

COPY

**FILED**

JUL 27 2004

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

RICHARD W. WILKINS  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

In the Matter of the Search of Housing  
Unit 6, Pod D, Cell # 14 and the locked  
area in Housing Unit 6  
Santa Rita Jail,  
5325 Broder Blvd.  
Dublin, CA

No. 3- 04 30226 JCS

**ORDER FURTHER MODIFYING  
SEALING OF AFFIDAVIT IN SUPPORT  
OF SEARCH WARRANT AND SEARCH  
WARRANTS AND PERMITTING  
REDACTED SEARCH WARRANT  
AFFIDAVIT TO BE FILED IN PUBLIC  
RECORD**  
~~[Proposed]~~

Upon motion of the United States for a further modified order sealing the Application for A Search Warrant and the Affidavit of FBI Special Agent Christopher Forvour and the Search Warrants and for good cause shown, IT IS HEREBY ORDERED that the Application for a Search Warrant and Affidavit of FBI Special Agent Christopher Forvour and the Search Warrants which were previously filed under seal shall remain sealed until further order of the Court. The Affidavit of Special Agent Christopher Forvour shall be unsealed for the public record with the redactions contained in the Affidavit attached as Exhibit 1 to this proposed order. The United States is permitted to give unredacted copies of the search warrants and Affidavit to counsel for defendant Amr Mohsen, who shall not disseminate said search warrants and Affidavit to anyone else unless so ordered by the Court.

IT IS SO ORDERED

DATED:

  
\_\_\_\_\_  
MARIA- ELENA JAMES  
United States Magistrate Judge

ORDER

SEALED  
BY COURT ORDER

# United States District Court

NORTHERN

DISTRICT OF

CALIFORNIA

In the Matter of the Search of

(Name, address or brief description of person, property or premises to be searched)

Housing Unit 6, Pod D, Cell # 14 at Santa Rita Jail  
5325 Broder Blvd.,  
Dublin, CA

## APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

CASE NUMBER:

3-04 30226 JCS

I, Christopher Forvour being duly sworn depose and say:  
I am a(n) FBI Special Agent and have reason to believe  
Official Title

that  on the person of or  on the property or premises known as (name, description and/or location)

Housing Unit 6, Pod D, Cell # 14  
Santa Rita Jail  
5325 Broder Blvd., Dublin, CA

in the Northern District of California  
there is now concealed a certain person or property, namely (describe the person or property to be seized)  
See Attachment A, attached to the Affidavit of Special Agent Chris Forvour

which is (state one or more bases for search and seizure set forth under Rule 41(b) of the Federal Rules of Criminal Procedure)  
the fruits, instrumentalities and evidence of violations of Title 18 U.S.C. sections, 373 (solicitation of crime of violence),  
1503 (obstruction of justice) and 1512 (witness tampering)

concerning a violation of Title 18 Section(s) 373, 1503 and 1512  
The facts to support a finding of Probable Cause are as follows:

See Affidavit of Special Agent Christopher Forvour attached hereto and submitted herewith

Continued on the attached sheet and made a part hereof.

Approved  
As To  
Form:

Robin L. Harris  
AUSA: Robin L. Harris

Yes  No

Chris Forvour  
Signature of Affiant

Sworn to before me, and subscribed in my presence

6/15/04

Date

**JOSEPH C. SPERO**  
**UNITED STATES MAGISTRATE JUDGE**

Name and Title of Judicial Officer

at

SF, CA  
City and State

[Signature]  
Signature of Judicial Officer

I, Christopher C. Forvour, first being duly sworn, depose and say that:

1. I am a Special Agent (SA) with the United States Federal Bureau of Investigation (FBI). I have been a Special Agent (SA) for approximately three years. I have been assigned to the public corruption and civil rights squad of the San Francisco Field Office for the past three years. My duties and responsibilities in that capacity include the investigation of crimes including, amongst others, acts involving perjury, mail fraud, obstruction of justice and witness tampering. I make this affidavit in support of an application for a search warrant in the Northern District of California to search the cell most recently occupied by inmate Amr Mohsen which is described more particularly as Housing Unit 6, Pod D, Cell 14 at Santa Rita Jail located at 5325 Broder Blvd., Dublin, CA (hereinafter "cell 14") and to search the locked area under housing control in Housing Unit 6 (hereinafter "locked area") for boxes bearing the name of Amr Mohsen and other information indicating ownership by Amr Mohsen.

2. As set forth herein, there is probable cause to believe that within Cell 14 and the locked area, there exists evidence, fruits, and instrumentalities, as set forth in Attachment A hereto, that defendant Amr Mohsen attempted to intimidate witnesses in his upcoming federal trial in violation of Title 18, United States Code § 1512(b)(1) (attempted witness tampering); that Amr Mohsen solicited another person to commit crimes of violence, to wit, arson of a vehicle to intimidate a witness and the murder of a federal judge in violation of Title 18, United States Code § 373 (solicitation of a crime of violence); and, that Amr Mohsen attempted to obstruct justice and delay his trial by feigning incompetence in violation of Title 18, United States Code § 1503 (obstruction of justice). This affidavit is based on information gained through my own personal investigation, through my review of reports of investigation from other agents and by

conferring with other Special Agents.

3. Defendant Amr Mohsen ("Mohsen") is currently in pretrial detention and is being held at Santa Rita Jail which is located at 5325 Broder Blvd., Dublin CA in Alameda County on federal perjury, mail fraud and obstruction of justice charges arising from *United States v. Amr Mohsen* CR 03-0095WHA. Mohsen's most recent cell assignment is: Housing Unit 6, Pod D, Cell 14 (hereinafter referred to as "Cell 14"). Mohsen occupied this cell until approximately 7:00 p.m. on June 13, 2004. As is set forth below, on June 13, 2004, Cell 14 was sealed pending application for this search warrant. On June 15, I spoke with Sargent William Borland of Santa Rita Jail. Sargent Borland informed me that there is a locked area under housing control in Housing Unit 6 which is under the control of jail personnel and is used to store excess material due to space constraints in the inmate's cells. Sargent Borland informed me that Amr Mohsen recently received several boxes of legal material and that these boxes may be stored in this locked area. If these material are stored in the locked area, these boxes and/or materials would bear the name "Amr Mohsen", "Mohsen", or "UKU326" on them.

4. On or about May 19, 2004, an inmate (hereinafter "CI"), who I later learned was housed in the same Pod as Mohsen, contacted law enforcement and reported that Mohsen had solicited the CI to assist Mohsen in criminal activity. As of May 19, 2004, Mohsen's criminal trial had been scheduled to begin with jury selection on June 1, 2004 before the Honorable William H. Alsup. On May 19, 2004, the CI, who has a lengthy state criminal record and who was not previously known to me, met with myself and others, including SA David Carr of the FBI. During this meeting the CI informed me that Mohsen had previously requested that the CI contact witnesses in Mohsen's upcoming Federal criminal trial and threaten them over the phone

not to show up for Mohsen's trial or to "get amnesia" before testifying. The CI specifically identified the witnesses by name which Mohsen had requested be threatened.

5. During this May 19, 2004 meeting, the CI explained that Mohsen had a series of acts that he wanted the CI to facilitate in order to make sure that certain key witnesses did not show up to Mohsen's trial. Specifically, Mohsen informed the CI that he was willing to pay the CI money if the CI could arrange to have someone do the following acts:

a. Mohsen requested that threatening phone calls be made to five trial witnesses and provided the names of those witnesses to the CI as follows: [REDACTED] [REDACTED] [REDACTED] and [REDACTED]. All five of these witnesses had previously been identified as trial witnesses on the government's witness list. (The government's revised witness list was served on Mohsen's defense attorneys on March 17, 2004). According to the CI, Mohsen requested that these five witnesses be told not to show up for trial, or come late to trial, or they will "come up missing." With regard to these five witnesses, Mohsen provided the CI with the witnesses first initial and last names, home phone numbers (for two of the witnesses) and place of business [REDACTED] for the remaining three witnesses;

b. In addition to the above-described threatening phone calls, Mohsen also requested that the CI hire someone who would commit an arson on the home of government witness [REDACTED] (hereinafter "PW #1") for whom Mohsen provided a home address, and if PW #1 did not back off, to do "whatever it takes";

c. Mohsen requested that the CI arrange to have a staged break-in of the vehicles belonging to one of Mohsen's defense witnesses, [REDACTED] (hereinafter "PW #2") and PW #2's wife. Mohsen further requested that a threatening note be left in PW #2's car. Mohsen

provided the CI with the home address of PW # 2 in order to facilitate the proposed vandalism.

According to the CI, Mohsen wrote handwritten notes that he gave to the CI in which Mohsen dictated the precise language Mohsen wanted the vandal to leave in PW #2's car. The CI kept these handwritten notes and provided them to me. I am not a handwriting expert. Nonetheless, I am familiar with Mohsen's handwriting based on voluminous handwritten documents that I have reviewed in the mail fraud case currently pending before Judge Alsup. Based on my familiarity with Mohsen's handwriting, it is my opinion that the threatening language on the notes the CI gave me was written by Mohsen.

6. During this May 19, 2004 meeting with the CI, the CI agreed to wear a wire and to engage in consensually monitored conversations with Mohsen concerning the witness intimidation Mohsen was soliciting. The CI was instructed to telephone me at the FBI the following day in order to receive an undercover telephone number to pass on to Mohsen. The undercover telephone number was to be used to facilitate payment by Mohsen for the witness intimidation and arson that Mohsen requested the CI to arrange.

7. On May 20, 2004, the CI telephoned me and I provided the CI with undercover telephone number (408) 429-0388. I told the CI to give the undercover telephone number to Mohsen. The undercover phone number was established by the FBI exclusively for the investigation into Mohsen's witness tampering and vehicle vandalism. I further asked the CI to advise Mohsen that Mohsen was to have whomever Mohsen intended to make payment for Mohsen's proposed threatening phone calls and other criminal activity to call the undercover phone number and to speak to "Kimo." Kimo was, in actuality, SA Carr, acting in an undercover capacity.

8. On May 21, 2004, the CI telephoned me and advised that Mohsen had decided that rather than burn PW #1's house as Mohsen had previously requested (See paragraph 5 b above), Mohsen now wanted PW #1's car torched instead. The CI also reported that Mohsen had slightly altered the exact language of the threatening note to be left in PW #2's vehicle. That same day, Judge Alsup continued Mohsen's criminal trial to August 30, 2004 in order to allow Mohsen's attorneys time to explore issues relating to Mohsen's competency to stand trial and a possible insanity defense.

9. On May 24, 2004, the CI telephoned me and advised that Mohsen planned to have his sister (thought to be Magda Metwally) call "Kimo" and that his sister would be the person who would deliver the money to Kimo as payment for the criminal activity Mohsen had solicited.

10. On May 27, 2004, the CI wore a wire and recorded a conversation he had with Mohsen. FBI SA Steven Merrill and I met with the CI immediately prior to placing the wire on the CI. The CI reported that Mohsen wanted "results" from the criminal actions taken against PW #1 and PW #2. We instructed the CI to review with Mohsen the specific criminal activity that Mohsen requested and any further criminal acts that Mohsen wanted undertaken prior to his trial. I observed the entire conversation between Mohsen and the CI through a one way window at Santa Rita Jail.

11. After Mohsen and the CI were finished talking, the wire was removed from the CI's person. I have listened to the entire recorded conversation. In the recording, Mohsen reiterated that he wanted both of PW #2's vehicles vandalized on June 2 when PW #2 returned from a business trip. Mohsen and the CI discussed the price for two sets of threatening phone calls (which Mohsen believed had already been made) and the burning of PW #1's car. Mohsen and

the CI agreed on a price of \$5,000. Mohsen also expressed displeasure with the CI because Mohsen was concerned that the CI's contact on the outside may have bungled the previous threatening phone calls to the five witnesses (See paragraph 5 a above). Mohsen requested the CI to have all five witnesses called again. Mohsen further instructed that this time each witness was to receive the threat personally rather than having the threat left on an answering machine or voice mail because Mohsen was concerned that the witnesses did not "get the message." Mohsen said he wanted PW #1's car burned with gasoline "as soon as possible" and that "the goal here is results. It's not the action, it's the results."

12. On June 3, 2004, the CI wore a wire and agreed to monitor a conversation with Mohsen. Prior to placing the wire on the CI, I provided the CI with a Polaroid photograph of what appeared to be a car burning in front of a residence. This photograph was staged by the FBI to appear to be PW #1's vehicle burning in front of PW #1's residence. I instructed the CI to show this photograph to Mohsen as proof that the CI had successfully arranged the arson that Mohsen had previously requested. The CI had previously told Mohsen that PW # 1's car had been burned on May 31, 2004.

13. I have listened to the entire recorded conversation on June 3, 2004. This conversation was also videotaped through the one way window. During the June 3, 2004 conversation, the CI showed Mohsen the staged photograph of the supposed arson of PW # 1's car. Mohsen expressed satisfaction with the job and inquired about the status of the proposed vandalism of PW # 2's car, which he wanted done "ASAP, as soon as possible." The CI explained that the vandalism would not be done until Mohsen paid for the threatening phone calls to the witnesses and the arson of PW #1's car.



14. On June 6, 2004, SA Carr, acting in an undercover capacity as "Kimo", received a phone call on the undercover telephone number (408) 429-0388 that the CI previously provided to Mohsen. SA Carr reported that the voice on the phone call (which was not recorded) was from a female who spoke with a Middle Eastern accent. The female caller asked to speak to Kimo, but declined to give her name. The female caller asked what Kimo had done for Amr [Mohsen]. Kimo told the female caller that he had done the things Amr wanted and now he wanted to get paid. The female caller asked what things Kimo had done. Kimo told the caller he could not speak openly because he was not alone and suggested he telephone the female caller a few minutes later. The female caller said she did not want Kimo to call her. Approximately ten minutes later, Kimo telephoned the caller on the number from which he had received the call, but could not reach the caller despite multiple attempts.

15. On June 7, 2004, the CI told SA Carr that Mohsen's sister did not want to deliver the money on behalf of Mohsen.

16. On June 9, 2004, the CI told SA Carr that Mohsen would have the money that he owed for the telephone calls and the arson of PW #1's car delivered to Kimo by "Ali", in the amount of \$2,000.

17. On June 11, 2004, SA Carr received a telephone call from "Ali" on the undercover telephone number (408) 429-0388 which had previously been provided to Mohsen. This call was recorded. During this conversation, Kimo and Ali set up a meeting at Ali's office later that evening. Ali informed Kimo that the purpose of the meeting was for Ali to pay Kimo the \$2,000 Amr owed Kimo. That evening, SA Carr, acting in an undercover capacity as Kimo, received \$2,000 in cash from Ali, who was later identified by the FBI as Mohamed Ali Moussa.

18. On June 12, 2004, the CI reported that Mohsen desired to make the Federal Judge in his criminal case "disappear" so he will be "never found." When the CI asked, Mohsen confirmed that he meant he wanted a "funeral" for the judge. Mohsen told the CI that once the Judge was gone, "everything will go my way." The CI and Mohsen further discussed the details involved in the murder of a Federal Judge, including that it would be more expensive than the previous criminal activity that Mohsen had commissioned.

19. On June 13, 2004, SAs Carr and Merrill met with the CI at Santa Rita Jail. The CI agreed to wear a wire and record conversations with Mohsen. The CI was instructed to review with Mohsen the criminal activity Mohsen had requested on June 12, 2004, specifically the murder of the Federal Judge in Mohsen's criminal case. This conversation was videotaped and audio taped. I have reviewed the audio and video recordings of this conversation. During this conversation, Mohsen confirmed that the Federal Judge whom he wanted murdered is Judge William Alsup. Mohsen spelled out Judge Alsup's last name for the CI who was taking notes. Mohsen clarified that Judge Alsup was a Federal Judge in San Francisco, and the two discussed the possible methods by which the murder could be accomplished, to which Mohsen replied "Which is the least traceable?" When the CI suggested that making the murder look like a gas leak would be the least traceable option, Mohsen asked "Is that more difficult to get done?" Mohsen expressed concern that this method may kill others in addition to the Judge. The CI stated that the murder of a Federal Judge was a big deal, and would cost Mohsen \$25,000. After hearing that price, Mohsen stated "That's very high... I heard it's more like ten [\$10,000]." Mohsen requested time to further consider this option, but instructed the CI to have someone "Find out where his house is" and "What are his patterns." During the discussion regarding this

preliminary surveillance of Judge Alsup, Mohsen stated he was uncomfortable with his conscience, because in the past he had not hurt anyone (presumably a reference to the threatening phone calls to the trial witnesses and the arson of PW #1's car) and up until now his "conscience is clear." When the CI stated he was just following up on what Mohsen had requested the day before, Mohsen stated "It's crossed my mind. So this is good to figure out how it can be done. Let me just reflect upon it," and later "Somebody has to track him [Alsup]" and "to figure out how difficult it is." Mohsen also suggested that Alsup may have "bodyguards" protecting him.

20. Later on June 13, 2004, the CI reported that Mohsen often takes notes regarding the criminal activity he and the CI discuss on the front and back of his legal notes and legal paperwork. The CI also stated that Mohsen has several books in his cell in which he also takes notes, including books on psychosis.

21. All inmates' telephone calls at Santa Rita jail are recorded, a fact which the inmates are informed of in a recording each and every time they make a telephone call. I have requested tape recordings of all telephone calls (other than phone calls Mohsen made to his criminal defense attorneys) that Mohsen has made from the date he arrived at Santa Rita Jail (March 29, 2004) through the present. On May 17, 2004, I was present in court when Mohsen's attorneys first advised Judge Alsup that Mohsen wanted them to explore an insanity defense and have him evaluated for competency to stand trial. I subsequently learned that Mohsen was evaluated by a psychologist on May 20, 2004 for competency to stand trial. Prior to that evaluation, on May 19, 2004, Mohsen had a lengthy telephone conversation with his daughter, whom, I know from listening to Mohsen's conversations with his daughter, is studying psychology in college. During this particular conversation, Mohsen questioned his daughter at length about the definition and

symptoms of psychosis. It sounded as if Mohsen was taking notes because he asked his daughter to spell certain terms and medications that she had mentioned. Mohsen's daughter explained that she thinks that Mohsen is merely depressed because Mohsen doesn't have any of the symptoms of psychosis. Mohsen's daughter explained that people who are psychotic have hallucinations. Mohsen asked his daughter what a hallucination was and whether it was visual. Mohsen's daughter explained that hallucination means hearing voices. Mohsen asked his daughter how long a hallucination would typically last and whether they would more likely last 15 minutes or a couple of hours.

22. On May 20, 2004, a defense psychologist examined Mohsen for three hours. I have reviewed the psychologist's report. The psychologist reported that during this examination, Mohsen complained of, among other symptoms, hearing voices. The psychologist concluded that Mohsen was not currently competent to stand trial. On the same date (May 20, 2004) of Mohsen's psychological examination, Mohsen made a phone call to his former business. Based on my review of the phone log, this phone call took place at 4:48 p.m. after Mohsen's psychological examination had been completed. During the 39 minute phone call, Mohsen discussed complicated business and engineering concepts with his former colleagues and mentioned that his trial may be delayed indefinitely. Later that evening, at 5:28 p.m., Mohsen had a telephone conversation with his daughter and asked her to find a good book on the topic of psychosis disorders.

23. On May 22, 2004, Mohsen spoke to his daughter on the phone and asked her to order and send him "A Beautiful Mind" and "Psychotropic Drugs-Fast Facts." Mohsen and his daughter discussed "A Beautiful Mind" and Mohsen's daughter explained that the person in "A

"Beautiful Mind" was diagnosed with schizophrenia. Mohsen asked his daughter to explain the symptoms of schizophrenia and to contrast those symptoms with psychosis. Mohsen told his daughter that the man in "A Beautiful Mind" was highly intelligent and asked whether that particular disease [schizophrenia] happens to people of above average intelligence. It should be noted that Mohsen has a PhD. in Electrical Engineering from California Institute of Technology.

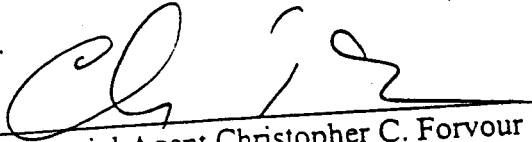
24. On May 23, 2004, Mohsen again spoke to his daughter. Mohsen's daughter confirmed that she had mailed Mohsen "A Beautiful Mind" and "Sybil", both of which he had previously requested. On May 24, 2004, Mohsen again spoke to his daughter and requested that she send him the "Diagnosis Manual of Mental Disorder IV." During another telephone conversation on May 24, 2004, Mohsen's daughter stated that she had mailed Mohsen four psychology books that he requested.

25. On June 13, 2004, at approximately 7:00 p.m., Mohsen and the inmate who shared the Cell 14 with Mohsen were removed from Cell 14. Cell 14 was sealed in order to permit federal agents to obtain a search warrant for the items described in Attachment A hereto.

Based on the foregoing, I submit there is probable cause to believe that, as set forth in Attachment A, evidence, fruits and instrumentalities of Mohsen's solicitation of a crime of violence, to wit, arson of a vehicle to tamper with a witness in violation of Title 18, United States Code § 373; solicitation of the murder of a federal judge in violation of Title 18, United States Code § 373; attempted witness tampering in violation of Title 18, United States Code § 1512(b)(1); and obstruction of justice to wit, by feigning incompetency to delay a federal criminal trial in violation of 18, United States Code § 1503 will be found inside Housing Unit 6, Pod D, Cell 14, at Santa Rita Jail located at 5325 Broder Blvd., Dublin, CA and/or in the locked

area under housing control in Housing Unit 6 as described in paragraphs 1 and 2 above. In order to protect Mohsen's attorney-client privilege, this search will be executed by FBI Special Agents and an experienced Assistant United States Attorney ("AUSA"), Charles Ben Burch, who is one of the Professional Responsibility Officer for the United States Attorney's Office, all of whom will not be further involved in the prosecution of Mohsen's criminal case. The agents executing this search warrant will provide all seized material to AUSA Burch who will review the material and will segregate and isolate any attorney-client material from review by the agents and AUSA involved in the criminal prosecution of Mohsen.

Dated:

  
FBI Special Agent Christopher C. Forvour

Sworn to me this 15<sup>th</sup> day of June, 2004

  
JOSEPH C. SPERO  
United States Magistrate Judge

## ATTACHMENT A

Items To Be Seized From Housing Unit 6, Pod D, Cell 14,  
and the locked storage area under Housing Unit 6  
Santa Rita Jail, 5325 Broder Blvd., Dublin, California

1. Any and all notes, papers, documents and other written materials referring to threatening, harming or committing an arson, murder or any other act of violence or intimidation against the person or property of the following individuals : [REDACTED]  
[REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]  
and/or [REDACTED]
2. Any and all notes, papers, documents and other written materials referring to "Kimo", and/or to telephone number 408-429-0388.
3. Any and all notes, papers, documents and other written materials referring to Mohamed Ali Moussa and/or Magda Metwally regarding payment of money and/or scheduling of meetings with "Kimo."
4. Any and all notes, papers, documents, books and other written materials referring to any mental, emotional, or psychiatric condition, including, the "Diagnosis Manual of Mental Disorder IV;" "A Beautiful Mind;" "Sybil;" and "Psychotic Drugs-Fast Facts."
5. Any and all records of payments, pay-owe sheets, and other documents and materials referring to monies paid or owed for services provided by "Kimo" and/or any other person for vandalism to [REDACTED] car; arson to [REDACTED] car; arson to [REDACTED] home; phone calls to [REDACTED], [REDACTED], [REDACTED]  
[REDACTED] and/or [REDACTED]; and/or murder of or harm to William H. Alsup.
6. Any and all records, notes, documents, books or other written materials referring to the solicitation and/or commission of murder, arson, vehicle vandalism, intimidation and/or threatening or harassing telephone calls.

## SEARCH PROTOCOL

This search warrant is to be executed by FBI Special Agents and an experienced Assistant United States Attorney ("AUSA"), Charles Ben Burch, who is one of the Professional Responsibility Officers for the United States Attorney's Office, all of whom shall not be further involved in the prosecution of *United States v. Mohsen, et. al*, CR 03-0095 WHA. The agents executing the search shall provide all seized materials to AUSA Burch. AUSA Burch shall review the material and shall segregate and isolate any attorney-client material from review by the agents and AUSA involved in the above-mentioned criminal prosecution.