

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

10/25/81
10/25/81

UNITED STATES OF AMERICA : HON. NICHOLAS H. POLITAN, U.S.D.J.
: :
V. : Crim. No. 00-404 (NHP)
: :
NICODEMO S. SCARFO, ET AL. :

GOVERNMENT'S EX PARTE, IN CAMERA MOTION FOR THE COURT'S INSPECTION OF CLASSIFIED INFORMATION AND ISSUANCE OF A PROTECTIVE ORDER DENYING DEFENSE DISCOVERY OF CLASSIFIED INFORMATION AND DIRECTING THE DISCLOSURE TO THE DEFENSE IN LIEU THEREOF A SUBSTITUTE UNCLASSIFIED SUMMARY STATEMENT OF INFORMATION PURSUANT TO SECTION 4 OF THE CLASSIFIED INFORMATION PROCEDURES ACT, TITLE 18, U.S.C. APP. III AND RULE 16(d) OF THE FEDERAL RULES OF CRIMINAL PROCEDURE

COMES NOW the United States of America, by Robert J. Cleary, United States Attorney for the District of New Jersey (Ronald D. Wigler, Assistant United States Attorney, appearing), and hereby files its ex parte, in camera Motion for the Court's inspection of classified information and issuance of a protective order denying the defense discovery of classified information and directing the disclosure to the defense in lieu thereof a substitute Unclassified Summary Statement of information, that would be sufficient, together with other materials in the existing record, to permit full litigation and appropriate adjudication of the pending defense motion to suppress, in accordance with the Classified Information Procedures Act, Title 18, United States Code, App. III, § 4, and Federal Rule of Criminal Procedure 16(d)(1).

This Motion is further based on the attached Memorandum of Law and accompanying Affidavits of Randall S. Murch, Deputy Assistant Director of the Federal Bureau of Investigation's Laboratory Division and Neil J. Gallagher, Assistant Director, National Security Division of the Federal Bureau of Investigation, which are being filed separately ex parte, in camera and under seal contemporaneously with the filing of this motion.

Respectfully submitted,

ROBERT J. CLEARY
United States Attorney

Ronald D. Wigler

By: RONALD D. WIGLER
Assistant U.S. Attorney

Dated: September 25th, 2001

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DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : HON. NICHOLAS H. POLITAN, U.S.D.J.
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 v. : Crim. No. 00-404 (NHP)
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PROTECTIVE ORDER

This cause came before the Court upon the ex parte, in camera Motion by Robert J. Cleary, United States Attorney for the District of New Jersey (Ronald D. Wigler, Assistant United States Attorney, appearing), for a Protective Order pursuant to the Classified Information Procedures Act, 18 U.S.C. App. III, § 4, and Rule 16(d)(1), Fed. R. Crim. P., and the Memorandum of Law, Affidavits and Oral Testimony submitted in support thereof, and

the Court having found that the Government has made a sufficient showing to authorize the requested Protective Order, and

the Court, after specific review, having also found that none of the material sought to be protected constitutes material that is subject to disclosure under Brady v. Maryland, 373 U.S. 83 (1963),

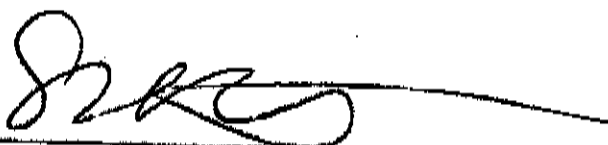
IT IS ORDERED and ADJUDGED that the Government's motion for a Protective Order denying disclosure of classified information and directing in lieu thereof disclosure to the defense of a substitute Unclassified Summary Statement of information in this

case is GRANTED;

IT IS FURTHER ORDERED and ADJUDGED that the Government, in lieu of disclosure of the classified information, shall provide the defense with the substitute Unclassified Summary Statement of information attached hereto, which the Court has determined would be sufficient, together with other materials in the existing record, to permit full litigation and appropriate adjudication of the pending defense motion to suppress;

IT IS FURTHER ORDERED and ADJUDGED that the Government's ~~Memorandum of Law~~ Memorandum of Law, supporting Affidavits, and transcript of proceedings, if any, shall be SEALED until further order of the Court; and

IT IS FURTHER ORDERED and ADJUDGED that in accordance with the provisions of the Classified Information Procedures Act, § 9, the originals of the Government's Memorandum of Law, supporting Affidavits, and transcript of proceedings, if any, shall be held in the custody of the United States Department of Justice, until further order of this Court.


HON. NICHOLAS H. POLITAN
United States District Judge

Dated: ~~September 2~~ ^{October 2} 2001