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7 **UNITED STATES DISTRICT COURT**  
8 **NORTHERN DISTRICT OF CALIFORNIA**  
9 **OAKLAND DIVISION**  
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12 UNITED STATES OF AMERICA, )  
13 )  
Plaintiff, )  
14 vs. )  
15 )  
S. DARIN KINION, )  
16 )  
Defendant. )  
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NO.: CR 16-0097 JSW

**REPLY TO GOVERNMENT's  
RESPONSE TO DEFENDANT's  
SENTENCING MEMORANDUM**

18 The parties submitted Sentencing Memoranda for the Court's consideration. The  
19 Government felt compelled to respond to the defendant's Memorandum. While this process of  
20 point - counterpoint can continue ad infinitum, this reply will be brief.

21 The Government seeks to cast Dr. Kinion in an unflattering light by implying that he was  
22 an elitist who felt that building and testing were tasks beneath his intelligence. There are a few  
23 things that may be farther from the truth, but they are few in number. Dr. Kinion believed that  
24 MIT-LL would fabricate components that he would design because MIT-LL was already set up  
25 for fabrication at the time his project started. At that time, there was no suitable mechanism to do  
26 the fabrication at LLNL.

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1 To be clear, fabrication in this context refers to preparing polished sapphire wafers,  
2 etching a Niobium layer on top of them, wet etching with hydrofluoric acid, and depositing ion  
3 trap electrodes on the sacrificial wafers. This is highly technical work, but certainly mundane to  
4 those doing it all day, everyday, as personnel at MIT-LL were. Designing is an art, fabrication is  
5 a skill. Neither is inferior to the other.

6 The Government persists in characterizing every cent spent by IARPA and LLNL as part  
7 of the total loss that it wants the Court to believe Dr. Kinion's project was. It engages in a nifty  
8 bit of anaphora by describing why IARPA funded multiple researchers, why IARPA required  
9 them to put ideas into practice, why IARPA required validation, why IARPA had conditions on  
10 funding, and why IARPA cut off funding for non-performance.

11 If IARPA was so careful, and Dr. Kinion so completely worthless, why did IARPA  
12 continue funding the project for so long - as in from 2008 to 2012?

13 Dr. Kinion's 2011 publication was co-authored by a Los Alamos scientist, Gennady P.  
14 Berman, but the Government downplays its significance because it was published before "fraud  
15 was discovered." However, the article serves to validate Dr. Kinion's theory (during the period  
16 he was allegedly committing the fraud) and to support the position that there was scientific value  
17 to be had from the project. Unless Dr. Berman was a co-conspirator committing fraud along with  
18 Dr. Kinion, the scientific value of the publication cannot simply be ignored because of after-  
19 occurring acts. Questioned, maybe, but not ignored.

20 Contrary to the Government's supposition, it is not Dr. Kinion's position that "even more  
21 funds should be expended" to realize that value. To have had an exit interview with him to  
22 directly ascertain what of his work could be salvaged would have required only asking the right  
23 questions because, as the Government readily points out, Dr. Kinion was interviewed by  
24 investigators - albeit by at least one who didn't know the difference between liquid helium and  
25 Helium-3, a gas. See Supplemental Declaration of Investigator Geoffrey Guska,, filed November  
26 3, 2016 with the Government's Response to Defendant's Sentencing Memorandum.

1 IARPA did not get all they bargained for. We wouldn't be in this posture if they had. The  
2 argument here is that they got something, a fact the Government chooses to ignore.

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DATED: November 4, 2016

*-S- James Phillip Vaughns*

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