

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO: 12-CR-20031

UNITED STATES OF AMERICA,

V.

JOAO MALAGO
_____ /

DEFENDANT'S MOTION TO COMPEL COMPLIANCE WITH SUBPEONAS

Defendant Joao Malago, by and through undersigned counsel, respectfully moves this Court, pursuant to Federal Rule of Criminal Procedure 17, the Due Process Clause of the Sixth Amendment, and *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194 (1963), for an Order compelling the Department of Homeland Security, Immigration and Customs Enforcement and the Government to produce the materials and testimony contained within the subpoenas described below. In support of this motion, the Defendant submits the following.

I. PROCEDURAL HISTORY

The Defendant has issued subpoenas for the upcoming trial date of May 20, 2013. Several subpoenas were served upon various Immigration and Customs Enforcement Agents with the Department of Homeland (hereafter "DHS-ICE"). See Exhibit A, copies of subpoenas and proof of service. The following individuals were subpoenaed to both produce records and to appear to testify at trial:

1. Special Agent Mike Hatfield
2. Special Agent Charles M. Fuss
3. Marcy M. Former, Former Director of the Office of Investigations for ICE
4. James Dinkins, Executive Assoc. Director Homeland Security Investigations

5. Records Custodian, Department of Homeland Security Immigration Customs and Enforcement

In compliance with *United States ex rel Touhy v. Ragen*, 340 U.S. 462 (1951) and DHS-ICE regulations, included with the subpoenas was a letter detailing the specific information sought, a general summary of the testimony sought as well as a description of the relevance of the testimony and information. See Exhibit B, *Touhy* letter. DHS-ICE responded to the subpoenas and *Touhy* letter declining to comply with the subpoenas, because it claimed the request is duplicative of the discovery provided by the government (although it had not reviewed the discovery) and not relevant to the proceedings against Mr. Malago. See Exhibit C, pg 3 and 4. However, DHS-ICE has not filed a motion to quash the subpoena.

II. MATERIALS AND TESTIMONY SOUGHT PURSUANT TO FEDERAL SUBPOENA

The material and relevant testimony and documents sought through federal subpoena are described in detail in the *Touhy* letter and are restated as follows:

1. All knowledge regarding Mr. Malago's status as a confidential informant for Agent Hatfield and Agent Fuss while they were employed by the Department of Homeland Security, Immigration and Customs Enforcement Office in Tampa, Florida.
2. All knowledge regarding the dates of Mr. Malago's status as a confidential informant for Agent Hatfield, Agent Fuss, and the Department of Homeland Security, Immigrations and Customs Enforcement.
3. The correspondence and communications from Mr. Malago to Agent Hatfield and Agent Fuss and from them to Mr. Malago regarding his cooperation as a confidential informant.
4. All knowledge regarding travel to Brazil regarding Operation Mayan Jaguar and/or Mr. Malago.
5. All knowledge regarding the specific planes involved with Mr. Malago's cooperation or plane transactions conducted with the knowledge of Department of Homeland Security, Immigration and Customs Enforcement.

6. Exculpatory statements concerning Mr. Malago given to Agent Hatfield and/or Agent Fuss by Larry and Lisa Peters.
7. Any and all documents pertaining to ICE Operation Mayan Jaguar from the dates of 2004 until 2011.
8. Any and all documents pertaining to the ICE investigation and crash of Plane N987SA in Mexico in September 2007.
9. Any and all documents pertaining to Immigration Customs and Enforcement's confidential source Joao Malago
10. Any and all documentation pertaining to ICE Agent Michael Hatfield in connection with Joao Malago and /or Operation Mayan Jaguar
11. All documentation regarding Joao Malago and his cooperation as an informant in Operation Mayan Jaguar.
12. All documentation pertaining to the investigation of Luis Alberto Urrego-Contreras and the purchase and sale of Plane N192SA
13. All documentation and knowledge regarding Mr. Malago's status as a confidential informant for the Department of Homeland Security, Immigration and Customs Enforcement Office in Tampa, Florida.
14. All documentation and knowledge regarding the dates of Mr. Malago's status as a confidential informant for the Department of Homeland Security, Immigrations and Customs Enforcement.
15. The correspondence and communications from Mr. Malago to any ICE Agents and from any ICE Agents to Mr. Malago regarding his cooperation as a confidential informant.
16. All in country travel permission requests and documentation to Brazil, to and from agents operating under the Mayan Jaguar investigation from 2004 through 2011.
17. All knowledge regarding the specific planes involved with Mr. Malago's cooperation or plane transactions conducted with the knowledge of Department of Homeland Security, Immigration and Customs Enforcement.

Specifically, the *Touhy* letter goes on to describe the nature of the prosecution and a description of the issues that the government has raised through its production of discovery. Attached with that letter was a copy of the indictment so that the specific time frame in question could be reviewed and the discussion of the discovery and issues raised through that discovery could be seen as it pertained to the indictment.

III. UPON COMPLIANCE WITH *TOUHY*, THE COURT SHOULD COMPEL COMPLIANCE PURSUANT TO FEDERAL RULE OF CRIMINAL PROCEDURE (FRCP) 17.

As the Defendant has complied with the *Touhy* regulations pertaining to the subpoenaing of federal agents and documents, this Court has jurisdiction to entertain a motion to compel pursuant to Federal Rule of Criminal Procedure 17. *United States v. Fuentes-Correa*, 2013 WL 588892 (D.Puerto Rico) *6,7, citing *United States v. Reynolds*, 345 U.S. 1, 9-10 (1953)(stating “[j]udicial control over the evidence in a case cannot be abdicated to the caprice of executive officers” and “where the United States is already a party, the correct forum for judicial control is not the APA[Administrative Procedures Act]; it is, rather, the underlying case, where the issue will be governed by the law of evidence that would normally control.”) Importantly, where the United States tries a defendant in its own courts, as opposed to a civil case or where the government is not a party, no issue of sovereign immunity exists which would require analysis under the Administrative Procedures Act. Instead disclosure obligations are guided by federal criminal rules and precedent. *Id* at 6(court proceeds with an in-depth discussion of various circuits’ handling of *Touhy* related matters), citing *Puerto Rico v. United States*, 490 F.3d 50, 71 (1st Cir. 2007).

A court should compel compliance with a subpoena to a third party pursuant to FRCP 17 if the subpoenaed information and testimony is necessary to permit the defendant to raise a defense. *U.S. v. Tucker*, 249 F.R.D. 58, 66 (S.D.N.Y. 2008)(upheld subpoena to the Bureau of Prisons for many hours of recorded phone calls after government provided transcripts of some recorded calls regarding a cooperating witness in its discovery), see also, *United States v. Henry*, 482 F.3d 27, 30 (1st Cir.2007); *United*

States v. Morris, 287 F.3d 985, 991 (10th Cir.2002); *United States v. Reed*, 726 F.2d 570, 577 (9th Cir.1984). Such determination is factored through a defendant's establishing: 1) the relevancy, 2) the admissibility, and 3) the specificity of the subpoenaed information. *U.S. v. Nixon*, 418 U.S. 583, 699-702 (1974); *United States v. Arditti*, 955 F.2d 331 (5th Cir. (1992); *United States v. Butler*, 429 F.3d 140, 149 (5th Cir. 2005). However, sensitivity must be shown to the defense need to obtain evidence and the lack of prior opportunity to do so. *U.S. v. Tucker*, 249 F.R.D. 58 (S.D.N.Y. 2008). Without such a showing, the Court may find that the subpoena is unreasonable and oppressive. *Id.* at 66.

IV. THE DOCUMENTS AND TESTIMONY INCLUDED IN THE SUBPOENA ARE RELEVANT, ADMISSIBLE, AND SPECIFIC TO THE ALLEGATIONS AGAINST HIM AND TO PREPARATION OF HIS DEFENSE.

The documents and testimony requested in the subpoenas at issue are relevant to the preparation of Mr. Malago's defense to the specific counts in the indictment and for more than impeachment purposes. *United States v. Nixon*, 418 U.S. 683, 699-700 (1974). The relevance, specificity, and evidentiary nature of the requests are as follows:¹

1. In connection with the indictment, the government has provided some discovery pertaining to approximately 60 plane transactions, including *some* reports by ICE Agents, plane contract agreements, and documents pertaining to the transfer of money regarding these plane transactions. However, some of these documents are

¹ Should the Court require a further and more detailed description of the materiality or relevance to the Defendant's trial preparation, a motion will be filed ex parte.

redacted.² Furthermore, some of these plane transactions during the time frame of the indictment were specifically undertaken as a part of Mr. Malago's cooperation as a confidential informant in connection with Operation Mayan Jaguar under the direction of Special Agent Mike Hatfield and Special Agent Charles M. Fuss. Specifically, discovery regarding Plane N192SA and N987SA in connection with Mr. Malago and his cooperation has been provided by the government in discovery and occurred during Mr. Malago's status as a confidential informant.

The only way for Mr. Malago to establish at trial that Mr. Malago was a confidential informant, the time frame of his cooperation, and the details of his cooperation regarding specific plane transactions is to call the two agents who supervised Mr. Malago's cooperation as witnesses. The only way to properly prepare to examine these witnesses is to review the supporting documentation regarding the nature, extent, and duration of Mr. Malago's cooperation. Additionally, these documents may be necessary for motions pertaining to the admissibility of evidence and testimony at trial. Therefore, pre-trial disclosure is essential which is allowed pursuant to FRCP 17.

Furthermore, both Agent Hatfield and Agent Fuss supervised Mr. Malago, but each agent has knowledge independent of the other. The testimony of both agents would not be cumulative. Agent Fuss and Agent Hatfield did not always supervise Mr. Malago at the same time period or communicate with Mr. Malago together. Furthermore, Agent Hatfield and Agent Fuss handled different aspects of the cooperation. For instance, one agent dealt more with the accounting side and the other agent dealt more with the

² Counsel has attempted to obtain un-redacted copies of these documents from the government, but the government has refused. This discovery issue is the subject of a pending Motion to Compel. [DE 118].

operational aspects. This is evident from recorded phone calls produced by the government in discovery between Mr. Malago and Special Agent Mike Hatfield and other agents. Therefore, the testimony of both agents is necessary for trial.

The requests for information pertaining to Mr. Malago's cooperation and the testimony of agents who supervised him are thus relevant to the time period in the indictment and the charges against him based upon the wording of the Indictment itself and the government's provision of discovery. Additionally, the requests for information and testimony are specific and relate only to Mr. Malago's role as a confidential informant and do not seek operational information that does not pertain to Mr. Malago. Finally, the information and testimony requested would be directly admissible through the agents' own testimony of interactions with Mr. Malago and pertaining to those specific plane transactions.

2. The government has indicted Mr. Malago for a time period beginning in 2007 through 2011. The government has provided discovery of recorded phone calls and recorded meetings between Mr. Malago (acting as a confidential source and at the direction of Agents Hatfield and Agent Fuss) and targets of Operation Mayan Jaguar prior to and during the time period of the indictment. Additional phone recordings were provided between Mr. Malago and Agent Mike Hatfield discussing operational issues. The recorded meetings with these targets occurred in Brazil and were undertaken with the cooperation of Brazilian law enforcement and DHS-ICE, including Mr. Fernando Francischini, an officer with the Brazilian Federal Police with whom Agents Hatfield and

Fuss interacted regarding these very meetings. The government has stated that Mr. Francischini is a potential witness.

Therefore, documentation regarding Mr. Malago's cooperation and the testimony from both Agents Hatfield and Fuss (who both traveled to Brazil for this operation) are necessary and relevant to prepare for motions pertaining to admissibility of evidence as well as to present his defense and confront any testimony Mr. Francischini might give. Without such testimony and documentation, Mr. Malago is completely unable to confront the evidence the government seeks to admit against him and present evidence towards his own defense. *United States v. Hoeffner*, 254 F.R.D. 302, 308-309 (S.D. Tex 2008)(court finding defendant's request not unreasonable or oppressive and recognizing right to adequately present evidence that supports his defensive theory even when no evidence that the government relied upon the requested documents in framing the charges in the indictment). Secondly, the information requested is limited to the Agents who supervised Mr. Malago or had knowledge of his actions on behalf of DHS-ICE during that time period. The subpoena did not request testimony or documentation of agents with whom Mr. Malago never interacted or are not related to the discovery already provided by the government.

3. Mr. Larry Peters was also a confidential informant for ICE and operation Mayan Jaguar for a time period that coincides with Mr. Malago's cooperation as a confidential informant. In fact, Mr. Peters and Mr. Malago were brought in by ICE agents at approximately the same time and signed up as sources at approximately the same time. The government has released discovery of confidential source documentation from ICE pertaining to both Mr. Malago's and Mr. Peters' official status as confidential sources.

According to Mr. Peters, he has given exculpatory statements to ICE Agents during interviews regarding Mr. Malago. The government has also stated that Mr. Peters is also a potential witness at trial and has been recently interviewed by DEA Agents Mattingly and Frankhouser, the lead agents on Mr. Malago's case.

Obtaining prior statements of Mr. Peters to ICE agents that are exculpatory in nature is essential to Mr. Malago's ability to present a defense as well as admissible should Mr. Peters testify as a witness.³ As such, these requested documents from ICE are relevant, material and admissible in nature.

4. The government has also provided information pertaining to a defendant who was charged with a plane transaction which occurred under Operation Mayan Jaguar while Mr. Malago was a confidential informant and whom the government indicates it anticipates calling as a witness. *United States v. Luis Alberto Urrego-Contreras*, 8:10-CR-243-T-30-EAJ, Middle District of Florida. In fact, the defendant, an anticipated government witness, filed a motion to continue his sentencing before the District Court in the Middle District of Florida specifically stating that he was to be a witness in Mr. Malago's upcoming trial in May 2013.

As such, documentation and testimony from Agents Hatfield and Fuss regarding this specific plane transaction and this defendant are essential to confronting the evidence against him and preparing to present evidence on his own behalf regarding the nature of this transaction. Furthermore, documentary evidence regarding this plane transaction and the already indicted criminal case against Mr. Urrego-Contreras is essential to preparing

³ Defense Counsel has attempted to obtain these documents through a discovery request to the Government without success and it is included in the pending two Motions to Compel [DE 88 and 118].

for the witness' testimony and determining whether other witnesses or agents may be needed at trial.

6. The government has provided discovery regarding communications between Ms. Marcy M. Forman, now former Director Office of Investigations for ICE, and Mr. Michael Braun, now former Assistant Administrator Chief of Operations for DEA. These communications pertain to a disagreement between DHS-ICE and the DEA as to the methods and procedures used in conducting Operation Mayan Jaguar as well as information about specific plane transactions involving Mr. Malago as a confidential source and undertaken under the auspices of Operation Mayan Jaguar during the time period of the indictment, including Plane N987SA. These letters indicate knowledge and familiarity with Mr. Malago as a confidential source on the specific plane transaction, N987SA. Furthermore, such plane transaction was referenced by the government in bond hearings as evidence of criminal activity by Mr. Malago.

The information requested is specific and limited in both time and scope. The information sought through Ms. Forman and Mr. Dinkins pertains to specific plane transactions about which the government has also provided discovery and which occurred during the time period of the indictment. Considering that the government intends to use evidence of recorded conversations from the DEA during a time period that Mr. Malago was a confidential informant with DHS-ICE, the testimony of Ms. Forman and Mr. Dinkins regarding these communications and Operation Mayan Jaguar as it pertains to the plane transactions which with Mr. Malago was involved with certainly provide context and necessary explanation for the recordings should then even be admissible at

trial. Therefore, the testimony of these individuals and the documentation pertaining to their conversations and operation Mayan Jaguar is relevant as addressed above and material to preparing his defense at trial and to addressing potential evidentiary issues of admissibility prior to trial.

7. Lastly, the government has provided 9 reports of investigation authored by Special Agent Mike Hatfield. These reports are dated from September 28, 2007 until April 1, 2008, regarding activity undertaken with confidential source Mr. Malago and Operation Mayan Jaguar. These reports occurred during the very time period of the indictment. Clearly, these reports are not all the reports regarding Mr. Malago's cooperation as Mr. Malago began cooperating in 2004. They are not the reports that address the recorded phone calls from 2006 and 2007 which were provided by the government in discovery from the DEA. These provided reports do not address Agent Fuss and Agent Hatfield's travel to Brazil and interactions with Mr. Francischini whom the government indicates it intends to call as a witness. Furthermore, none of these reports relates to the plane transactions referred to in the government's discovery, Plane N987SA or N192SA. However, the reports by Agent Hatfield do substantiate that Mr. Malago was still a confidential source well into the time period of the indictment.

Testimony from Agents Hatfield and Fuss as well as Ms. Forman and Mr. Dinkins is essential to evidentiary issues of admissibility and to ultimate issues of culpability on certain plane transactions addressed in the recorded calls and discovery provided by the government as discussed in the preceding paragraphs. Again, the information sought is specific to Mr. Malago's actions as a confidential informant and the specific transactions

with which Mr. Malago was affiliated. Testimony and documents supporting these plane transactions would be admissible and therefore satisfy FRCP 17.

V. MR. MALAGO'S SUBPOENA IS NEITHER OPPRESSIVE OR UNREASONABLE NOR OTHERWISE PROCURABLE THROUGH DUE DILLIGENCE.

If the third party to which the subpoena is directed objects to the records requested in the subpoena, the court must compel compliance unless the request is unreasonable or oppressive as determined by the proponent's establishing the relevancy, admissibility and specificity of the subpoena. *U.S. v. Nixon*, 418 U.S. 583, 699-702 (1974). In addressing arguments of unreasonableness or the oppressive nature of subpoenas, courts often address a party's claims regarding their relevance, the time and effort required to gather the documents, a defendant's ability to obtain the information on his own, that the request is overbroad, as well as privileges asserted. *United States v. Hoeffner*, 254 F.R.D. 302, 305. Those arguments are not supported in this case. First, no party has asserted any privilege nor supported such assertion. Second, the provision of the subpoenaed information and testimony is limited in scope to the issues raised in the indictment and through discovery provided by the government as well as information only pertaining to Mr. Malago's actions as a confidential informant. Third, such information has already been provided by DHS-ICE in other prosecutions and to other agencies. Fourth, the information is no longer linked to an active and open investigation. Lastly, it is not accessible to Mr. Malago by exercise of his own due diligence.

The information requested in the subpoena has already been released to multiple sources by DHS-ICE. In connection with this prosecution, there also exists an

investigation by The Office of the Inspector General (hereafter OIG). As part of this investigation, DHS-ICE has already provided to OIG *some* discovery pertaining to the documents requested in the subpoena. The government, in connection with the above litigation, has also provided many of those OIG reports pertaining to the OIG investigation and DHS-ICE's Operation Mayan Jaguar. However, many of these documents that were provided in discovery to Mr. Malago are heavily redacted *by OIG*, not DHS-ICE. As DHS-ICE has already provided much if not all of the responsive documents to OIG, providing them pursuant to this subpoena would not be unreasonable or oppressive.

Additionally, information regarding Operation Mayan Jaguar and its methods has already been released to numerous sources in addition to OIG. It has been released in conjunction with other prosecutions of other defendants. See *United States v. Jorge San Martin Giraldo*, 11-CR-20347 in the Southern District of Florida and *United States v. Luis Alberto Urrego-Contreras*, 8:10-CR-243-T-30-EAJ, Middle District of Florida.

Furthermore, Agent Hatfield's own report and the letters by Ms. Forman state and indicate that Operation Mayan Jaguar is no longer active and has been closed. Such report, coupled with the government's disclosure of some reports pertaining to the investigation limits any government agency investigatory concerns about revealing this information.

Mr. Malago has also exercised due diligence in attempting to obtain the evidence through documents outside of a subpoena to DHS-ICE. Mr. Malago was given limited documents regarding his cooperation by DHS-ICE agents as he was unrepresented by counsel during his cooperation. He also had business records and other records detailing

many of the specific plane transactions on which he participated as a confidential source. However, OIG agents conducted a search of Mr. Malago's home and seized all his office documents and computers in 2008, taking all those records with them. Attempts to obtain the complete un-redacted record and missing documents pursuant to Rule 16 and *Brady* from the government have been unsuccessful and is the source of a first and second motion to compel by the Defendant. [DE 88 and 118]. Furthermore, Mr. Malago has no independent way of establishing facts pertaining to his cooperation with DHS-ICE absent Agent Hatfield and Fuss's testimony and the requested documentation. Therefore, Mr. Malago has exercised due diligence in attempting to obtain these records through motions to compel and requests to the government. Without resolution of these motions in the Defendant's favor, the only avenue available to Mr. Malago is through a subpoena of the documents and through the actual testimony of the agents themselves. Without the documents subpoenaed and the testimony of Agents Hatfield, Fuss, Ms. Forman, and Mr. Dinkins, Mr. Malago will be unable fully present a defense to the issues it appears the government will attempt to raise at trial. Such exercise of his Fifth and Sixth Amendment rights to due process, confrontation, and compulsory process is not unreasonable but a fundamental cornerstone of the adversarial process.

VI. ANY PRIVILEGE CONCERN CAN NOT OUTWEIGH MR. MALAGO'S FIFTH AND SIXTH AMENDMENT RIGHT TO DUE PROCESS, CONFRONTATION AND COMPULSORY PROCESS

The accused also has the benefit of certain constitutional rights, including those enumerated in the due process, confrontation, and compulsory process clauses. The Supreme Court has recognized that federal criminal prosecutions present special

circumstances that are not present in cases where the United States is not a party to the underlying action when it pertains to assertions of privilege and a government's failure to comply with a subpoena. *United States v. Reynolds*, 345 U.S. 1, 12 (1953); *United States v. Fuentes-Correa*, 2013 WL 588892 (D.Puerto Rico) *6,7. The *Reynolds* Court found that, as opposed to a civil case, in a criminal case "the Government can invoke its evidentiary privileges only at the price of letting the defendant go free." *Id.*, citing *United States v. Andolschek*, 142 F.2d 503. The rationale for this difference, the Court said, was that in criminal cases "the Government which prosecutes an accused also has the duty to see that justice is done." It went on to hold that "it is unconscionable to allow it to undertake prosecution and then invoke its governmental privileges to deprive the accused of anything which might be material to his defense." *Id.*

In the present case, without the subpoenaed information and testimony of the agents, Mr. Malago will be greatly hindered in his ability to present a defense. On the one hand, the government provides a bare bones indictment for a 4-year span of time. The government then provides discovery on approximately 60 plane transactions during, after and before that time period listed in the indictment. It has also provided summaries of audio-recorded interactions between Mr. Malago and foreign nationals for a time period prior to the Indictment (2006) during which it is undisputed that Mr. Malago was an informant. It provides information that it may call Mr. Fernando Francischini, a Brazilian police officer who participated in Mr. Malago's cooperation as a confidential informant at meetings with targets of Operation Mayan Jaguar. It appears that the government intends to attempt to use the information regarding Mr. Malago's actions while he was an informant as evidence against him at trial in some format. Therefore, it is essential that

Mr. Malago be able to compel the testimony of DHS-ICE Agents Hatfield, Fuss, Ms. Forman and Mr. Dinkins regarding his cooperation and the circumstances surrounding those recorded conversations. Mr. Malago should certainly have the opportunity to dispute or confront such evidence. *United States v. Tucker*, at 67 (in discussing upholding a subpoena to a third party, the court found that the right to confrontation “is meaningless if a defendant is denied the reasonable opportunity to obtain material evidence that could be crucial to that cross-examination”). Without the ability to subpoena this information and these individuals, Mr. Malago is unable to challenge the admissibility of such evidence or present any defense regarding the details of the specific plane transactions.

CONCLUSION

Mr. Malago has subpoenaed specific agents and documents from DHS-ICE. He has complied with DHS-ICE Touhy regulations. As such, the Court has the ability to compel compliance with the subpoenas. Mr. Malago has not sought a broad production of documents on a fishing expedition. Instead, after careful consideration of the Indictment and careful review of the discovery, the subpoenas were specifically tailored to issues relevant and material to confront the evidence against him and preparing his own defense. Additionally, the subpoenas request information that is known to exist as opposed to just a general inquiry for information that may not truly exist. Also, the subpoenaed information is evidentiary in nature and not simply being used as a discovery tool. Finally, Mr. Malago has sought other avenues of obtaining this information and testimony without success. Therefore, in order to have any meaningful ability to exercise his Sixth Amendment rights to due process, compelling compliance with these subpoenas is essential.

WHEREFORE, the Defendant, respectfully requests this Court grant his Motion for Miscellaneous relief allowing him to file the required Bill of Sale and other transfer documents with the FAA pertaining to Plane N6106J and N153Q.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 8, 2013, I electronically filed the foregoing document with the Clerk of Court using CM/ECF. I also certify that the foregoing document is being served on AUSA Andrea Hoffman, United States Attorney's Office, 99 N.E. 4th Street, Miami, Florida 33132 via ECF.

Respectfully submitted
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