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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	: 09-CR-663(RJD)
	: :
-against-	: United States Courthouse
	: Brooklyn, New York
	: :
NAJIBULLAH ZAZI,	: Wednesday, October 21, 2009
	: 3:00 p.m.
Defendant.	: :
- - - - -	X

TRANSCRIPT OF CRIMINAL CAUSE FOR TELEPHONE CONFERENCE
*****REDACTED VERSION*****
BEFORE THE HONORABLE RAYMOND J. DEARIE
UNITED STATES CHIEF DISTRICT JUDGE

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Telephone Conference

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1 (The following takes place in judge's chambers.)

2 (Parties appear via telephone.)

3 COURTROOM DEPUTY: Gentlemen.

4 MR. BITKOWER: Yes.

5 COURTROOM DEPUTY: We're on the record, this is

6 United States versus Zazi, Docket No. CR-09-663.

7 Can I ask government counsel to note their
8 appearances.

9 MR. BITKOWER: David Bitkower and James Loonam for
10 the Government. Good afternoon.

11 THE COURT: Good afternoon.

12 COURTROOM DEPUTY: Defense counsel.

13 MR. DOWLING: Michael Dowling for Mr. Zazi. Good
14 afternoon Your Honor.

15 THE COURT: Good afternoon, Mr. Dowling. I'm glad
16 we have a chance at last to talk about the issue of
17 representation. I was to be candid a little taken aback by
18 the initial request. Having presided at the arraignment and
19 been told without qualification that you had been retained in
20 the case, I assumed that problems of representation were
21 behind us and then maybe a week later I get the request to be
22 appointed CJA.

23 So, I fully appreciate the attorney-client
24 relationship and that sometimes creates a kind of bond that
25 you don't want to destroy, but I'm a little hard pressed to

1 figure out how this early in the case I should bypass our
2 roster of very qualified lawyers here in the Eastern District
3 AND incur the significant additional expense of appointing
4 somebody from far away, shall we say, but I didn't want to
5 act without giving everyone an opportunity to weigh in.

6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]

12 So, by way of a preamble that's where I am in
13 the matter.

14 I guess I'm standing alone then.

15 MR. BITKOWER: Judge, do you want the Government
16 to weigh in?

17 THE COURT: I think it's really ON Mr. Dowling.

18 How do I justify this I'm spending the
19 taxpayers' money and not destroy the bond being created
20 notwithstanding the brevity of the relationship, but I have
21 to be responsible as well.

22 MR. DOWLING: I understand that, Judge, and that's
23 why I suggested in a letter to you that we also use local
24 counsel which I thought might address some of the financial
25 issues.

Telephone Conference

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1 THE COURT: Well.

2 MR. DOWLING: In other words, if the Court -- we
3 could address the continuity of counsel by appointing someone
4 from the panel, I suggested Bill Stamper.

5 THE COURT: I saw him lurking around during the
6 arraignment.

7 MR. DOWLING: He's an old friend of mine. I asked
8 him to come down there with me because he knew the
9 prosecutors and he's kind of introduced me, et cetera.

10 THE COURT: All right.

11 MR. DOWLING: I told him to get around some of the
12 financial issues by using him and perhaps appointing me to
13 work off his ticket.

14 THE COURT: Does the Government care to weigh in on
15 this, Mr. Bitkower?

16 MR. BITKOWER: Your Honor, I do think there is a
17 value to having someone here in New York on the case and we
18 certainly don't have any particular comments one way or the
19 other about how that will be. We don't have any objection to
20 Mr. Stamper, certainly, and I think it would be helpful to
21 have somebody based here.

22 THE COURT: Do you have any idea in terms of
23 dollars? I know it's an almost impossible question to ask
24 given the relatively early point in the proceedings. I guess
25 the real difference between local CJA counsel and Denver CJA

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1 counsel are transportation expenses.

2 MR. DOWLING: Yes.

3 You know, Judge, if this case went to trial,
4 obviously, I would be located in New York. I have places to
5 stay which wouldn't cost the Government any money. I would
6 probably try to get my air fare paid, but I would take care
7 of housing.

8

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10 I don't think I would cost the Government
11 that much more money especially if the Court appointed local
12 counsel as well as me.

13 THE COURT: All right. I want to get this issue
14 behind us. I'm prepared to do this. I'm certainly not going
15 to appoint two Denver lawyers under CJA. The other chap
16 whose name escapes me is also seeking appointment. I'm not
17 prepared to do that. If I have your assurance that you'll do
18 what you can to contain these costs and still, of course,
19 represent your client, I will appoint Mr. Stamper to act as
20 primary CJA counsel and you as co-counsel.

21 MR. DOWLING: That will be, Judge. I expect to be
22 lead counsel. Do you have any problem with that?

23 THE COURT: Whoever bears that monicker doesn't
24 concern me. I just want to, I want to be if fiscally
25 responsible and I want to be in a position to move this case

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1 forward when things start to happen as they shortly will.

2 MR. DOWLING: That works for me.

3 THE COURT: Anything else?

4 MR. BITKOWER: No, Your Honor, that works for the
5 Government as well.

6 THE COURT: I haven't spoken directly to
7 Mr. Stamper, but I have a feeling that when Ms. Mulqueen
8 reaches out for him, he'll take the assignment.

9 MR. DOWLING: I have spoken to him and cleared that
10 with him already.

11 THE COURT: All right. I'm going to go ahead and
12 move in that direction and I guess I'll see you next in early
13 December.

14 MR. DOWLING: Judge, so you're not appointing
15 Mr. Fulsome in any capacity?

16 THE COURT: No, sir.

17 MR. DOWLING: Okay.

18 THE COURT: I just can't. I can't appoint two
19 Denver, Colorado lawyers and that's the end of that.

20 Well, okay, thank you gentleman.

21 MR. BITKOWER: Thank you.

22 MR. LOONAM: Thank you.

23 THE COURT: Bye-bye.

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