

June 21, 2006

Honorable William B. Shubb
U.S. District Judge
Eastern District of California
501 I Street
Sacramento, CA 95814

Re: *United States v. Amr Mohsen*; Case No. CR-03-0095 WBS

Dear Judge Shubb:

I am writing in response to the letter sent to you by government counsel on June 20, 2006 raising a number of concerns about the fact that my partner Nina Wilder and I have been retained to represent defendant Mohsen in post-trial proceedings in the above-referenced matter.

The government's submission conflates a number of issues, one of which I believe it is appropriate to address at this point: the specter of a conflict of interest.

It is true that Ms. Wilder and I did counsel Magda Metwally, the defendant's sister, when she was subpoenaed as a potential government witness. We participated in a proffer session, and also were present when she testified at the trial. It is clear, however, that this limited representation did not create any actual or potential conflict of interest.

As the Court is aware, Ms. Metwally's testimony was brief, limited and, most importantly, non-controversial. Indeed, as the Court may recall, defense counsel had no questions for her on cross-examination.

Since it is apparent that Mr. Mohsen's interests at trial did not require that Ms. Metwally's testimony be challenged, it is difficult to conceive of a basis in which it could now be argued that he could somehow be disserved as a result of representation by lawyers who previously counseled her.

But beyond that, there is a more basic answer. The fact is that Mr. Mohsen is not facing trial, or any proceedings in which any arguable or potential conflict with Ms. Metwally could conceivably develop. Our office has been retained to represent Mr. Mohsen in post-conviction litigation, in which neither Ms. Metwally nor her testimony will play any role.

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Thus, the government's apparent solicitude for Mr. Mohsen's right to a fair trial, and its concern that "criminal trials are conducted within ethical standards," are misplaced. Mr. Mohsen is constitutionally entitled to exercise his choice in selecting a lawyer to represent him, and the limited contexts in which a trial court may reasonably question that choice because of potential conflict have no application to the instant facts.

As to the issue of the source of fees, once again the government raises unjustified concerns on behalf of others, in this instance the CJA program. We do recognize, of course, that the Court has a legitimate interest in pursuing this inquiry if it seeks to do so, but I am informed and believe that none of the funds which are being gathered to assist Mr. Mohsen with his post-conviction representation originate with him. Rather, I believe that all funds have been raised on his behalf through voluntary contributions by friends and family members. Mr. Mohsen remains an indigent, and the willingness of others to assist him at this point does not serve retroactively to invalidate the determination that he was eligible for CJA representation.

As to the question of the continuance, given Mr. Mohsen's right to retained counsel of choice, we would respectfully request a reasonable postponement to allow supplementation of the motions that have been filed, and to allow Mr. Mohsen's chosen counsel, Nina Wilder, who is presently out of the country until June 26, to participate fully in the matter.

Thank you for your consideration in the matter.

Very truly yours,

/s/ Doron Weinberg

DW/gba

DORON WEINBERG

cc: Robin Harris, Assistant U.S. Attorney