

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

FILED

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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-30-TBM
GHASSAN ZAYED BALLUT :

GOVERNMENT’S RESPONSE TO DEFENDANT BALLUT’S MEMORANDUM OF LAW ON APPLICABILITY OF LIMITATIONS TO COUNT 19

The United States of America by Paul I. Perez, United States Attorney, Middle District of Florida, submits the following response to Defendant Ballut’s Memorandum of Law on Applicability of Limitations to Count 19. Doc. 486.

The defendant previously moved to dismiss Count 19, pursuant to Title 18, United States Code, Section 3282, because the charged conduct occurred on May 24, 1995, and Count 19 was not indicted until February 19, 2003. Doc. 200 at 31.

The government is not relying on the statute of limitations found in Title 18, United States Code, Section 3282. The government is relying on the statute of limitations found in Title 18, United States Code, Section 3292. Doc. 347 at 31.¹

In March, 2000, the government submitted a request to the Israeli authorities for

¹ Subsequent to the filing of the consolidated response (Doc. 347), counsel for Defendant Ballut spoke and corresponded with the government regarding the suspension of the statute of limitations, pursuant to Title 18, United States Code, Section 3292. At that time, counsel wrote that pursuant to United States v. Najjar, 283 F.3d 1306 (11th Cir. 2002), he considered that “the limitations issue constitutes an affirmative defense which must be asserted at trial by the defendant or else it is waived.” If it is the defendant’s position that this issue is an affirmative defense, it is curious that he would persist in pursuing it as a motion to dismiss.

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certain evidence, pursuant to a Mutual Legal Assistance Treaty (MLAT). After the MLAT was submitted, the Court entered an Order suspending the statute of limitations, pursuant to Title 18, United States Code, Section 3292. (See Attachment A.) Production of evidence has continued through the date of the return of the indictment to the present.

Therefore, the United States respectfully requests that Defendant Ballut's Motion to Dismiss Count 19 be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent by U.S. mail this 23rd day of March, 2004, to the following:

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

FILED

MAR 24 PM 1:00

DISTRICT COURT
OF FLORIDA
TAMPA

IN RE: GRAND JURY 99-3-24 :
(USAO Matter No.1995R96168) :
: :
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IN CAMERA and EX PARTE ORDER

Upon Application of the United States Pursuant To Title 18, United States Code, Section 3292 For An Order Suspending The Statute Of Limitations, and the Court finding by a preponderance of evidence that an official request has been made for evidence and that it reasonably appears that such evidence is in a foreign country, that is, Israel, and for good cause shown, it is hereby ORDERED that the Statute Of Limitations on offenses being investigated by Federal Grand Jury 99-3-24 in an investigation entitled "U.S. Attorney Matter No. 1995R96168" is hereby suspended pursuant to Title 18, United States Code, Section 3292, from the date on which the official request for evidence was made until the Israeli authorities take final action upon the request of the United States for production of evidence pursuant to the Mutual Legal Assistance Treaty. Such term of suspension shall not exceed three years. In the event that the Israeli authorities take final action before the expiration of the Statute of Limitations, the term of suspension shall not exceed six months.

SO ORDERED this 21 day of March, 2000, at Tampa, Florida.



SUSAN C. BUCKLEW
UNITED STATES DISTRICT JUDGE