

11N THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	No. 02 CR 1050-4
v.)	
)	Hon. James B. Zagel
FRANK CALABRESE, SR. <i>et. al.</i> ,)	Judge Presiding
)	
Defendant.)	

**MOTION FOR SPECIAL VISIT OF INVESTIAGATOR IN ACCORDANCE WITH
SPECIAL ADMINISTRATIVE MEASURES**

Now Comes the Defendant, FRANK CALABRESE, SR., by and through his attorney, JOSEPH R. LOPEZ, and moves for a special visit, and in support thereof, states as follows:

1. On November 12, 2008, the Office of the Attorney General in Washington D.C. sent a memorandum to Harry G. Lappin, the Director of the Federal Bureau of Prisons, for the Origination of Special Administrative Measurers (SAM) pursuant to 28 C.F.R. Sec. 501.3 for Federal Bureau of Prisons Inmate Frank Calabrese.
2. The Attorney General stated in the memorandum, "based on information provided to me of Calabrese's proclivity for violence, I find that there is a substantial risk that his communications or contacts with persons could result in death or serious bodily injury to persons, or substantial damage to property, that would entail the risk of serious bodily injury to persons."
3. The Defendant does not know which information the Attorney General was provided; but, it is his position that it is false. Accordingly, he is ready to submit to a lie detector test along with the persons who may have made false statements to

representatives of the United States.

4. In any event, the SAM restricts all of the Defendant's activities, and has created problems in the preparation for his sentencing which may result in the Defendant answering not ready for sentencing on January 28, 2009.

5. The Defendant's attorney is able to visit his client in a non-secure environment as the Defendant is shackled like Hannibal Lecter in the movie "Silence of the Lambs." As a result, the Defendant cannot shake his attorney's hand which is a civilized way to greet another person. The Defendant also cannot read a document on his own since his hands are shackled.

6. The Defendant's calls are restricted; and, as of today's date, he has not seen his children (not the nefarious spawn of this case). He has seen his wife with whom he was allowed a visit through a glass window and shackled.

7. The United States Attorney and FBI have the rubber stamp of approval of all visitors for the Defendant. MCC and the USMS have no authority to grant permission for visits.

8. The SAM allows the FBI to contemporaneously monitor the Defendant's phone calls with his immediate family members. It also requires that all legally-privileged calls initiated by the inmate be placed by a USMS/BOP/DF staff member who then has to confirm the person on the other line is the inmate's attorney.

9. The SAM also allows an investigator to meet with the Defendant only with his attorney present. The investigator must be precleared by the FBI and United States Attorney. This allows for control by the government of the defendant's visits.

10. The Defendant's attorney has requested permission from the FBI, through the United States' Attorney's Office, for his investigator to visit with the Defendant to prepare

for sentencing. In a letter dated December 16, 2008, the request was denied unless the defense presented a satisfactory demonstration as to the need for the investigator to have personal access to the Defendant.

11. It was suggested that the attorney could carry the messages back and forth between the investigator and Defendant like Johnny Ola from the "Godfather II" film. This is unacceptable. The attorney, investigator, and Defendant need to meet as a trio to adequately prepare for sentencing.

12. The timing of the SAM came at a time when the prosecution became aware that the investigator was digging too deep into Frank Calabrese, Jr.

13. The SAM was implemented to stop the Defendant from further investigation into certain matters regarding Frank Jr. Namely, the real reason he began to cooperate and the fact he recruited individual "A" to put the spin of the lousy father before the public eye rather than the real reason of avarice and greed.

14. It was learned that the members of the press accompanied individual "A" to assist in creating a false impression in the press as to the real reason Frank, Jr. began to cooperate. It was not because he was a bad father. In fact, it was just the opposite. This court is also aware of the investigation being conducted since it was provided a theft report from the Kane County Sherriff's Department detailing a portion of the investigation.

15. Nevertheless, the Defendant is entitled to introduce evidence under Rule 32(i)(2) of the Federal Rules of Criminal Procedure. The investigator needs to speak to the Defendant with counsel present as allowed by the SAM.

16. The investigator must be served with a copy of the SAM and must sign and affirm the acknowledgement of the SAM restrictions prior to being allowed entry. The

investigator agrees to sign the affirmation and will follow the restrictions in the SAM.

17. The Defendant requests this court to direct the preclearance of the investigator without the necessity of violating the attorney-client privilege as to the nature and course of preparation for the sentencing.

18. The Defendant also requests to be present in court for the hearing on this motion.

WHEREFORE, the Defendant respectfully requests that his investigator be allowed access after affirmation of the SAM restrictions.

Respectfully submitted,

s/ Joseph R. Lopez

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