

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

FILED

2003-08-14  
11:14  
[Signature]

UNITED STATES OF AMERICA

CASE NO: 8:03-Cr-77-T-30TBM

v.

SAMI AL-ARIAN  
\_\_\_\_\_ /

**MOTION TO CONDUCT HEARING ON  
DEFENDANT'S MOTION TO MODIFY CONDITIONS OF DETENTION**

COMES NOW the Defendant, SAMI AL-ARIAN, by and through the undersigned counsel, and moves this Honorable Court to conduct a **hearing** on the conditions of his confinement, and as grounds therefore would state:

1. The Defendant was led to believe, at his **Arraignment**, that he would be allowed an opportunity to testify regarding the conditions that he **lives under** and the impossibility of preparing for trial under such conditions;
2. Several Affidavits have been filed by **counsel which** detail the difficulties from their perspective in their efforts to afford the Defendant an **appropriate** defense;
3. The Defendant, and only the Defendant, **can testify** to the incessant noise in the S.H.U. unit and its impact on his ability to hear and **transcribe** the audio tapes. The general din is apparently punctuated by fire sirens which can **sometimes last** for thirty (30) minutes;
4. The Defendant, and only the Defendant, **can testify** to the defeat of his Sixth Amendment rights by the most trivial failures. By **way of** example, it is true that the Defendant has been provided tapes of some of his **conversations**. It is true that he has been provided a tape player so he can listen to the tapes. **However**, his efforts to listen to and transcribe the tapes is frustrated by the fact that for days **he is not** given replacement batteries, or paper to transcribe the conversation on, or perhaps **sharpened** pencils. The Defendant is

SCANNED

146

placed in the position of asking the court to have his pencils sharpened because without a writing device his ability to aid his counsel in his defense is **imply** defeated;

5. The Defendant can and would testify to an **incident** in which his fingers were slammed in the opening through which food is given to the **inmates** on S.H.U.;

6. The Defendant, and only the Defendant, **can testify** to the difficulty he has had in gaining access to the law library or even in calling his **attorneys**;

7. It is these seemingly trivial inconveniences **which**, by their cumulative nature, deprive the Defendant of his Sixth Amendment right to **effective** assistance of counsel. By way of example, the fact that the Defendant must, for some **reason**, **be** handcuffed behind his back, would not normally have a Sixth Amendment implication. **However**, when he needs to consult with his lawyer about written material he has authored or **received** he must carry that material while his hands are handcuffed behind his back. He is, by **the most** trivial means imaginable, deprived of his right or delayed in his exercise of his **Sixth Amendment** rights. Only the Defendant can testify to the extent and the truth of these **deprivations**.

8. These delays, while somewhat trivial in nature, **further** delay preparation of the Defendant's case in this matter, which is already **anticipated** to take approximately eighteen (18) months. The unnecessary delays caused by the Defendant's Pre-trial detention at Coleman U.S.P., as well as the lack of cooperation with the **Defendant** and defense counsel by the personnel at Coleman U.S.P., do not serve in the interest of **justice**;

**WHEREFORE**, the Defendant moves this **Honorable** Court to conduct a hearing when he could testify as to these and other matters which **he alone** could testify to under oath.

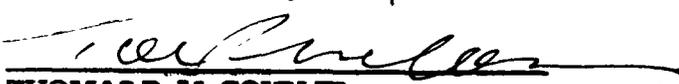
FILED

JUL - 1 PM 6:33

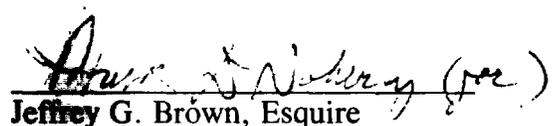
Date: 6/3/03

**This motion/petition/stipulation has been duly considered and is hereby**

Denied  
this 1 day of July 2003.



**THOMAS B. McCOUN III**  
**United States Magistrate Judge**

  
Jeffrey G. Brown, Esquire

**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that the original of the **foregoing** has been furnished to the Clerk of Court, Middle District of Florida, located at the **Sam Gibbons** U.S. Courthouse, 801 N. Florida Ave., Suite 223, Tampa, FL 33602-4500, and **that** a true and correct copy has been furnished to the following interested persons:

Terry Furr, AUSA  
U.S. Attorney's Office  
400 N. Tampa Street, #3200  
Tampa, FL 33602

Donald E. **Horrox**, Esq.  
Federal **Public** Defender's Office  
400 N. **Tampa** St., #2700  
Tampa, FL **33602**  
Attorney for **Hatim** Naji Fariz

Daniel M. Hernandez, Esq.  
902 N. Armenia Ave.  
Tampa, FL 33609  
Attorney for Sameeh Hammoudeh

Bruce G. **Howie**, Esq.  
5720 **Central** Ave.  
St. Petersburg, FL 33707  
Attorney for **Ghassan** Zayed Ballut

  
\_\_\_\_\_  
JEFFREY G. BROWN, ESQUIRE  
777 Alderman Road  
Palm Harbor, FL 34683  
(727) 786-~~8686~~, (727) 772-9833  
FBN 832431

Date Printed: 07/02/2003

Notice sent to:

— Walter E. Furr, Esq.  
U.S. Attorney's Office  
Middle District of Florida  
400 N. Tampa St., Suite 3200  
Tampa, FL 33602

8:03-cr-00077 rjc

— Daniel W. Eckhart, Esq.  
Office of the U.S. Attorney  
80 N. Hughey Avenue, Suite 201  
Orlando, FL 32801

8:03-cr-00077 rjc

— Jeffrey Geldert Brown, Esq.  
Florin, Roebig & Walker, P.A.  
777 Alderman Rd.  
Palm Harbor, FL 34683

8:03-cr-00077 rjc