

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

OCT -8 AM 10:51

UNITED STATES OF AMERICA

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

CLERK OF DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

vs.

SAMEEH HAMMOUDEH
_____ /

**DEFENDANT SAMEEH HAMMOUDEH'S OBJECTIONS TO
GOVERNMENT'S PROPOSED JUROR QUESTIONNAIRE AND
ADDITIONAL PROPOSED QUESTIONS FOR QUESTIONNAIRE**

The Defendant, SAMEEH HAMMOUDEH, pursuant to the direction of the Court, hereby submits additional proposed juror questions for inclusion in the Juror Questionnaire and objects certain questions proposed in the Government's Juror Questionnaire, as follows:

Objections

1. The Government's Juror Questionnaire states that it is "drafted in contemplation of an anonymous jury." The Defendant would object to an anonymous jury in this case as there is no basis to believe that the members of the jury need protection or require such extreme precautions.

2. In pursuit of juror anonymity, the Government requests that the Court not ask about the juror's employment. The Defendant would object, as a juror's employment information could disclose a conflict of interest between the juror or his employer and any one of the Defendants. For example, the University of South Florida is a major local employer and was involved in a highly publicized employment dispute with Defendant SAMI AL-ARIAN. Further, the nature of a juror's employment could reflect substantial prejudice either against the Defendants or against the Government. Such an inquiry is essential to the selection of fair an

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impartial jurors.

3. The Government in proposed question 7 asks the ethnic background of a juror's spouse, but nowhere does the Government's questionnaire ask for the ethnic background of the juror. The Defendant would object to this anomaly, as the ethnic background of the jurors is at least as material as the ethnicity of their spouses. The Defendant would propose that if such a question is asked, the jurors must also be requested to state their ethnic background preference.

4. At proposed question 22, the Government would ask if the juror has any friends or relatives employed by various United States agencies, but would not ask for this information from the juror. The Defendant objects as such inquiry is substantially material to determining a juror's fairness and impartiality, and would request that the same inquiry be made of the juror, including any past employment.

5. At various questions, including question 25, the Government would ask the jurors to avoid providing information "that would reveal your identify.": The Defendant would object to such phrasing in this and other questions on the same grounds as the Defendant's objections to an anonymous jury.

6. At question 26, the Government would ask about the Middle East military experience of juror's friends or relatives but not about the juror's own such experience. The Defendant would object for the same reasons stated in paragraph 4 above, and would ask that this same inquiry be made of the jurors.

7. At question 53, the Government would ask the jurors to "put aside" what they know of the terrorist events of September 11, 2001. The Defendant would object, as this question suggests to the jurors that this case concerns September 11 when in fact there is no connection, factually, metaphorically, or otherwise, between the events of September 11 and the charges in

this case, and such an inquiry suggests this connection and does not serve to prevent such prejudices from coming into consideration.

Proposed Additional Questions

8. Apart from the above objections, the Defendant agrees generally with the form of the Governments's proposed Juror Questionnaire and the wording of the remaining questions. Based on the above objections, the Defendant would request the insertion of the following questions at appropriate points:

a. What is your employment status?

Employed full time _____ Employed part time _____ Self-employed _____

Retired _____ Unemployed _____ Disabled _____

Other (please explain) _____

b. If you are employed full or part time, state the name of your employer and your position or title. _____

c. If you are self-employed, state the nature of your employment. _____

d. If you are not currently employed, state the name of your most recent employer and your position or title there. _____

9. The Defendant would further request an appropriate modification of those questions objected to above that inquire into the status of a juror's friends, relatives, or spouses to include the jurors themselves in these inquiries.

Memorandum of Law

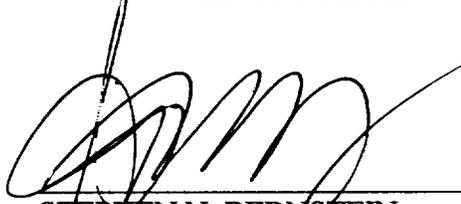
Although empaneling an anonymous jury is within the discretion of the court, the court should not order an anonymous jury if there is no strong reason to believe that the jury needs such protection. The factors to be considered in deciding to empanel an anonymous jury are the

defendant's involvement in organized crime, the defendant's participation in a group with the capacity to harm jurors, the defendant's past attempts to interfere with the judicial process, the potential that, if convicted, the defendant will suffer lengthy incarceration and substantial monetary penalties, and extensive publicity that would expose the jurors to intimidation or harassment. None of these factors are present here in regard to the Defendant. Although anonymous juries do not infringe on a defendant's constitutional rights, there is the likelihood that anonymous empaneling would prejudice the defendant by causing the jurors to believe he is dangerous regardless of the Court's efforts to instruct to the contrary. See United States v. Roiss, 33 F.3d 1507 (11th Cir. 1994); United States v. Bowman, 302 F.3d 1228 (11th Cir. 2002).

In enforcing anonymity of jurors, the Court would further prejudice the Defendant by preventing inquiry into the jurors' employment which could disclose potential conflicts of interest between the Defendants and the juror, either because of the identity of his or her employer or because of the nature of the employment. The Court can inquire into a juror's employment in such a way as to avoid undue embarrassment or invasion of privacy, thus greatly aiding the selection of fair and impartial jurors.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Motion has been furnished to

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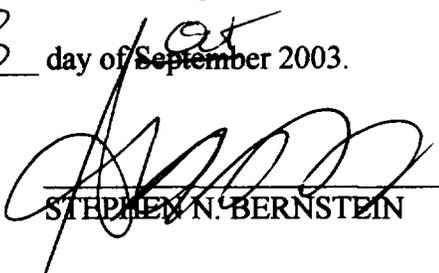
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by regular U.S. mail delivery on this 3 day of September 2003.



STEPHEN N. BERNSTEIN