

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO.: 8:03-CR-77-T-30-TBM

SAMI AMIN AL-ARIAN, et. al

**ORDER**

This matter came before the Court on September 29, 2004, in an *ex parte, in camera* hearing pursuant to the "Second Motion of the United States for a Pre-Trial Conference and a Protective Order Pursuant to the Classified Information Procedures Act (CIPA)" (Doc. 574) and the "United States' Motion for Leave to File an *Ex Parte, In Camera* Submission Under Seal, Pursuant to Section 4 of the Classified Information Procedures Act (CIPA) and Rule 16(d)(1) of the Federal Rules of Criminal Procedure" (Doc. 619). The Court also received and considered "Sami Al-Arian's Response to the Government's Motion for Leave to File Ex Parte, In Camera Submission Under CIPA" (Doc. 632), and "Response of Mr. Fariz to the United States' Motion for Leave to File an Ex Parte, In Camera Submission Under Seal Pursuant to the Classified Information Procedures Act" (Doc. 645).

In its motion for leave to file an *ex parte, in camera* CIPA submission, the United States announced that it had in its possession certain classified information which might be discoverable under Rule 16 of the Federal Rules of Criminal Procedure

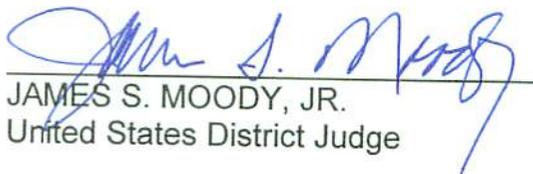
and/or the Brady/Giglio doctrine. The United States asserted that with respect to this information, discovery should be denied under Rule 16(d)(1) of the Federal Rules of Criminal Procedure based on an overriding need to protect national security interests.

In accordance with Section 4 of the CIPA, on September 29, 2004, the Court conducted an *ex parte, in camera* review of approximately 15 classified documents and classified written declarations by various representatives of the United States. Based on that review, the Court has determined that certain classified information derived from fewer than five of these documents is relevant and discoverable and that the interest of the defendants in seeing this information outweighed the government's interest in maintaining the secrecy of the information. The Court has approved this information to be released in the form of summaries of the information substituted for the original document, which are attached hereto as Exhibit A. In all other respects, the United States made a sufficient showing opposing discovery. The remaining documents contained information that was only marginally relevant to this case and the government's interest in safeguarding the secrecy of this national security information far outweighed any interest of the defendants. Discovery of the remaining documents is therefore **denied**.

It is further ordered that the entire text of the statement of the United States and the proceedings conducted on September 29, 2004, shall be sealed and preserved in the records of the Court to be made available to the appellate court in the event of an appeal.

In light of the Court's ruling on the follow-up motion of the United States requesting that discovery of classified information be denied (Doc. 619), there currently is no classified information subject to disclosure to the defense. Therefore, the "Second Motion of the United States for a Pre-Trial Conference and a Protective Order Pursuant to the Classified Information Procedures Act" (Doc. 574) is **denied as moot**.

ORDERED this 15 day of Oct., 2004 at Tampa, Florida

  
JAMES S. MOODY, JR.  
United States District Judge

Copies furnished to:  
Counsel/Parties of Record

In 1998, the United States Government received information concerning three principal groups within the Palestinian Islamic Jihad (PIJ). They are the PIJ-Shallah faction, headed by Ramadan (Shallah); the PIJ-Awda group, headed by Abd Al-Aziz (Awda); and the PIJ-Timimi faction, also known as the Bayt Al-Maqdis faction, headed by Shaykh As-Ad Bayut Al-Timimi.

The Shallah faction reportedly represents the PIJ mainstream and adheres strictly to Iranian guidance. As of early 1998, the Iranian guidance to Shallah was to use violent military operations to further the PIJ's goals of opposing the Israeli occupation.

Regarding the Awda group, information indicated that this splinter group advocated shifting PIJ policies and improving relations with the Palestinian Authority (PA) in order to secure a voice for the PIJ in a future Palestinian state.

Also according to this information, there is a Shura council within the PIJ that was set up to deal with the PIJ internal disputes rather than political issues, which were usually dealt with by a small group of leaders closely tied to Iran.

In 2000, the United States Government received information that, in 1997 Awda had left the PIJ to join the Palestinian Authority and was attempting to recruit other individuals from the PIJ to PA.

After the events of 9/11/2001, FBI discovered through investigative means that Fawaz Mohammad Damrah, in the context of discussing benevolent organizations, is known to have stated on at least one occasion that Americans should not support HAMAS with financial contributions.

During the Spring of 2002, the FBI discovered through investigative means that although Fawaz Mohammad Damrah has publicly stated that jihad is a duty of all Muslims, he disavowed affiliation with any jihadist group. He also is known to have stated that force of arms will not solve the Palestinian problem and that bombs to attack the Israelis cannot be justified, especially since they endanger civilians. The best course of action is to educate the American public about the Palestinian issues. He also has said that the West does not sympathize with the Palestinian people since they use suicide bombers to attack Israeli civilians. However, if the Palestinians attacked military targets it would be different. The FBI has also been told that Damrah does not delineate between suicide bombers and martyrdom resistance and that he does not support such activities regardless of their name.