UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

FILED
2004 MAR 23 AM 11:05
CLERK U.S. DISTRICT COURT
TAMPA, FLORIDA

UNITED STATES OF AMERICA

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

GHASSAN ZAYED BALLUT
_____/

DEFENDANT GHASSAN BALLUT'S RENEWED
OBJECTION TO USE OF ANONYMOUS JURY AT TRIAL

The Defendant, GHASSAN ZAYED BALLUT, by and through his undersigned counsel, hereby renews his objection to the Government's motion for an anonymous jury at trial, and as grounds therefor states:

1. In submitting the Government's Juror Questionnaire, the Government stated that it was "drafted in contemplation of an anonymous jury."

2. On August 29, 2003, the Defendant filed his Objections to Government's Proposed Juror Questionnaire that included an objection to the Government's proposal for an anonymous jury.

3. On January 21, 2004, the Court advised counsel for the parties of the Court's intent to empanel an anonymous jury in the trial of this cause and allowed the parties sixty days in which to object to an anonymous jury.

4. The Defendant would renew his objection to the empaneling of an anonymous jury in this cause, adding to this his objection to the Court's proposal that the jury would not be advised that they are anonymous but would be instructed that they would be known individually by assigned numbers.

5. The Defendant's objection is based in part upon the reasonable concern that among the jurors during the course of the trial there would arise the recognition that the jury is in fact anonymous and the assumption that this measure is necessary to protect the jurors and their families from personal harm, which in turn would lead the jury to the rational conclusion that the defendants are dangerous and guilty of the allegations in the Indictment, thus tainting the deliberations of the jury.

6. None of the factors that in other cases necessitate an anonymous jury are present in this case.

7. The Government has failed to show legal cause why an anonymous jury is required in the trial of this case.

WHEREFORE, the Defendant objects to the empaneling of an anonymous jury in the trial of this case, and in the event that an anonymous jury is empaneled the Defendant would request a standing objection through the course of the jury trial.

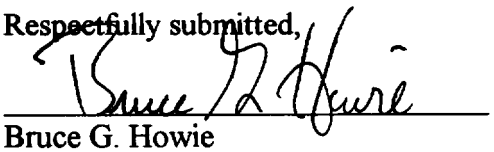
Memorandum of Law

The empaneling of an anonymous jury is within the discretion of the court, but the court should not empanel an anonymous jury absent strong reason to believe that the jury is in need of such protection. There are recognized factors to be considered in deciding to empanel an anonymous jury. These factors include: the defendant's involvement in organized crime; the defendant's participation in a group with the capacity to harm jurors; the defendant's past attempts to interfere with the judicial process; the potential that, if convicted, the defendant will suffer lengthy incarceration and substantial monetary penalties; and extensive publicity that would expose the jurors to intimidation or harassment. None of these factors are present here in regard

to the Defendant. It is understood that anonymous juries do not infringe on a defendant's constitutional rights, but there is an overriding due process consideration that anonymous empaneling would prejudice the defendant by causing the jurors to believe he is dangerous regardless of the Court's efforts to instruct to the contrary. See United States v. Ross, 33 F.3d 1507 (11th Cir. 1994); United States v. Bowman, 302 F.3d 1228 (11th Cir. 2002).

The Court has suggested not revealing to the jurors that they are anonymous, yet in the act of enforcing the anonymity of jurors over the course of time and because of communications among the jurors over the prolonged period for trial, it is reasonable to assume that the jurors would become aware they are anonymous and would have the right to assume that anonymity is essential to their protection from personal harm by the defendants or their colleagues. In keeping the jurors anonymous, the Court would further prejudice the Defendant by preventing inquiry into the jurors' employment which could disclose potential conflicts of interest between the Defendants and the juror, either because of the identity of his or her employer or because of the nature of the employment. The Court can inquire into a juror's employment in such a way as to avoid undue embarrassment or invasion of privacy, thus greatly aiding the selection of fair and impartial jurors.

Respectfully submitted,



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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. Mail to the following this 22nd day of March, 2004:

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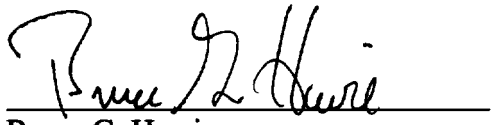

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