

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

United States of America

v.

Case No. 11-cv-57-PB

Land and Buildings Located at  
6238 Kahiliholo Rd., Kilauea,  
Hawaii, et al.

O R D E R

On April 22, 2011, I issued an Order requiring the government to explain "in detail why the court has the authority to issue the requested writs of entry." I issued this Order after denying an earlier request for the issuance of a warrant that was implicit in the original complaint for forfeiture. The government has filed an inadequate response to my April 22, 2011 Order. In particular, the government has failed to explain why a search conducted pursuant to a writ of entry is not a search subject to the requirements of the Fourth Amendment. To the extent that the government's position is that the amended forfeiture complaint establishes probable cause to justify the search, it has also failed to explain why this is so.

While the requested writ may well be warranted, I am entitled to require the government to justify its request for the relief it seeks. The government's failure to satisfactorily explain its position requires the denial of its request.

This Order shall be brought to the attention of the United States Attorney.

SO ORDERED.

/s/Paul Barbadoro  
Paul Barbadoro  
United States District Judge

June 3, 2011

cc: Robert J. Rabuck, AUSA  
John P. Kacavas, USA