

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

**UNITED STATES OF AMERICA**

**v.**

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

**HATIM NAJI FARIZ**  
\_\_\_\_\_ /

**EMERGENCY MOTION TO COMPEL GOVERNMENT TO RELEASE  
EVIDENCE TO CONTRACTED COMPANY, THE PEGASUS GLOBAL  
CORPORATION, FOR IMAGING AND FOR EVIDENTIARY HEARING**

\_\_\_\_\_ Defendant, HATIM NAJI FARIZ, by and through undersigned counsel, respectfully requests that this Honorable Court compel the government to allow the release of certain evidence located in the FBI evidence room to The Pegasus Global Corporation (“Pegasus”) for imaging at Pegasus’ Lakeland headquarters. As grounds for support, Mr. Fariz states:

1. Counsel for Fariz negotiated a contract with Pegasus for the imaging of the substantial evidence in this case. Completion of this project will allow the participating defense counsel to view all of the imaged evidence from their office or home computers. In addition to viewing the evidence, defense counsel will be able to search the entire body of evidence for key words, phrases, etc.

2. The contract between defense counsel and Pegasus states that “imaging will occur in-house at the Vendor’s production facility.” The contract includes detailed quality

control procedures that have been reviewed by the Court and the FBI.

3. Since the beginning of negotiations with Pegasus until recently, counsel for Fariz have always understood, planned, and intended that the project would take place at Pegasus headquarters in Lakeland. The understanding between Pegasus and counsel for Fariz is, and always has been, that the project will be completed most efficiently by moving the documents from Tampa to Lakeland for processing.

4. During a meeting between counsel for Fariz and the FBI on May 28, 2004, the FBI expressed some concerns about moving the documents to Lakeland. However, the FBI never communicated to counsel that it would not allow Pegasus to proceed with the project as planned.

5. Throughout the planning stages, Pegasus had numerous discussions with the FBI and counsel regarding the transportation and safeguarding of the materials, including Pegasus' willingness and ability to return documents to Tampa immediately upon demand by the government. During a meeting between Pegasus representatives and the FBI in early June, the FBI and Pegasus discussed the possibility of completing the project in Tampa. However, at no time did the FBI indicate that it would refuse to allow the project to proceed in Lakeland as originally contemplated.

6. The necessary funds are now available, and Pegasus is ready to begin the project.

7. On September 3, 2004, counsel told Pegasus' Chief Operating Officer that the down payment was forthcoming, and that she should contact the FBI to discuss beginning

the project. Upon speaking with the FBI, Pegasus was informed that it would not be allowed to remove the evidence from the FBI offices, and that it would have to complete the project at the FBI offices in Tampa.

8. The project is estimated to take five to six weeks to complete at Pegasus headquarters in Lakeland. Pegasus is ready to begin the project immediately.

9. Pegasus is willing and able to complete the project in Tampa, but with significant delays. First, Pegasus would have to hire additional personnel to assist with the project. While some Pegasus employees would be available to come to Tampa to complete the project, the company cannot send all of its personnel to Tampa. Presumably, the new employees would have to complete a background check as other Pegasus employees assigned to this project have done. Pegasus estimates that the hiring process would delay commencement of the project for two to three weeks. Furthermore, Pegasus can only spare some of its equipment to be relocated to Tampa. Therefore, the actual project would take approximately four weeks longer using fewer machines. In total, the project would take six to seven weeks longer to complete in Tampa than in Lakeland.

10. This motion is being filed on an emergency basis because the project can only begin upon an order from the court. Counsel for the Government has been contacted on this issue and parties were unable to resolve their differences. As the court is aware, the project has been substantially delayed already. Defendant Fariz and his counsel cannot afford any further delay.

WHEREFORE, Defendant, Hatim Naji Fariz, respectfully requests that the Court for an emergency evidentiary hearing compelling the government to release evidence to The Pegasus Global Corporation for immediate commencement of the imaging project.

Respectfully submitted,

R. FLETCHER PEACOCK  
FEDERAL PUBLIC DEFENDER

s/ Kevin T. Beck  
Kevin T. Beck  
Florida Bar No. 0802719  
Assistant Federal Public Defender  
400 North Tampa Street, Suite 2700  
Tampa, Florida 33602  
Telephone: 813-228-2715  
Facsimile: 813-228-2562  
Attorney for Defendant

**CERTIFICATE OF SERVICE**

\_\_\_\_\_ I HEREBY CERTIFY that on this 15th day of September, 2004, a true and correct copy of the foregoing has been furnished by electronic mail and hand delivery to Terry Zitek, Assistant United States Attorney, 400 North Tampa Street, Suite 3200, Tampa, Florida 33602 and to the following by electronic mail & U.S. Mail:

Mr. Bruce G. Howie, Esquire  
Piper, Ludin, Howie & Werner, P.A.  
5720 Central Avenue  
St. Petersburg, Florida 33707

Mr. Stephen N. Bernstein, Esquire  
P.O. Box 1642  
Gainesville, Florida 32602

Mr. William B. Moffitt, Esquire  
Asbill Moffitt & Boss, Chtd  
The Pacific House  
1615 New Hampshire Avenue, N.W.  
Washington, D.C. 20009

Ms. Linda Moreno, Esquire  
1718 East 7<sup>th</sup> Avenue, Suite 201  
Tampa, Florida 33605

s/ M. Allison Guagliardo  
M. Allison Guagliardo  
Assistant Federal Public Defender  
Florida Bar #