FILED

This motion/petition/stipulation has been duly considered and is hereby Denied, this 22 day of Sept., 2003

03 SEP 22 AM 11:46

JAMES S. MOODY, JR.
U.S. DISTRICT JUDGE

FILED
03 SEP 22 AM 10:34

United States District Court
Middle District of Florida
Tampa Division

United States of America
v.
Sami Amin Al-Arian, et al.

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

Defendant Sami Amin Al-Arian's Pro se Motion To Request Oral Hearing Regarding Magistrate Judge Tom McCoun Threat to Terminate Discovery

Comes now the Defendant Sami Amin Al-Arian in his pro se capacity and requests the Honorable Court to hold a hearing concerning magistrate Judge Thomas B. McCoun, III threat to terminate and discontinue discovery, for the following reasons:

1) On September 19, 2003, and at approximately 10:50 am magistrate Judge Thomas B. McCoun, III, visited the defendant in his 10th floor holding cell while reviewing financial documents as part of the discovery process.

2) Judge McCoun stated that he has been advised that the defendant and co-defendant Sameeh Hammoudeh have been mixing up the records and misplacing copies of checks in different files.

~~281~~
282

3) Judge McCoun indicated that the defendants should stop mixing up the record, and threatened the defendants that they would no longer be permitted to review documents if it happened again.

4) The defendant and his co-defendant tried to explain that this report was false and not based on facts, but the Judge cut off the defendant and told him, "You don't have to defend yourself, but if it happens again there will be no more review."

5) The Judge further refused to hear any explanation and repeated his threat a third time before he left the premises.

6) Co-defendant Hammoudeh, who was working on Box 3 of the financial documents, demonstrated to the FBI agents shortly after the Judge left that an envelope, which had "1994 Cancelled checks" on the front, actually included 1995 and 1996 Cancelled checks, as a proof that the documents have already been mixed up before the defendants even touched them.

7) The defendant is deeply troubled by the intimidating tone and speech, and the subsequent threat to terminate the discovery review process.

8) The defendant finds that the current discovery review process is very useful in extracting exculpatory evidence and should not be terminated and disrupted. However, the magistrate Judge has been suggesting very strongly on several occasions that the current review should perhaps be conducted by a paralegal.

9) The defendant reiterates his absolute belief that no paralegal is able to examine the documentary material and exculpate the evidence that the defendant finds meaningful and material. Furthermore, the defendant feels very strongly that he needs to fully examine all the documentary evidence and not be rushed or intimidated in violation of his 6th Amendment rights.

10) Furthermore, the defendant has been urged by the magistrate Judge that he should prioritize his discovery. This suggestion has almost always been followed by the suggestion that the defendant should concentrate on hearing the FISA intercepts.

11) While the defendant is mindful of the Court's suggestion, he has indicated on several occasions his strong desire that his first priority is to review and examine all documentary evidence before hearing the FISA intercepts.

12) The defendant's experience with the few tapes he has already had access to, strongly backs his

choice of the discovery review process. Simply put, reviewing all the documentary evidence makes the review of the FISA intercepts more meaningful and easier to process, which would in the long run be more efficient. Otherwise, the defendant may have to go back and forth which makes it less efficient and may cause unnecessary delays.

13) Hence, the defendant reiterates his strong desire to continue his examination of all the documentary evidence before proceeding to the FISA intercepts.

14) The defendant has been requesting for many months to review the documentary evidence when the tapes were not available to no avail. Had the pleas of the defendant been granted, the discovery review for the documentary evidence would have been completed. Hence, it's simply a violation of the defendant's 6th Amendment rights not to allow him to fully examine all the documentary evidence before proceeding to the FISA intercepts.

15) The defendant further requests that all future meetings be on the record. Wherefore, the defendant respectfully requests that the Court holds a hearing on the accusation that the defendant has been mixing up the records and on the continuation of the documentary review process before proceeding to the FISA's intercepts, and further that all future meetings be on the record.

Respectfully Submitted,

Sami A. Al-Arian

Sami A. Al-Arian

Dated: September 21, 2003
Orient Road Jail
Hillsborough County

Certificate of Service

I HEREBY CERTIFY that the foregoing has been sent via U.S. mail to the United States Attorey's Office, Terry Furr, Assistant U.S. Attorey, 400 N. Tampa St., Suite 3200, Tampa, FL 33602; Donald Horrox, 400 N. Tampa St., Suite 2700, Tampa, FL 33602; Stephen Bernstein, Esq., 500 East University Ave., Suite E, Gainsevilly FL 32601; and Bruce Howie, Esq., 5720 Central Ave., St. Petersburg, FL, 33707,

this 21st day of September 2003.

Sam A. Al-Arian

Sam A. Al-Arian

F I L E C O P Y

Date Printed: 09/22/2003

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 jlh

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

8:03-cr-00077 jlh

___ Sami Amin Al-Arian
FCI Coleman
P.O. Box 1033
Coleman, FL 33521-1033

8:03-cr-00077 jlh