

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

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U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

UNITED STATES OF AMERICA

v.

Case No. 8:03-CR-77-T-30TBM

HATIM NAJI FARIZ
_____ /

**DEFENDANT HATIM NAJI FARIZ'S MOTION TO COMPEL
PRODUCTION OF ENGLISH-LANGUAGE TRANSCRIPTS
AND MEMORANDUM OF LAW IN SUPPORT**

Defendant, HATIM NAJI FARIZ, by and through undersigned counsel, files this motion to compel production of English-language transcripts and translations of the discovery in this case, including but not limited to wiretapped telephone calls, surveillance tapes, documents, and facsimiles, pursuant to Federal Rule of Criminal Procedure 16 and the Fifth and Sixth Amendments to the U.S. Constitution. As grounds in support, Mr. Fariz states:

1. On February 19, 2003, the Grand Jury returned its indictment against Mr. Fariz and seven other co-defendants.
2. Communications between counsel for the defendants and the government have established that the majority of the information underlying the charges in the indictment have been culled from an estimated 21,000 hours of wiretapped telephone calls and thousands of foreign-language documents and facsimiles (hereinafter referred to as wiretaps and documents), most of which are in the Arabic language.

414

3. In order to review adequately the content of the wiretapped telephone calls for the purposes of preparing for trial in this matter, the Office of the Federal Public Defender, counsel to Mr. Fariz, prepared and submitted a supplemental budget for approval by the Defender Services Division of the Administrative Office of the United States Courts. Such requests are considered by the Budget Subcommittee, a panel of three Article III judges from around the country. After due consideration of the request, the Budget Subcommittee approved all of the proposed expenditures except those for the translation and transcription of the wiretap conversations and foreign-language documents.

4. The Federal Public Defender does not have other sufficient funds available for translating and transcribing the wiretaps and documents.

5. If Mr. Fariz attempted an hour-by-hour review of the 21,000 hours of tapes, excluding translation time and without any breaks, it would take him approximately 2.4 years.

6. A comprehensive review of all the wiretap recordings is required to ensure Mr. Fariz's rights to due process under the Fifth Amendment and fair trial under the Sixth Amendment.

7. Additionally, pretrial review of the conversations is necessary in order to review the accuracy of the government's translations and to attempt to resolve any disputes in the translations, in compliance with the procedure set forth by the Eleventh Circuit when dealing with foreign-language evidence. It is already clear that Mr. Fariz, his co-defendants, and the government are likely to differ greatly on what constitutes a correct translation for

a particular telephone call or document. *See, e.g.*, Doc. 382, Defendant Hammoudeh's Motion to Review Detention Order (filed Nov. 26, 2003).

8. In light of the Budget Subcommittee's decision and the lack of alternative funding for translation services, counsel for Mr. Fariz, in keeping with its constitutional requirement to provide effective assistance to its client, cannot conduct an adequate review of the wiretapped telephone calls and foreign language documents. Counsel for Mr. Fariz also cannot begin to assess the value of any exculpatory information or impeachment material contained within the wiretapped telephone calls or documents, pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963) and *Giglio v. United States*, 405 U.S. 150 (1972), without English translations.

9. Undersigned counsel contacted Assistant United States Attorney Walter Furr to request that the government produce English-language transcripts and translations of the wiretaps and documents in this case. As of the filing of this motion, the government has not agreed to this request.

10. Mr. Fariz therefore respectfully moves for copies of English-language transcripts and translations of the discovery in this case, including but not limited to all wiretapped telephone calls and all foreign language documents, as well as copies of all drafts of such transcripts and translations.

11. Mr. Fariz, pursuant to Local Rule 3.01(d), also respectfully requests that a hearing be held for oral argument on this motion. Mr. Fariz expects that a hearing should exceed no more than one hour.

MEMORANDUM OF LAW

A. Disclosure under Federal Rule of Criminal Procedure 16

The translation and disclosure of wiretaps involving Mr. Fariz is supported by Rule 16 of the Federal Rules of Criminal Procedure. Specifically, Rule 16(a)(1)(B) provides that:

(B) Defendant's Written or Recorded Statement. Upon a defendant's request, the government must disclose to the defendant, and make available for inspection, copying, or photographing, all of the following:

(i) any relevant written or recorded statement by the defendant if:

- the statement is within the government's possession, custody, or control; and
- the attorney for the government knows – or through due diligence could know – that the statement exists

The rule gives a "defendant virtually an absolute right" to his own recorded statements "in the absence of highly unusual circumstances that would otherwise justify a protective order."

United States v. Lanoue, 71 F.3d 966, 974 (1st Cir. 1995) (citing 2 C. Wright, *Federal Practice and Procedure* § 253, at 46-47 (1982)), *abrogated on other grounds by*, *United States v. Watts*, 519 U.S. 148 (1997) (internal citations and quotation marks omitted); *United States v. Bailleaux*, 685 F.2d 1105, 1114 (9th Cir. 1982) (adopting broad interpretation of relevance as applied to defendant's statements as a matter of practicality); *United States v. Haldeman*, 559 F.2d 31, 74 n.80 (D.C. Cir. 1976) (en banc) (disclosure of defendant's statements is "practically a matter of right even without a showing of materiality"). Rule 16's mandatory discovery provisions were designed to contribute to the fair and efficient administration of justice by providing the defendant with sufficient information upon which

to base an informed plea and litigation strategy; by facilitating the raising of objections to admissibility prior to trial; by minimizing the undesirable effect of surprise at trial; and by contributing to the accuracy of the fact-finding process. *United States v. Alvarez*, 987 F.2d 77, 84-86 (1st Cir. 1993); see *United States v. Noe*, 821 F.2d 604, 607 (11th Cir. 1987) (“[T]he purpose of Rule 16(a) is ‘to protect the defendant’s rights to a fair trial.’”) (quoting *United States v. Rodriguez*, 799 F.2d 649, 654 (11th Cir. 1986) (per curiam)).

“[S]tatements discovered by means of electronic surveillance” are within Rule 16(a)(1)(B). Fed. R. Crim. P. 16, 1974 Amendment Advisory Committee’s Note (citing *United States v. Black*, 282 F. Supp. 35 (D. D.C. 1968) (discussing former Rule 16(a)(1)(A)); see *Lanoue*, 71 F.3d at 973 (taped prison conversations of defendant are discoverable under Rule 16). “[A]cceptance of the language for just what it says is dictated by the fundamental fairness of granting the accused equal access to his own words, no matter how the government came by them.” *Lanoue*, 71 F.3d at 974-75 (quoting *United States v. Caldwell*, 543 F.2d 1333, 1353 (D.C. Cir. 1974)). Rule 16 also applies to draft transcripts of tape recordings in addition to the tapes themselves. *United States v. Shields*, 767 F. Supp. 163, 165-66 (N.D. Ill. 1991) (ordering production of draft transcripts because of their relevance to any disputes which might arise as to the accuracy of the final transcripts which the government presents at trial where original tapes were often difficult to understand and, as a result, the accuracy of the transcripts would be a key issue at trial); see *United States v. Finley*, 1987 WL 17165, at *2-*4 (N.D. Ill. Sept. 3, 1987) (reasoning that both the tapes and any transcripts of them amounted to statements of the defendants which were discoverable

as a matter of right under Rule 16, the court ordered the government to produce draft transcripts unconditionally despite government's offer to produce but only on the condition that the defendants waive any right to use the drafts at trial).

Here, the original wiretaps, surveillance tapes, and documents are in the possession, custody, and control of the government. Likewise, the English translations of these tapes and documents and/or the ability to translate these tapes and documents is in the possession and control of the government. Clearly, the government has all or most of these transcripts because it could not have brought this case before the grand jury for indictment nor can it properly prepare for trial without translating these tapes and documents into English.¹

Furthermore, production and disclosure of the tapes and transcripts of Mr. Fariz's co-defendants and the unindicted co-conspirators is required under Rule 16 and Federal Rule of Evidence 801(d)(2)(E). Although Rule 16(a)(2) specifically provides that Rule 16 does not authorize the discovery of witnesses' statements except under the *Jencks Act*, 18 U.S.C.

¹ Even if the government has not translated the entire 21,000 hours of tapes as of this date, Mr. Fariz's posits that the government's failure to do so prior to trial would violate the government's dual duty as both a prosecutor of crimes and the seeker of truth and justice:

The United States Attorney is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer.

Berger v. United States, 295 U.S. 78, 88 (1935).

§ 3500, the disclosure of statements by non-testifying witnesses is not in contravention of Rule 16 and Federal Rule of Evidence 801(d)(2)(E). Rather, under a broad reading of Rule 16, it is possible to regard the statements of co-conspirators made during the course of and in furtherance of a conspiracy as the statements of the defendant; as such, those statements are discoverable, and the government is required to disclose co-conspirator statements. Fed. R. Evid. 801(d)(2)(E); *United States v. Walker*, 922 F. Supp. 732, 742 (N.D.N.Y. 1996) (requiring disclosure of co-conspirator statements for all persons the government does not intend to call at trial) (citing *United States v. Konefal*, 566 F. Supp. 698, 706-07 (N.D.N.Y. 1983)).² Further, at least one circuit has held that it is error for the government not to provide a defendant with tape recordings containing conversations between the defendant and government witnesses. *United States v. Latham*, 874 F.2d 852, 864 (1st Cir. 1989).

² See also *United States v. Jackson*, 757 F.2d 1486, 1491 (4th Cir. 1985) ("defendant is entitled to disclosure of statements of co-conspirators if the co-conspirator is not a prospective government witness and disclosure does not unnecessarily reveal sensitive information"), overruled by *United States v. Roberts*, 811 F.2d 257 (4th Cir. 1987) (en banc); *United States v. McMillen*, 489 F.2d 229, 230-31 (7th Cir. 1972); *United States v. Davidson*, No. 92-CR-35, 1992 WL 402959 *8 (N.D.N.Y. 1992); *United States v. Thevis*, 84 F.R.D. 47, 56-57 (N.D. Ga. 1979); *United States v. Turkish*, 458 F. Supp. 874, 882 (S.D.N.Y. 1978), *aff'd*, 623 F.2d 769 (2d Cir. 1980); *United States v. Brighton Bldg. & Maint. Co.*, 435 F. Supp. 222, 233 n.20 (N.D. Ill. 1977), *aff'd*, 598 F.2d 1101 (7th Cir. 1979); *United States v. Bloom*, 78 F.R.D. 591, 618 (E.D. Pa. 1977); *United States v. Fine*, 413 F. Supp. 740, 743 (W.D. Wis. 1976); *United States v. Agnello*, 367 F. Supp. 444, 448 (E.D.N.Y. 1973).

Counsel is aware of the Eleventh Circuit's decision in *United States v. Orr*, 825 F.2d 1537, 1541 (11th Cir. 1987), which found that former Rule 16(a)(1)(A) did not apply to co-conspirators' statements. However, *Orr* is distinguishable. The co-conspirator's statement that was sought in *Orr* was not made in furtherance of the conspiracy. Rather, it was made in support of a plea agreement. The court concluded that any statement would, therefore, not be admissible under Federal Rule of Evidence 801(d)(2)(E), which would apply to co-conspirators' statements made in furtherance of the conspiracy. Here, the statements sought were allegedly made in furtherance of the purported conspiracy.

Similarly, the government is required to disclose all documents and other items in its possession under Federal Rule of Criminal Procedure 16(a)(1)(E),³ which arguably includes the transcripts and any drafts thereof.

Indeed, the government appears to recognize its obligation to produce all of the tapes, including those containing statements by Mr. Fariz's co-defendants and the unindicted co-conspirators, because it has produced and has promised to continue producing copies of the original 21,000 hours of tapes in Arabic to Mr. Fariz and his co-defendants. Mr. Fariz contends that this obligation to produce all 21,000 hours of tapes includes the obligation to produce the English transcripts and all drafts of those transcripts.

Moreover, even if this Court concludes that the government is under no obligation to produce these statements under Rule 16(a)(1)(A), (B), or (E), Rule 16 provides the Court

³ Rule 16(a)(1)(E) states:

(E) Documents and Objects. Upon a defendant's request, the government must permit the defendant to inspect and to copy or photograph books, papers, documents, data, photographs, tangible objects, buildings or places, or copies or portions of any of these items, if the item is within the government's possession, custody, or control and:

- (i) the item is material to preparing the defense;
- (ii) the government intends to use the item in its case-in-chief at trial; or
- (iii) the item was obtained from or belongs to the defendant.

The Eleventh Circuit has held that failure to disclose materials in the government's possession taken from the defendant and used at trial violated Rule 16(a)(1)(E) (formerly Rule 16(a)(1)(c)), requiring a new trial because the failure substantially prejudiced the defendant by depriving him of any chance to prepare his case to meet that evidence. *United States v. Rodriguez*, 799 F.2d 649, 653 (11th Cir. 1986) (per curiam).

with extended powers to modify discovery: "At any time the court may, for good cause, deny, restrict, or defer discovery or inspection, or grant other appropriate relief." Fed. R. Crim. P. 16(d)(1). Pursuant to this Rule, it has been recognized that trial courts have an inherent power to control and supervise discovery proceedings in criminal cases. *United States v. Carrigan*, 804 F.2d 599, 603 (10th Cir. 1986) (citing *United States v. Fischel*, 686 F.2d 1082, 1091 (5th Cir. 1982)). Specifically, "highly unusual" cases, such as this one, involving massive amounts of factual discovery, complex and novel legal issues and a trial estimated to take several months, are particularly appropriate for liberal discovery. *United States v. Narciso*, 446 F. Supp. 252, 264-65 (E.D. Mich. 1977), disagreed with on other grounds, *United States v. Griffith*, 864 F.2d 421, 424 n.2 (6th Cir. 1988). The Court is given wide latitude in deciding discovery matters under Rule 16 and will only be reversed under an abuse of discretion standard. *United States v. Salerno*, 108 F.3d 730, 742 (7th Cir. 1997). Indeed, "[i]t is within the sound discretion of a district judge to make any discovery order that is not barred by a higher authority." *United States v. Campagnuolo*, 592 F.2d 852, 857 n.2 (5th Cir. 1979).⁴

In this case, the English-language transcripts of the wiretapped telephone calls and foreign language documents that serve as the basis for the indictment in this case are material to Mr. Fariz's defense. Much of the indictment contains summaries of individual telephone conversations and documents attributed to the defendants and their alleged co-conspirators.

⁴ In *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc), the Eleventh Circuit adopted as binding precedent all decisions handed down by the former Fifth Circuit before October 1, 1981.

Given the lack of interpretation resources available to Mr. Fariz, it is simply impossible for him to sift through thousands upon thousands of hours of telephone calls and thousands of pages of documents in Arabic and Hebrew in preparing a defense. Thus, nothing short of disclosure of all transcripts and any drafts would satisfy Rule 16.

B. Eleventh Circuit Procedure for Addressing the Accuracy of English-Language Transcripts

In *United States v. Le*, 256 F.3d 1229, 1238 (11th Cir. 2001), the Eleventh Circuit indicated that it has adopted the following procedure for determining the accuracy of an English-language transcript of a foreign-language conversation:

Initially, the district court and the parties should make an effort to produce an “official” or “stipulated” transcript, one which satisfies all sides. If such an “official” transcript cannot be produced, then each side should produce its own version of a transcript or its own version of the disputed portions. In addition, each side may put on evidence supporting the accuracy of its version or challenging the accuracy of the other side's version.

Id. (quoting *United States v. Cruz*, 765 F.2d 1020, 1023 (11th Cir. 1985)) (internal citations omitted).⁵ The mere articulation of such a test implies that a defendant in a criminal action has the right to obtain a copy of an English-language transcript of foreign language material well in advance of trial. If the government does not turn over the transcripts and drafts of those transcripts at this stage of the proceedings, Mr. Fariz’s ability to challenge the accuracy of its translations will be severely impaired. Mr. Fariz obviously cannot begin to

⁵ Any issues of credibility regarding the translations must be submitted to the jury. *Cruz*, 765 F.2d at 1023 n.4.

contemplate working with the government to produce an "official" or "stipulated" transcript without the government's translations. Resolving this issue as quickly as possible is clearly the most positive step towards preparing for trial.

C. Disclosure under *Brady* and *Giglio*

To satisfy its duty under *Brady*⁶ and *Giglio*,⁷ the government will need to review the content of all of the tapes and documents. The government has an affirmative duty to disclose material evidence "favorable to an accused," *Brady*, 373 U.S. at 87, including evidence that could be used to impeach a witness, *Giglio*, 405 U.S. at 154-55. The Supreme Court has defined material evidence favorable to the defendant to mean "there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." *Kyles v. Whitley*, 514 U.S. 419, 433 (1995) (quoting *United States v. Bagley*, 473 U.S. 667, 682 (1985)).

The only method the government has to fulfill its *Brady* and *Giglio* obligations, therefore, is to produce and review the English-language transcripts of the evidence at issue so the government can identify what parts are either favorable to Mr. Fariz or material to the question of his innocence or guilt. Because of the magnitude of the discovery in this case, the government cannot possibly meet its obligations under *Brady* and *Giglio* by simply

⁶ *Brady v. Maryland*, 373 U.S. 83 (1963).

⁷ *Giglio v. United States*, 405 U.S. 150 (1972).

turning over copies of the telephone conversations and the documents to the defense.⁸ Indeed, several courts have found the government to have violated its *Brady* obligations by merely providing access to documents and tapes in cases involving voluminous discovery. Rather, courts have required the government to specifically identify exculpatory or impeaching materials. See *United States v. Hsia*, 24 F. Supp. 2d 14, 29-30 (D.D.C. 1998) ("The government cannot meet its *Brady* obligations by providing Ms. Hsia with access to 600,000 documents and then claiming that she should have been able to find the exculpatory information in the haystack. To the extent that the government knows of any documents or statements that constitute *Brady* material, it must identify that material to Ms. Hsia."); *Emmett v. Ricketts*, 397 F. Supp. 1025, 1043 (N.D. Ga. 1975) ("In this Court's opinion, the prosecutorial duty to produce exculpatory evidence imposed by *Brady* may not be discharged by 'dumping' (even in good faith) a voluminous mass of files, tapes and documentary evidence on a trial judge," and "[T]he prosecution has the affirmative duty of spelling out possible areas of materiality."). Hence, the government must review the tapes and transcripts, specifically identifying for Mr. Fariz those containing exculpatory or impeaching information. Disclosure of the transcripts of the tapes, as well as any drafts of the transcripts to Mr. Fariz, assists both the Court and Mr. Fariz in ensuring that the government has complied with its obligation.

⁸ Even with respect to the discovery process, the government has only produced a fraction of the total of recorded conversations in its possession to date. The fact that the government has managed to turn over only a portion of the wiretapped calls, despite over ten months passing from the issuance of the indictment, only serves to highlight the difficult task Mr. Fariz and his counsel have ahead of them in preparing for trial.

D. Disclosure is Mandated by the Fifth and Sixth Amendments

Denying Mr. Fariz access to the transcripts at issue here would also violate his Fifth Amendment right to equal protection. In the case of an indigent defendant, such as Mr. Fariz, the Constitution forbids disparate treatment by a state "between classes of individuals whose situations are arguably indistinguishable." *Ross v. Moffitt*, 417 U.S. 600, 609 (1974)⁹; *United States v. Devlin*, 13 F.3d 1361, 1363 (9th Cir. 1994). It would certainly offend the concept of equal protection if Mr. Fariz's inability to pay for an adequate number of interpreters to translate and transcribe the telephone conversations and documents were to become a factor in this case, since "differences in access to the instruments needed to vindicate legal rights, when based upon the financial situation of the defendant, are repugnant to the Constitution." *Id.* (quoting *Roberts v. LaVallee*, 389 U.S. 40, 42 (1967)). Furthermore, while "[t]he Fourteenth Amendment 'does not require absolute equality or precisely equal advantages,' . . . [i]t does require . . . that indigents have an adequate opportunity to present their claims fairly within the adversary system." *Ross*, 417 U.S. at 612; *Moore v. Kemp*, 809 F.2d 702, 709 (11th Cir. 1987). Mr. Fariz simply will not have an

⁹ While *Ross* relies on the Equal Protection Clause of the Fourteenth Amendment which applies to states, Mr. Fariz's rights in this federal action are similarly guaranteed by the Due Process Clause of the Fifth Amendment. See *Bolling v. Sharpe*, 347 U.S. 497, 499 (1954) ("The Fifth Amendment, which is applicable in the District of Columbia, does not contain an equal protection clause as does the Fourteenth Amendment which applies only to the states. But the concepts of equal protection and due process, both stemming from our American ideal of fairness, are not mutually exclusive. The 'equal protection of the laws' is a more explicit safeguard of prohibited unfairness than 'due process of law,' and, therefore, we do not imply that the two are always interchangeable phrases. But, as this Court has recognized, discrimination may be so unjustifiable as to be violative of due process.").

"adequate opportunity" to present his **claims** in this case if he is denied access to all the telephone conversations and documents, **since** he will only have been able to review a small portion of those materials before trial, **given** the fiscal constraints present here.

In *Britt v. North Carolina*, 404 U.S. 226 (1971), the Supreme Court spelled out the two factors that must be evaluated to **determine** whether a transcript is required for a constitutionally adequate defense: "(1) the value of the transcript to the defendant in connection with the appeal or trial for **which** it is sought, and (2) the availability of alternative devices that would fulfill the **same** functions as a transcript." *Id.* at 227.¹⁰ It is important to note that "[a] defendant who **claims** the right to a free transcript does not, under our cases, bear the burden of proving **inadequate** such alternatives as may be suggested by the State or conjured up by a court in **hindsight**." *Id.* at 230.

While *Britt* arose in a different **context**, Mr. Fariz's need for English-language transcripts is no less compelling: the transcripts sought go to the heart of the charges against Mr. Fariz and likely also constitute the **most** valuable items of discovery to his defense. There is no substitute for the transcripts, **since** there is no way to discern the substance of the tapes and documents without **actually translating** them – a process Mr. Fariz is incapable of completing, either in time for trial or **financially**.

¹⁰ While not completely analogous to this case, the Supreme Court articulated this test to determine when transcripts of earlier **proceedings** must be made available to an indigent defendant. Even though *Britt* involved **state court** proceedings, the rule it articulated has been found equally applicable in federal cases **under** the due process clause of the Fifth Amendment. *United States v. Talbert*, 706 F.2d 464, 469 (4th Cir. 1983); *United States v. Acosta*, 495 F.2d 60, 63 (10th Cir. 1974).

Finally, failure to provide Mr. Fariz with the transcripts would violate his right to a fair trial under the Sixth Amendment. "No right ranks higher than the right of the accused to a fair trial." *Press-Enterprise Co. v. Superior Ct.*, 464 U.S. 501, 508 (1984). Specifically, were Mr. Fariz unable to locate critical exculpatory evidence in the vast expanse of untranslated discovery, such a deprivation would rise to the level of denial of his right to a fair trial. *Cf. People of Terr. of Guam v. Ngirangas*, 806 F.2d 895, 897 (9th Cir. 1986) (holding that denial of crucial exculpatory testimony due to court's preventing defendant from deposing a fugitive may impinge on a defendant's Sixth Amendment right to a fair trial). Denying Mr. Fariz access to the transcripts would stand in marked contrast to the position of the government, which has investigated the accused in this case for over 15 years, amassing 21,000 hours of wiretaps and countless thousands of pages of documents. Denial of the transcripts would offend notions of fairness, as well as impact negatively on Mr. Fariz's right to a fair trial. In such a situation, Mr. Fariz would be left scrambling to develop a defense to the severe charges in the indictment, which carry stiff penalties, while being capable of only reviewing a small fraction of the evidence accumulated. In this regard, the Supreme Court has noted that "[i]n our adversary system for determining guilt or innocence, it is rarely justifiable for the prosecution to have exclusive access to a storehouse of relevant fact." *Dennis v. United States*, 384 U.S. 855, 873 (1966).

WHEREFORE, Defendant respectfully requests that this Honorable Court:

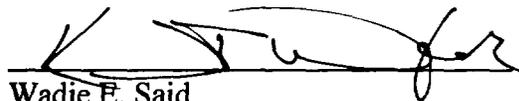
- a. compel the government to produce English-language transcripts and translations, and any drafts, of the wiretapped conversations and foreign-language documents in this case; and
- b. require the government to translate those tapes and documents it has not already translated and provide copies of the translations to Mr. Fariz.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

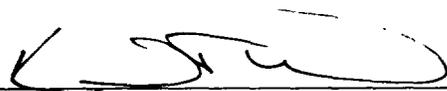
I hereby certify that on this 12 day of January, 2004, a copy of the foregoing has been furnished by hand delivery to Terry Zitek, Assistant United States Attorney, United States Attorney's Office, 400 North Tampa Street, Suite 3200, Tampa, Florida 33602 and by U.S. Mail to the following:

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