MICHAEL CAINE REDIFER SR.,
PETITIONER,

v.

UNITED STATES OF AMERICA,
RESPONDENT.

ON PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

# SUPPLEMENTAL BRIEF

MICHAEL CAINE REDIFER SR.
Pro se

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Supplemental Brief.

I respectfully submit to this Court this Supplemental Brief that calls

> "attention to" an "intervening matter" that was "not available at the time of" my "last filing." Supreme Court Rule 15.8.

Opinion below.

The 10th Circuit's opinion is reported as: United States v. Redifer, 2018 U.S. App. LEXIS 7333 (10th Cir. 2018)(unpublished), see (PETITIONER'S APPENDICES, APPENDIX A)(appendices A-F are not reprinted in the appendices for this Supplemental Brief).

Jurisdiction.

The 10th Circuit entered its decison on March 23, 2018, and my rehearing requests got denied on April 16, 2018 (Appendix B). This Court has jurisdiction pursuant to 28 USCS § 1254 and 28 USCS § 2106.

Constitutional provisions involved.

The Constitutional provisions and statutes are always numerous when legal professionals commit tyrannical actions. The Constitutional provisions are:

> Article I, Section 1; Article I, Section 8, Clause 18; Article II, Section 3; Article III, Section 1; Article III, Section 2, Clause 1; Article VI, Clause 2; Article VI, Clause 3. See (Appendix C).

The Constitutional provisions provided by Amendments are:

> I Amendment rights to petition the Government to settle grievances; IV Amendment search and seizure rights; V Amendment Self-incrimination and Due Process rights; VI Amendment rights to a fair trial and assistance of counsel; VIII Amendment protections from cruel and unusual punishments; and the XIV Amendment's Equal Protection Clause. See (Appendix D).

The statutes for these Constitutional provisions are as follows:

> 18 USCS § 2511(1)(a); (c)-(d); 18 USCS § 2518; 18 USCS § 3504; 28 USCS § 1654; 28 USCS § 2072; and 50 USCS § 1812. See (Appendix E).

The Constitutional statutory provisions included in my Supplemental Appendices are as follows:

18 USCS § 2511(1)(b); 18 USCS § 2511(2)(f); 18 USCS § 2516; 18 USCS § 2517(4); 18 USCS § 2521; 28 USCS § 1361; 18 USCS § 2515 (Appendix K).

Intervening issue.

This intervening issue is relevant to my Writ of Certiorari, see (PETITION FOR WRIT OF CERTIORARI, Case No. 18-5357)(hereinafter (Writ of Certiorari)); and the issue further proves that the law of the case in my case is a manifest injustice.

> On July 18, 2018, District Court Judge, Julie A. Robinson, issued an order in connection to VI Amendment violations in the District of Kansas. The violations occurred at CCA-Leavenworth (now Core Civic), and consist of CCA employees recording attorney-client meetings and phone calls and the U.S. Attorneys Office then obtained these unlawfully intercepted, disclosed, and used communications. In response to these VI Amendment violations, Judge Robinson appointed the Kansas Public Defenders Office to represent any aggrieved people. However, Judge Robinson stipulated that the Public Defenders Office report any conflicts of interest, obtain permission from the aggrieved people before filing any Courtroom documents, and included in the order that the "FPD" is authorized to raise other issues in the "interest of the defendant." (Appendix G).

The FPD's Office then mailed me a letter on July 18, 2018, and informed me that I may have gotten my VI Amendment rights violated, and that if I wanted assistance from that office then I needed to call the FPD's Office. See (Appendix H).

> On July 29, 2018, I responded to the letter sent by Melody Brannon. In my response I informed the FPD's Office that I will not call that office because regular calls to any person are monitered and attorney-client phone calls here at FCI Sandstone are also monitered by the presence of a BOP employee in the room when the call is conducted. I then informed Brannon that I had recently filed a Writ of Certiorari to this Court, informed her of the questions presented, and also informed her that the unlawful surveillance at CCA is relevant to the questions presented and how the Prosecution in my case used two other forms of warrantless electronic surveillance to seize the totality of its evidence. I then informed Brannon that the narrow VI Amendment violations being litigated in connection to the unlawfully intercepted, disclosed, and used communications at CCA are usurpations of authority due to how the DOJ employees actions are violations of 18 USCS § 2510 et seq. and how by litigating the issue as a narrow VI Amendment violation this is abridging and modifying aggrieved people's Constitutional rights, privileges, and immunities by enlarging Prosecutorial powers that are strictly forbidden by Congressional Legislation and this Court's precedents. I then informed Brannon that I am an aggrieved person and that the unlawful surveillance occurred since at least

> 2012. I also informed Brannon that because the totality of the Prosecution's evidence got seized or directly derives from the involuntary, false confessions made by my co-defendants after their arrest and appointment of counsel, then the unlawful surveillance at CCA is the third form of warrantless surveillance that requires that the defendants in my case be granted acquittals. Last, I I informed Brannon that I would be filing a Supplemental Brief to this Court, asked her if she would like to assist me, but required that I first be given the oppurtunity to review the particulars of her assistance before she be permitted to do anything in my case on my behalf. (Appendix I).

I then received another letter from Brannon, however,

> the letter is not a response to my letter, but the letter did verify that Brannon believed I am an aggrieved person. The letter also informed me of some of the negotiations that were being conducted between the FPD's Office and and the U.S. Attorney's Office. (Appendix J).

I have not received a response from the FPD's office (although there was a mailroom issue here at FCI Sandstone), and I have chosen to not wait before I file this Supplemental Brief. This is due to the fact the actions being committed (so far) by the legal professionals in the District of Kansas (and really everywhere) are once again

> "in conflict with" numerous items of Congressional Legislation and "the decision[s] of" this Court. Therefore, the legal professionals have once again "so far departed from the accepted and usual course of judicial proceedings," and are sanctioning "such a departure by" the District Court, so "as to call for an excercise of this Court's supervisory power." Supreme Court Rule 10(a).

Indeed, the unlawful surveillance at CCA by DOJ employees (CCA employees are also unquestionably DOJ employees) are criminal actions and the proceedings for the aggrieved people must be held pursuant to 18 USCS § 2510 et seq., not some Judicially created narrow VI Amendment inquiry. So what is occuring in the Kansas District Court is more usurpations of Congress's Article I provisions and the Executive Branch's Constitutional provisions that it must faithfully execute the laws enacted by Congress, and of course a complete deprivation the aggrieved people's Constitutional rights, privileges, and immunities.

Again, anytime a legal professional (Judge, Prosecutor, law enforcement

officer, defense attorney) suppresses and/or misrepresents an item of Congressional Legislation or this Court's precedents then the Constitutional provisions involved are always going to be numerous. Under Article I, Section 1 Congress is the only Legislative Branch of our Government, and under Article I, Section 8, Clause 18 Congress can enact any law that it deems to be necessary and proper. The Executive Branch is Constitutionally required under Article II, Section 3 to only and always faithfully execute the laws enacted by Congress. Article III, Section 1 established the Judicial Branch shall consist of only one Supreme Court, and any other Court that Congress deems to be necessary and proper. Article III, Section 2, Clause 1 established that the Judicial Branch settle all cases and controversies that arise under their jurisdiction. These enumerated powers are clearly defined and cannot be usurped, but this is why Article VI, Clause 3 requires that all Government employees swear an oath to abide by the Constitution, and since all Government powers derive from the Constitution, then this is why the Founders established Article VI, Clause 2 which makes the Constitution and the Laws of the United States that are made in pursuance to the Constitution the Supreme Law of the Land, to ensure that no Branch or person usurp their authority that is only granted to them by the Constitution and the Laws of the United States. The Rules Enabling Act, 28 USCS § 2071 et seq., combines these aforementioned Constitutional provisions by limiting the Judicial Branch's rule-making power by requiring that Courts abide by Congressional Legislation and also requiring that Judicial rulings not abridge, enlarge or modify any substantive right. The Rules Enabling Act also mandates that any rule created by this Court that creates, abolishes, or modifies an evidentiary privilege has no force or effect unless approved by an Act of Congress. This Court's precedents also remain binding precedent on all Courts due to how there is only one Supreme Court, and the V Amendment's Due Process Clause provides Equal Protection of the Constitution and Laws of the United States that are made in pursuance to the Constitution in all Federal Courts. See (Writ of Certiorari, at 28-31).

In other words, the legal professionals currently litigating this issue must cease suppressing and misrepresenting the facts of the unlawful surveillance and how those facts apply to the laws enacted by Congress under its Article I provisions. This is due to the unquestionable fact that conduct such as theirs are usurpations of authority by the Judicial and Executive Branchs and ineffective assistance of counsel by the defense attorneys, because their actions will abridge and modify the aggrieved people's substantive rights by Unconstitutionally enlarging Prosecutorial powers. See 28 USCS § 2072(b); see also (Appendix E, at 6).

The unlawful interception, disclosure, and use of the attorney-client communications do violate the aggrieved people's VI Amendment right to

assistance of counsel, but this issue is not a narrow VI Amendment issue. The unlawful surveillance violates every Constitutional Amendment that got established to protect the rights, privileges, and immunities of defendants. The unlawful surveillance methods are clear IV Amendment violations. The Executive Branch has also egregiously violated the V Amendment's Due Process Clause by not abiding by the Procedural requirements of 18 USCS § 2510 et seq.. Moreover, every legal professional currently litigating this issue as a narrow VI Amendment issue is also violating the V Amendment's Due Process Clause by the suppression and misrepresentation of the facts of the unlawful surveillance methods and how those unreliable methods of investigation apply to the Constitution and Laws of the United States. These usurpations of authority and ineffective assistance of counsel are also clear violations of the aggreived people's right to a fair trial, where the legal professionals must be impeached for their statutory crimes during any proceeding, and cannot appear before the Court as a lawfully authorized civil officer for the United States. See Article II, Section 4

> ("The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors").

Which means that the aggrieved people cannot be Constitutionally prosecuted for any crime that was adjudicated during the course of the unlawful surveillance methods. Indeed the VI Amendment's Confrontation Clause requires that the aggreived people be confronted with the witnesses against them, see (Appendix D); and Rule 702, see (Appendix E, at 8); and the rule against hearsay preclude the use of a person being used as a conduit to testify about the investigations conducted by the Government employees, see (Appendix E, at 9-10); who have already admitted that they violated the law. See (Appendix G). These facts of the egregiously Unconstitutional circumstances will be quite uncomfortable for the legal professionals (they truly have no Constitutional defense), but it is

what the Constitution demands, and any other course of action would be more usurpations of authority and very clear violations of the aggrieved people's VIII Amendment protections from cruel and unusual punsihments. And of course, these usurpations of authority and ineffective assistance of counsel are also already very clear violations of my VIII Amendment rights to protections from cruel and unusual punishments due to how I am once again being unlawfully compelled to compel legal professionals to end their tyrannical actions.

So I have to ask: why hasn't the Executive Branch faithfully executed the laws of the United States by charging the people who intercpeted, disclosed, and used the unlawful surveillance and/or the people who have knowledge of the unlawful surveillance and are failing to hold the guilty people accountable for their unlawful actions? If a normal citizen had gotten caught violating (or not caught violating) any statute then these same Prosecutors, law enforcement officers, Judges, and defense attorneys would be doing everything possible to punish the normal citizen, however, when it is a legal professional that violates a criminal statute no charges are filed, and the same people who violated the law are also unlawfully attempting to create a Judicially created concept that will abridge and modify the aggrieved people's Constitutional rights, privileges, and immunities by enlarging the Prosecutorial powers that are strictly forbidden by criminal statutes, especially 18 USCS § 2510 et seq..

> Indeed, since 18 USCS § 2510 et seq. got enacted by Congress under its Article I provisions, Title III and other forms of electronic surveillance have been governed "not by decisions" of the Supreme Court, "but by the statute", Riley v. California, 189 L. Ed. 2d 430, 455 (2014)(Alito, J., concurring);

and Congress in the excercise of its Article I provisions, intentionally and very specifically mandated in the statute that

> Congressional Legislation "shall be the exclusive means by which electronic surveillance, ... and the interception of domestic wire, oral, and electronic communications may be conducted." 18 USCS § 2511(2)(f); see also (Appendix K, at 1).

Moreover, 50 USCS § 1812 corroborates this Article I provision and also

> requires that only Congressional Legislation can provide an additional exclusive means of authorization, which means Courts cannot create a Judicially created concept for unauthorized, warrantless surveillance that is electronic. See (Writ of Certioarai, at 33-34).

Therefore, the guilty DOJ employees and other legal professionals involved in the unlawful surveillance of the attorney-client meetings must be brought to justice, the District Court of Kansas and other legal professionals who have and are currently Unconstitutionally litigating this issue as just a narrow VI Amendment issue also need to be brought to justice, and of course, the aggrieved people must be granted Constitutional relief,

> which will require acquittals in most cases because the Executive Branch has been Unconstitutionally using only testimonial confessions as the first, last, and thus only method of investigation to prosecute crimes in Federal Courts. See (Writ of Certioarai, at 2-7).

I am unquestionably an aggrieved person and so are my co-defendants. I know this not because of Brannon's belief that I am or the District Court's order. Co-operating individuals and DOJ employees tell on themselves. DOJ employees have also gotten away with this unlawful behavior for so long that they do not even care how egregiously blatant their tyrannical actions are.

> Seriously Government employees will do and have done just about everything to get people to unlawfully confess to unlawful charges and then make up false allegations against other people. See (Doc. #667, SUPPORTING ARGUMENT FOR THE PSR OBJECTIONS--TRACY ROCKERS'S AND MICHAEL QUICK'S CONFESSIONS AND PLEAS WERE INVOLUNTARILY MADE, at 105-106).

Of course I also informed my attorney, Debra Vermillion of the unlawful surveillance in 2012-2013, but she did nothing to stop the violations of law. See (Doc. #639, at 9); see Supra at 2-3 (I swear that Vermillion just started acting weird and more dramatic). And this issue does also require that me and my co-defendants be granted acquittals, but again, this issue is just one more reason why we are entitled to acquittals (there truly are many reasons).

> The Prosecution in my case conducted an unlawful investigation by using two forms of warrantless electronic surveillance and the totality of the Prosecution's other evidence got seized or directly derived from

> both forms of warrantless electronic surveillance. The totality of the Prosecution's evidence is also unable to prove if the unlawfully charged conspiracy existed under numerous Constitutional provisions other than the fact all of the evidence is unlawfully seized. See (Writ of Certiorari, at 11-25).

So considering the fact the prosecution failed to seize a single item of evidence to prove if a conspiracy existed during the course of the 22 month unlawful investigation, then unlawfully used, as its only source of evidence, to prove the unlawfully charged conspiracy, the unlawfully compelled, completely uncorroborated, immunized, ever-changing, false hearsay statements made throughout the involuntary confessions of my co-defendants, and all of these involuntary, false confessions got made/seized after their unlawfully intercepted, disclosed, and used attorney-client communications, see 18 USCS § 2511(1)(a)-(d); see also (Appendix E, at 1)(18 USCS § 2511(1)(a); (c)-(d)); see also (Appendix K, at 1)(18 USCS § 2511(1)(b));

then this unquestionably mean that

> the totality of the Prosecution's evidence "derived" from a third form of unlawful surveillance. 18 USCS § 2515; see also (Appendix K, at 1).

Thus, there is three forms of unlawful surveillance that require that every defendant be granted an acquittal, and

> the Unconstitutional circumstances of my conviction are definetly not one where my conviction is "unimpeached". Black v. United States, 385 US 26, 31 (1966)(Harlan, J., dissenting).

Of course the legal professionals in the lower Courts are also suppressing the evidence and inventory of the unlawful surveillance from me because they know that I will make the fact based, Constitutionally mandated arguments, but these tyrannical actions cannot be held against me. First, during the remand, I informed the District Court that I told Vermillion about the unlawful surveillance in 2012-2013 and how she did nothing about it. See Supra at 8. Second, during the remand, I made numerous Jencks Act requests. See (Doc. #610; 657; 658). I also requested that the District Court order the Prosecution to abide by 18 USCS § 3504's, see (Appendix E, at 3-4); Constitutional provisions and I also requested that the District Court abide by

its 28 USCS § 1361, see (Appendix K, at 2); and 18 USCS § 2521, see (Appendix K, at 2); Constitutional provisions

> by ordering the Attorney General of the United States of America to intervene in my case on my behalf. See (Doc. #672); see also (Writ of Certiorari, at 8-11).

However, the District Court and the Prosecution usurped their authority by not abiding by their Constitutionally mandated obligations required by my 18 USCS § 3504 motion. See (Writ of Certiorari, at 25). Third, during my appeal, I ordered

> Third, during my appeal, I ordered the Constitutionally required record on appeal, and requested that Timothy Kingston raise the unlawful surveillance issues, but Kingston deliberately ordered an admittedly insufficient record on appeal, and Unconstitutionally alleged that my issues lacked merit in his obstructionist filing. I then made my Faretta v. California, 422 US 806 (1975)/28 USCS § 1654 declaration, and requested that both the District Court and 10th Circuit correct the record on appeal, but again, both Courts once again usurped their authority. Id at 26-28.

So I have done everything I can lawfully do to compel the legal professionals in Kansas City, Denver, and in Alabama (Kingston has a office in Alabama) to stop

> violating my Constitutional "rights, privileges, ... [and] immunities secured ... [and] protected by the Constitution ... [and] laws of the United States". 18 USCS § 242.

Therefore, I am now compelling this Court under 18 USCS § 3504(a)(1) to abide by the Constitutional provisions in the statute, see 18 USCS § 3504(a)(1)

> ("In any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, or other authority of the United States--(1) upon a claim by a party aggrieved that evidence is inadmissible because it is the primary product of an unlawful act or because it was obtained by the exploitation of an unlawful act, the opponent of the claim shall affirm or deny the occurrence of the alleged unlawful act");

by ordering the Executive Branch to abide by the totality of its disclosure and Prosecutorial functions, and this 18 USCS § 3504 request is for all Title III and other electronic surveillance that I have been subjected to and all Title III and other electronic surveillance that relates to any testifying witness's testimony.

The Attorney General is Constitutionally required to intervene in my

case on my behalf, but President Donald Trump must also intervene in order to hold the totality of the DOJ accountable for its usurpations of authority (The DOJ as it functions now is the greatest threat to humanity in the history of mankind).

> After all, the "Attorney General, Deputy Attorney General, Associate Attorney General, or any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General or acting Deputy Assistant Attorney General" are the only authorized people that can apply for an "order authorizing or approving the interception of wire or oral communications" 18 USCS § 2516(1); see also (Appendix K, at 1-2);

but again, none of these authorized people were alleged to be involved in the unlawful surveillance, and no order got applied for or granted. Nor has 18 USCS § 2518(8)'s Procedural requirements been followed, see 18 USCS § 2518(8); see also (Appendix E, at 2-3); and I absolutely am entitled to inspect the totality of the Title III and other eleectronic surveillance that I have been subjected to and/or the aforementioned surveillance that relates to any testifying witness's testimony. So my request is a 18 USCS § 2510 et seq., 18 USCS § 3504, Jencks Act, and Fed. R. Crim. P. 26.2 request, that according to 18 USCS § 3504's plain text, the statute does not give any Government employee the discretion to not abide or defer the adjudication of the request for a later date.

> The facts of the current Unconstitutional circumstances prove that the Prosecution, District Court, 10th Circuit, and defense attorneys are unquestionably in "contempt" of Court. 18 USCS § 2518(8)(c); see also (Appendix E, at 2).

Indeed, the legal professionals have violated the Constitutional provsions in the Title III and Jencks Act related statutes, and the Courts also violated 28 USCS § 1361.

> This means that absolutely none of the evidence used to prove any material fact during the proceedings in this case could ever be "received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in a Federal or State court" because I have never been served the required inventory and evidence repeatedly requested for "ten days before the trial, hearing, or proceeding". 18 USCS § 2518(9); see also (Appendix E, at 3).

Moreover, the attorney-client communications that

> got unlawfully intercepted "in violation of" 18 USCS § 2510 et seq. and 18 USCS § 2261A, do not "lose" their "privileged character", 18 USCS § 2517(4); see also (Appendix K, at 2);

and since the aggrieved people did not and cannot grant the DOJ permission to disclose and/or use the unlawfully intercepted surveillance by disclosing the unlawful surveillance to any Court for the Court to only determine if a narrow VI Amendment violation occurred, then this means the DOJ once again unlawfully disclosed and used the privileged communications because of its deliberate bad-faith disclosure to the District Court, the District Court also unlawfully disclosed and used the privileged communications by ordering the Kansas Public Defender's Office to decide who is an aggrieved person under only a narrow VI Amendment inquiry, the Kansas Public Defender's Office is also unlawfully disclosing, and using the unlawfully intercepted privileged communications, and

> again, none of these legal professionals are lawfully authorized legal professionals anymore, thus, cannot continue to perform any function in the name of the United States. See Supra at 3-6 (As long as there is people unemployed in this Country then no person working in Government is irreplaceable).

I did not cite a bunch of case law in this brief, but this is because the plain text of the Constitution and 18 USCS § 2510 et eq. control the adjudication of this matter. See (Doc. #633, at 1)

> (The plain text of Congressional Legislation means what it says and Courts are required to abide by statutory provisions).

This Court's precedents in this matter also occurred before the enactment of 18 USCS § 2510 et seq., however, this Court's precedents do require a complete reset of proceedings when the Prosecution conducts unlawful electronic surveillance of attorney-client communications. See Black v. United States, 385 US 26 (1966); see also O'Brien v. United States, 386 US 345 (1967).

> This is due to how the "right to have the assistance of counsel is too fundamental and absolute to allow courts to indulge in nice calculations as to the amount of prejudice arising from its denial." Glasser v. United States, 315 US 60, 76 (1942).

And again, the DOJ employees who had knowledge of and/or participated in the interception, disclosure, and/or use of the unlawful surveillance during the course of the aggrieved people's cases have committed crimes when performing their Prosecutorial functions,

> which means that "any governmental activity" performed by these DOJ employees is "automatically" vitiated "during the span of such criminal activity." Black, 385 US, at 31 (Harlan, J., dissenting).

This is due to the unquestionable fact that

> the DOJ employees have "no authority of law" after violating the law so as to enforce the Laws of the United States. The second they violated the law they "ceased to be ... officer[s] of the law and became ... private wrongdoer[s]." Poindexter v. Greenhow, 114 US 270, 282 (1885).

Therefore, this Court's precedents require the same outcome as 18 USCS § 2510 et seq.: acquittals for the aggrieved people.

Conclusion.

The manner and professionalism in which most legal professionals perform their jobs are not in the interest of the people of the United States. In fact, the only people's interest the legal professionals in the criminal justice system serve are the legal professionals employed in the criminal justice system and those who are profiting from the tyrannical conduct (such as people who own stock in private jails or have some welfare contract with jails or prisons). There needs to be a bar of professionalism for legal professionals in our Country, and I said that right. There is no bar of professionalism in our Country in the criminal justice system, so I cannot say that the bar needs to be raised when a bar does not even exist. The solution is simple: require legal professionals to abide by the Constitution and the Laws of the United States that are made in pursuance of the Constitution, you know, like what they swore an oath to do and the Constitution requires. Seriously why is it so hard for legal professionals to always abide by items of Congressional Legislation and this Court's precedents? Wearing a nice suit or dress, being eloquent, and conspiring with other legal professionals to suppress and misrepresent the

Constitution and Laws of the United States is not professional conduct. Intelligence cannot be used as a means to violate the law especially when the person who is using their intelligence to violate the law is performing any Government function. The internet is going to rightfully haunt every legal professional who has usurped their authority and/or has committed tyrannical actions. After all, legal rulings are posted online for the people of our world to view for eternity.

Respectfully submitted,

Michael Caine Redifer Sr.

Declaration in compliance of Supreme Court Rule 29.2.

First-class postage has been prepaid.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: August 29, 2018

Michael Caine Redifer Sr.

Declaration in compliance of Supreme Court Rule 33.2.

As required by Supreme Court Rule 33.2, I declare that this Supplemental Brief is in compliance of Supreme Court Rule 33.2.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: August 29, 2018

Michael Caine Redifer Sr.