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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

03 JUNE 2003 TAMPA DIVISION

CLERK, U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

UNITED STATES OF AMERICA

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

v.

SAMI AL-ARIAN

**MOTION TO STAY ORDER PERTAINING TO SECURITY CLEARANCES PENDING
WRIT OF PROHIBITION**

COMES NOW the Defendant, SAMI AL-ARIAN, by and through the undersigned counsel, and moves this Court to enter an order staying this Court's previous Order while the undersigned seeks relief from that Order, and as grounds therefore would state:

1. This Court entered an Order, Dkt. 162, on June 12th, 2003, wherein this Court compelled all defense counsel to submit security clearance packets to the appropriate authority within thirty (30) days. (Dkt. 162, page 16);

2. In that same Order, Dkt. 162, this Court ordered that defense counsel submit packets for security clearance to the appropriate government agency within (30) days from the date of the status conference (June 5, 2003). (Dkt. 162, page 18);

3. In that Order, this Court weighed defense counsel's right to confidentiality against the United States' interest in protecting classified information. (Dkt. 162, page 15);

4. Because the government has not sought to protect or classify any information, at least as outlined under The Classified Information Procedures Act (hereinafter CIPA) which seems to be the sole procedural authority on this matter, defense counsel believes that this Order has in effect "placed the cart before the horse". At the moment, there is in reality no classified information and if no classified information, then there is no interest to protect (if one chooses to

TAMPA, FLORIDA
U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JUN 13 2003 4:38 PM

FILED

169

follow the procedures as set forth in CIPA, the government must first file a motion for protective order and then the court must have a hearing before any information is deemed "classified");

03 JUL -7 PM 4:37

U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

5. On the other side of the Court's balancing test exists the defense counsel's right to privacy, which in contrast to the government's, is a real and tangible interest recognized by this Court (Dkt. 162, page 15). This right to privacy is forever lost and un-recoverable the moment defense counsel submits the security clearance packet to our adversary in this case, the government. If this court does not classify any information or even if the government does not, defense counsel cannot get their right to keep personal matters private returned. Put another way, the bell cannot be un-rung;

6. Therefore, defense counsel is being compelled to forever surrender their right to privacy because this Court has recognizing a government interest that does not yet, and may never exist. In addition, the defense counsel is being told to forego their right to privacy to be able to examine classified material that defense counsel may have no desire to ever want to examine. Until we know *what* the evidence is we are asked to examine, we cannot make the informed decision as to whether we even want to look at it and whether it is worth surrendering our right to privacy;

7. Lastly, the defense counsel has been instructed by the defendant to prepare and file a motion for the defendant to represent himself. If this motion were granted, then the undersigned would again be placed in the un-reversible position of having lost their right to privacy;

8. Therefore, for the above listed reasons, the undersigned is seeking a stay in this matter from this Court's Order so that the undersigned may (1) file a writ seeking relief from the 11th Circuit Court of Appeals prohibiting this Court from ordering the defense counsel to submit a security clearance packet and relinquish their right to keep personal information private and (2) file a motion on behalf of the defendant allowing him to represent himself.

U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

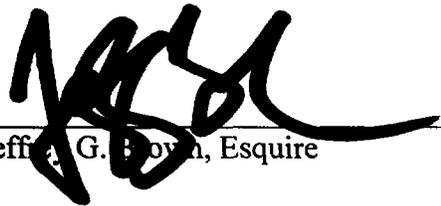
03 JUL -7 PM 4:37

LEGAL MEMORANDUM

This Court has jurisdiction to grant this motion pursuant to Rule 12 and Rule 47 of the Federal Rules of Criminal Procedure.

WHEREFORE, the undersigned moves this Court to grant this motion and all other relief so called for in law or equity.

Dated: 77-03


Jeffrey G. Brown, Esquire

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing has been furnished to the United States Attorney's Office and 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


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U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

03 JUL -7 PM 4:38

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