

1 HAYTHAM FARAJ (No. 72581)
Telephone: 313-457-1390
2 E-mail: Haytham@puckettfaraj.com
Attorney for Defendant
3 ISSAM HAMAMA

4 UNITED STATES DISTRICT COURT
5 EASTERN DISTRICT OF MICHIGAN
6 SOUTHERN DIVISION

7 UNITED STATES OF AMERICA,)	Case: 2:08-cr-20314
8 Plaintiff,)	<u>EX PARTE APPLICATION IN</u>
9 v.)	<u>CAMERA AND UNDER SEAL FOR</u>
10 ISSAM GEORGE HAMAMA,)	ORDER ISSUING OUT OF DISTRICT
11 Defendant.)	SUBPOENA; MEMORANDUM OF
)	POINTS AND AUTHORITIES;
)	DECLARATION
)	VIOLATIONS: 18 U.S.C. §§ 371, 951(a),
)	1001 (a)(2)

13 _____
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15 Defendant ISSAM HAMAMA, by and through his attorney, Haytham Faraj, hereby applies
16 to this Court for an order that a subpoena be issued for service on the witness named in the subpoena
17 attached to the accompanying proposed order; that the costs incurred by the process and the fees of
18 the witness be paid in the same manner in which similar costs and fees are paid for witnesses
19 subpoenaed on behalf of the government, and that notice of the issuance of this subpoena should
20 only be given to those persons needed to facilitate the witness' appearance.
21

22 This application is made pursuant to Rule 17(b), (c) of the Federal Rules of Criminal
23 Procedure, Local Rule 17.1, the attached memorandum of points and authorities and declaration, all
24 files and records in this case, and such further information as may be provided to the court with
25 respect to this application.
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27 Respectfully submitted,
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HAYTHAM FARAJ
Attorney for Defendant

DATED: November 11, 2010

By Haytham Faraj

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MEMORANDUM OF POINTS AND AUTHORITIES

I

INTRODUCTION

ISSAM HAMAMA is charged with conspiracy to act as an unregistered agent of a foreign government, and multiple counts of making a false statement. Trial is set for January 06, 2011.

BACKGROUND

Mr. ISSAM HAMAMA’S prosecution arises from the discovery of documents purporting to belong to the Iraq Intelligence Service (IIS) that were seized by the United States after the 2003 Iraq invasion. The United States then enlisted the help of IIS officers and Baath party members to decipher and explain some of the seized documents. These Baath party members and former members of Saddam Hussein’s IIS were then provided various incentives by the U.S. Government including protection from prosecution by Iraq’s newly elected and democratic government for the commission of various serious offenses against the Iraqi people, including genocide, mass murder, torture, rape and the use of chemical weapons against unarmed civilians. The U.S. also offered a number of these IIS officers asylum in the United States along with various economic and social benefits including housing, compensation, health benefits and fake identities to hide their crimes. In return for the protection and financial incentives offered by the United States, the former IIS officers, would testify about alleged agents for Iraq operating in the United States that purportedly assisted the IIS in its work against opposition groups in the United States. Mr. Hamama is alleged to be one of these agents. The allegations are supported by documents that refer to Mr. Hamama by name and assign him the number “6129”.

1 Based on the indictment, testimony of former IIS agents and the IIS documents, the Government
2 will seek to prove their case by showing that Mr. Hamama's loyalties lie with the former Iraqi
3 government of Saddam Hussein and that he knowingly conspired to assist the former Iraqi
4 government and later lied about it. The defense will disprove the Government's case by putting
5 on evidence and witnesses that demonstrates Mr. Hamama's loyalties were with the United States
6 and that he endeavored to ensure the success of the United States against Saddam Hussein.
7

8 Following the U.S. invasion of Iraq in 2003, Mr. Hamama sought to assist the U.S.
9 government in any way he could. He volunteered to be a translator and cultural advisor with
10 U.S. Armed Forces units operating in Iraq. In early 2004 Mr. Hamama was sent to Iraq and
11 assigned to the 369th Artillery Battalion of the U.S. Army's 4th Infantry Division that was
12 commanded by Lieutenant Colonel James Oliver. Lieutenant Colonel Oliver worked with Mr.
13 Hamama on a daily basis for about 10 hours a day for about a year. He relied on Mr. Hamama
14 to translate, to analyze intelligence, to act as a liaison with the Iraqi people and to participate in
15 patrols and meetings with local officials. In the summer of 2004, LTC Oliver recommended
16 Mr. Hamama for the coveted Combat Infantry Badge (CIB) following a ground combat
17 engagement that also involved Mr. Hamama. Civilians do not normally receive the CIB. In
18 fact most soldiers do not earn the CIB. It is one of the most respected and coveted awards within
19 the U.S. Army.
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22 Based on the time spent working together and the genuine willingness of Mr. Hamama
23 to do whatever it takes to assist his unit to succeed, Mr. Hamama gained LTC Oliver's
24 unwavering trust. The level of trust vested in Mr. Hamama was so deep that LTC Oliver
25 ordered that Mr. Hamama be issued a personal weapon. Issuing a personal weapon to
26 translators is unheard of because translators have access to the internal spaces where soldiers live
27

1 and work and where they are most vulnerable to attack. Yet LTC Oliver ordered that Mr.
2 Hamama receive a weapon because of the loyalty, honor, commitment, and unwavering
3 dedication to duty that Mr. Hamama demonstrated.

4 LTC Oliver has formed an opinion that Mr. Hamama is truthful, and has unwavering
5 loyalty and dedication to the United States. He will also testify as to Mr. Hamama's reputation
6 for truthfulness and loyalty to the United States.
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9 Need for Issuance of Out-of-District Subpoena

10 Because LTC Oliver lives in the States of Mississippi, a subpoena for him to appear is
11 required. He will accept service of it.

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II.

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ARGUMENT

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15 Rule 17(b) of the Federal Rules of Criminal Procedure and Local Criminal Rules 17.1(b)
16 provide that an indigent defendant may apply, under seal if appropriate, to obtain subpoenas for
17 witnesses residing outside the district who are necessary for an adequate defense. Rule 17(b)
18 provides that the costs of service and fees for defense witnesses so subpoenaed "will be paid in the
19 same manner as those paid for witnesses the government subpoenas." Local Rule 17.1(b)
20 provides that an indigent defendant may apply to the court for a subpoena *in forma pauperis* if the
21 witness to be subpoenaed resides more than 100 miles from the place of holding of court.
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23 Furthermore such an application for a subpoena may be made *ex parte* and *sealed*. Mr. Hamama
24 requests that only parties necessary to effectuate service of the subpoena receive notice.
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III.

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CONCLUSION

Mr. Hamama respectfully requests that the Court issue the attached subpoena for Lieutenant Colonel James Oliver and that such a subpoena remain sealed and that no notice be provided to the Government of its issuance.

Respectfully submitted,
Haytham Faraj
Attorney for Defendant

DATED: November 11, 2010

By _____
Haytham Faraj
Attorney for Defendant

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DECLARATION OF HAYTHAM FARAJ

I, Haytham Faraj, hereby state and declare as follows:

- 1. I am the attorney for Defendant Issam Hamama in the above-entitled action.
- 2. I have interviewed LTC James Oliver, former commanding officer of Mr. Hamama.

Based on my interview I believe that LTC Oliver is a relevant and material witness in this case.

Based on information I received from him and corroborated by other witnesses, I believe that LTC James Oliver is a necessary witness from Mr. Hamama's adequate defense.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED: November 11, 2010

HAYTHAM FARAJ
Attorney for Defendant

1 HAYTHAM FARAJ (No. 72581)
Telephone: 313-457-1390
2 E-mail: Haytham@puckettfaraj.com

3 Attorney for Defendant
ISSAM HAMAMA
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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF MICHIGAN
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UNDER SEAL & IN CAMERA
VIOLATIONS: 18 U.S.C. §§ 371, 951(a),
1001 (a)(2)

15 ORDER

16 The Court has reviewed the Defendant's *ex parte* and sealed application for an out of area
17 subpoena, counsel's declaration and supporting brief.

18 IT IS HEREBY ORDERED that pursuant to F.R.Cr.P. 17(b) and (c) and Local Rule 17.1,
19 a subpoena for Lieutenant Colonel James Oliver shall issue and shall be served by the U.S.
20 Marshall. It is further ORDERED that the application shall remain under seal and that notice of
21 said subpoena shall be limited to that necessary to effectuate service.
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25 Nancy G. Edmunds
United States District Judge
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UNITED STATES DISTRICT COURT

EASTERN

DISTRICT OF

MICHIGAN

UNITED STATES

v.

SUBPOENA IN A CRIMINAL CASE

ISSAM HAMAMA

Case Number:

2:08-cr-20314

TO:

LTC JAMES E. OLIVER
470 Arundel Dr.
Brandon, MS 39047
(601)624-8140

YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below, or any subsequent place, date and time set by the court, to testify in the above referenced case. This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

PLACE

United States District Court for the Eastern District of Michigan
231 W. Lafayette Blvd., Detroit, MI 48226

COURTROOM

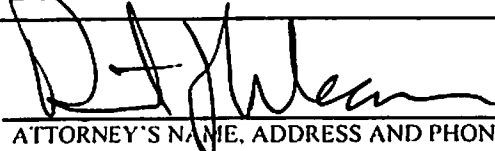
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DATE AND TIME
Jan 6, 2011

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):

CLERK OF THE COURT

DAVID J. WEAVER



DATE

NOVEMBER 10, 2010

ATTORNEY'S NAME, ADDRESS AND PHONE NUMBER:

Haytham Faraj, 22167 Morley Ave. Dearborn, MI 48124 (313) 457-1390

