

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

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TAMPA, FLORIDA
MIDDLE DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

vs.

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

GHASSAN ZAYED BALLUT
_____ /

DEFENDANT GHASSAN BALLUT'S EX PARTE MOTION FOR ALLOCATION OF FUNDS UNDER THE CRIMINAL JUSTICE ACT TO COMPENSATE ARABIC AND HEBREW INTERPRETERS OF DISCOVERY AND MEMORANDUM OF LAW

The Defendant, GHASSAN ZAYED BALLUT, by and through his undersigned counsel, pursuant to 18 U.S.C. § 3006A(e)(1), hereby requests this Honorable Court to authorize the Defendant's counsel to obtain the services of interpreters of the Arabic and Hebrew languages to review and interpret Arabic and Hebrew tapes and documents, and further to obtain the services of transcribers to provide English transcriptions, to assist the Defendant's counsel in discovery, trial preparation, and other essential procedures in this cause, and as grounds therefor would state:

1. Pursuant to Rule 16 discovery obligations and the Orders of the Court, the Government has provided several hundred tape recordings of FISA interceptions and several hundred pages of documents to the Defendant's counsel which are in the Arabic language.
2. The Government has announced, and the Defendant's counsel anticipates, that ultimately discovery will be made of some 800 hours of tape recordings deemed by the Government to be pertinent to the allegations in the Indictment, as well as some 20,000 hours of tape recordings deemed by the Government to be not pertinent, the vast majority of which contain conversations in the Arabic language.

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3. The Government has announced, and the Defendant's counsel anticipates, that discovery will be made of several thousand pages of documents in the Arabic and Hebrew languages.

4. The Defendant's counsel has no facility in the Arabic and Hebrew languages, and although the Defendant is fluent in Arabic and English, the Defendant alone is entirely unable to review the nearly 21,000 hours of tapes and the thousands of pages of documents before the scheduled trial of this cause in January, 2005, in such a way to assist his counsel effectively in his defense.

5. Even presuming that the Government's representation that only 800 hours of the FISA interception tapes are pertinent to the allegations in the Indictment, the Government has no obligation to anticipate which portions of the tape recordings may be relevant to the preparation of the defense, and the Defendant's counsel would be remiss in his obligation to provide effective representation if he failed to survey the remaining 20,000 hours of tapes to determine if the contents of these tapes supported a defense or were likely to lead to the discovery of admissible evidence.

6. Similarly, the Defendant's counsel would be remiss in his obligation to provide effective representation if he failed to translate and transcribe all pertinent portions of the FISA interception tapes as well as to translate all pertinent documents provided in discovery.

7. If these tapes and documents are not translated and transcribed into English, their production would be useless and the purpose of their discovery would be thwarted.

8. Translation and transcription of the tapes and documents are necessary to protect the Defendant's rights to due process and effective assistance of counsel as guaranteed by the Fifth

and Sixth Amendments of the United States Constitution.

9. To effectively translate and transcribe discovery, the Defendant's counsel will necessarily require the services of well-qualified interpreters who are fluent in English and either the Arabic or Hebraic languages in sufficient number to effectively complete the task of translating and transcribing all pertinent portions of the tapes and documents before the trial in this cause.

10. The Defendant's counsel anticipates that such translations and transcriptions can be provided to co-defendants and their counsel without a conflict of interest, that such provision is similarly necessary to protect the co-defendants' rights to due process and effective assistance of counsel, and that such provision would be necessary to maximize judicial economy in the discovery and trial stages of this case.

11. Because the Defendant's counsel is appointed by the Court to represent the Defendant under the Criminal Justice Act, 18 U.S.C. § 3006A, the Defendant has been deemed financially unable to afford these translations and transcriptions, and therefore petitions the Court to obtain the services of interpreters and transcribers.

12. Because the interpreters would be assigned the intellectually challenging task of analyzing as well as interpreting the tapes and documents to discern their relative importance to these proceedings, the Defendant's counsel is compelled to suggest that recruitment of interpreters should occur principally at universities where the interpreters can be assumed to possess the requisite knowledge and skills.

13. The Defendant's counsel proposes the following steps for the most effective and cost-efficient manner of assembling and directing the interpreters and transcribers.

a. First, recruit the interpreters from the undergraduate and graduate ranks of Arabic and Middle Eastern studies departments at various American universities. It is the knowledge and belief of the Defendant's counsel based on the recruitment efforts of the Federal Public Defender for the Middle District of Florida that the Government has utilized many if not all of the available interpreters of Arabic in the Middle District of Florida in its criminal investigation of this matter over the past ten to fourteen years to the extent that many if not all of these interpreters would have a conflict of interest or would otherwise be subject to impeachment if they were assigned to translate for any of the defendants. Recruitment must necessarily occur at other locations in the United States. The Defendant's counsel has determined that extensive and respected Arabic and Middle Eastern studies departments are located at Binghamton University, the University of Chicago, Emory University, Harvard University, Ohio State University, the University of Texas at Austin, and the University of Washington.

b. Second, the interpreters would be divided into three teams. The first team consisting of two interpreters and one transcriber would concentrate on reviewing the 800 hours of tape recordings the Government deems pertinent to the allegations in the Indictment and comparing these to any transcriptions or summaries provided by the Government for the purpose of confirming or rewriting these transcriptions or summaries. The second team consisting of six interpreters and two to three transcribers would efficiently survey the remaining 20,000 hours of tapes in a "spot check" fashion to determine if any of the conversations deemed not pertinent by the Government in fact relate to the allegations or defenses. The third team consisting of at least one Arabic and one Hebraic interpreter and

at least one transcriber would review the documents in those languages to cull and interpret those documents that are pertinent to the allegations and defenses. This allocation recognizes the relative time required to translate and transcribe fully each of the 800 “pertinent” hours of tapes, which takes several times the actual length of the tapes, as opposed to the relative time required to spot check a relatively long but impertinent conversation. Optimally, members of each team would be geographically close to each other although this may not be required.

c. Third, the recruited interpreters would be given orientation on the allegations of the Indictment and the history and issues of the case in order to carry out their assigned tasks efficiently and knowledgeably.

d. Fourth, the interpreters and transcribers would be provided with sufficient resources and materials to complete their tasks, but it is presumed that this work would be conducted on their own premises at places remote from the Middle District of Florida.

e. Fifth, the interpreters and transcribers would be required to meet goals and quotas on a regular basis to assure that the assigned tasks will be completed prior to trial. This would include providing completed transcripts on a scheduled basis.

14. Based on information obtained from the Federal Public Defender, the Defendant’s undersigned counsel has reason to believe that compensation for the interpreters and transcribers would be structured as follows:

- a. Each would be paid at the rate of \$18.75 per hour.
- b. Each would be presumed capable of completing their assigned tasks in not more than 2,000 hours over the course of eleven months.

c. Each would be provided with an expense budget which would permit them to acquire tape recorders, tapes, paper, ink cartridges and stationery items and to pay for mailing and long distance calls. It would be presumed that the employees would provide their own computers and on-line service.

15. Because it is anticipated that a total of 14 interpreters and transcribers (“employees”) would be employed, the total amount required for compensation would be:

$$14 \text{ employees} \times 2,000 \text{ hours per employees} \times \$18.75 \text{ per hour} = \$525,000.00$$

16. It is further anticipated that the initial budget for the materials and resources described above should be set at \$1,000.00 per employee for a total of \$14,000.00, subject to additions as needed by individual employees over the course of time.

17. The total amount for this initial budget proposal would therefore be \$539,000.00.

18. The Defendant’s counsel would anticipate expenses necessitated by recruitment of interpreters and transcribers and would ask permission to apply for such costs as they arise, but is unable to determine with accuracy at this time what these costs would be.

19. The Defendant’s counsel would also ask that arrangements be made for biweekly or semimonthly payment of compensation and expenses to the interpreters and transcribers.

WHEREFORE, the Defendant requests this Honorable Court to authorize the Defendant’s counsel to obtain the services of interpreters of the Arabic and Hebrew languages to review and interpret Arabic and Hebrew tapes and documents and to obtain the services of transcribers to provide English transcriptions, to assist the Defendant’s counsel in discovery, trial preparation, and other essential procedures in this cause, and further requests the Court to set and approve the budget for compensation and expenses as described and to make such other orders as the Court

deems appropriate.

Memorandum of Law

Where a defendant in a federal criminal case is unable to obtain investigative, expert, or other services necessary for adequate representation, the defendant may request in an ex parte application that the Court make an appropriate inquiry into the necessity of the services and authorize appointed counsel to obtain the services. 18 U.S.C. § 3006A(e)(1). The Court has been well advised at prior hearings and conferences in this case of the Defendant's need for the services of interpreters and transcribers to assist in analyzing discovery. The Defendant's undersigned counsel is prepared to provide such additional information as the Court may require to make this inquiry and to justify the proposed budget for interpreters and transcribers.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bruce G. Howie", written over a horizontal line.

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Certificate of Service

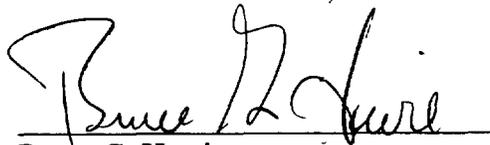
I HEREBY CERTIFY that a true and correct copy of the foregoing has been sent by U.S.

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