

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	
Plaintiff,)	No. 09 CR 383-16
v.)	
)	Hon. Chief Judge Ruben Castillo
JESUS RAUL BELTRAN LEON,)	
Defendant.)	

**DEFENDANT’S MOTION FOR COURT-ORDERED DISCLOSURE OF
EVIDENCE RELATING TO THE TORTURE AND PSYCHOLOGICAL
ABUSE OF DEFENDANT WHILE IN THE CUSTODY OF MEXICAN
AUTHORITIES AT THE BEHEST OF THE UNITED STATES
GOVERNMENT**

Pursuant to Fed. R. Crim. P. 16, and the Due Process Clause of the Fifth Amendment to the United States Constitution, Defendant JESUS RAUL BELTRAN LEON, by his attorneys, hereby moves this Court for an Order compelling the Government to disclose information to the defense regarding the torture of Mr. Beltran Leon while he was in the custody of Mexican authorities, as discussed further in the Memorandum of Points and Authorities below.

Respectfully Submitted this 30th day of November, 2017

s/ Stephen G. Ralls

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MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTS

A. Overview

As this Court is aware, the defense contends that Defendant Jesus Raul Beltran Leon was severely tortured after he was arrested in this matter in 2014. The defense further contends that this torture was inflicted by the Mexican Navy (Marines), but was done with the knowledge and complicity of the United States Government, specifically the Drug Enforcement Administration (DEA). Upon proving these facts the defense will request that this Court dismiss this case against Mr. Beltran Leon for violations of Mr. Beltran Leon's rights to Due Process of Law. United States v. Toscanino, 500 F.2d 267, 275-76 (2d Cir. 1974); Ex rel. Lujan v. Gengler, 510 F.2d 62, 69 (2d Cir. 1975) (Anderson, J. concurring). In the alternative, the defense may also request the suppression of unlawfully-obtained evidence, or involuntary statements. The defense has asked Government's counsel for further disclosure relating to this matter, and that request has been denied. Therefore, this motion is being presented to the Court to request that this Court order the Government to obtain and disclose certain information and evidence otherwise unavailable to the defense, as set forth below.

B. The torture and physical / psychological abuse of Mr. Beltran Leon

1. The Arrest and Torture of Mr. Beltran Leon

Unless otherwise noted, the following facts come from the affidavit of Defendant Jesus Raul Beltran Leon, attached to this motion as Exhibit A.

At approximately 1:00 a.m., on Sunday, November 16, 2014, a group of heavily armed members of the Mexican Navy broke into the Culiacán residence belonging to the parents of Mr. Beltran Leon, where he and his wife also resided, and seized every member of the family. Mr. Beltran Leon and his wife were asleep in their bedroom when the group invaded the room yelling loudly and brandishing heavy weapons. The invaders punched Mr. Beltran Leon violently and threatened to kill him. Via lights attached to the intruders' rifles, Mr. Beltran Leon was able to distinguish helmets, goggles, ski masks, bulletproof vests and numerous guns. Because none of the invaders identified themselves as government agents or provided any type of warrant, Mr. Beltran Leon believed he was being kidnaped. He desperately scanned the room for his wife, but could not locate her.

The group hurriedly blindfolded Mr. Beltran Leon, tied his hands behind his back, and shoved him, wearing nothing but underpants, to the kitchen. While en route to the kitchen, the group repeatedly bludgeoned Mr. Beltran Leon on the

back of his head and neck with their fists and with hard objects. In the kitchen, Mr. Beltran Leon's abductors held him down, placed plastic bags over his face, and began to asphyxiate him while others punched him in the abdomen, which forced the air in his lungs to expel faster.

At the same time, Mr. Beltran Leon's abductors threatened, "Now, you son of a bitch, are you going to cooperate or do you think that your daughter can withstand a plastic bag?" and threatened to bring Mr. Beltran Leon's infant daughter to the kitchen. The abductors repeatedly threatened to gang-rape Mr. Beltran Leon's wife, and admonished, "We are going to kill your mother with a shot to the head or maybe we'll just hang her from a bridge." At that point, desperate to save his family, Mr. Beltran Leon would have provided any information his aggressors wanted. The assailants, however, did not attempt to ask Mr. Beltran Leon any questions.

Mr. Beltran Leon estimates that his captors placed approximately ten plastic bags over his face every two to three minutes, ripping them a bit from time to time to provide a small amount of oxygen. Due to the lack of oxygen and intense pain, Mr. Beltran Leon briefly lost consciousness several times. When this occurred, Mr. Beltran Leon's captors remained impassive and displayed a disturbing indifference to his physical condition. This conduct firmly convinced Mr. Beltran Leon that his death was imminent. Despite the severity of the physical

torture Mr. Beltran Leon endured, however, the most difficult part of the ordeal was not knowing whether his wife, daughter, and mother were also being subjected to torture, or whether they were, in fact, dead or alive.

Although Mr. Beltran Leon necessarily lost track of time, he estimates that the abuse he endured in the kitchen lasted for approximately one hour. Mr. Beltran Leon's captors then moved him from the kitchen to the living room, where they removed his blindfold and the plastic bags and ordered him to sit in a chair. There, his captors demanded that he dress in a polo shirt and jeans they had removed from his closet.

At that point, Mr. Beltran Leon was able to scan the room and realized that his house was swarming with people he believed to be Mexican Marines.¹ Mr. Beltran Leon estimated that he saw at least forty people, and noted that some of his captors were women, with long hair tucked under ski masks. The majority of the invaders, however, were short men of Hispanic descent. Not all the invaders were masked, and Mr. Beltran Leon noted that those who were not masked appeared to be providing orders to the others. The majority of the people who spoke sounded like they had southern accents from Chiapas, Oaxaca, or Guerrero,

¹ Mr. Beltran Leon arrived at this conclusion based on the fact that the group was armed with paramilitary gear, appeared to obey orders from a commander, and operated in fashion known to be typical of the Mexican Marines.

while some of the others had accents arising from Mexico City.

Mr. Beltran Leon observed that a man, estimated to be approximately sixty years old with dark skin and white hair, commanded the whole group. The commander was followed by a younger man, whom Mr. Beltran Leon estimated to be approximately thirty years old, with brown hair and white skin. This man wore glasses and carried a laptop. In addition, Mr. Beltran Leon observed three people he believed to be Americans. These men were taller and had white skin. Two of the men had blonde hair, and one had red hair and a red beard. These men whispered in a language that Mr. Beltran Leon recognized as American English. One of the Americans stated, “We caught one motherfucker.” All of the people Mr. Beltran Leon observed were heavily armed with rifles, pistols, and other weapons.

When Mr. Beltran Leon was dressed, his captors again blindfolded him. After a short period of time, however, his abductors lifted the blindfold slightly, and provided him with three cellular telephones. For each phone, his captors instructed him to enter a particular access code – “blanco” for a white Blackberry phone; “black negro” for a black Blackberry phone; and “blackberry” for a third Blackberry. The officers then returned the blindfold to Mr. Beltran Leon’s eyes.

Mr. Beltran Leon then briefly heard the voices of his wife, mother, and daughter in the living room. His family was, however, quickly removed.

Immediately thereafter, the abductors' threats recommenced stating, "You know we have your family faggot! If you don't cooperate we are going to kill you! It's up to you if you want us to rape them. We could also kill your daughter." With each statement, Mr. Beltran Leon's captors delivered brutal and excruciatingly painful blows to his head and neck. After each blow, Mr. Beltran Leon was asked, "Do you understand?" and "Are you listening to me you son of a bitch?" During this assault, Mr. Beltran Leon could hear someone murmuring in English in the background. Mr. Beltran Leon also heard the sound of what he believed to be hammers crashing against the walls and furnishings in his home.

Mr. Beltran Leon's interrogators then demanded identifying information, such as name, age, marital status, and nationality. Hoping it might somehow help to keep the intruders from murdering him and his family, Mr. Beltran Leon explained that he was an American citizen. This information, however, did nothing to deter the force of his captors' onslaught. Instead, his captors commanded that he was going to tell them where Ivan Archivaldo and Alfredo Guzman Salazar lived, and he was going to take them there, or they would immediately massacre his family. Although Mr. Beltran Leon would have literally told his captors anything to save his family, he simply did not know and could not provide this information.

Still blindfolded with his hands tied behind his back, Mr. Beltran Leon's abductors removed him from his home and placed him in what was later revealed to be a white Ford SUV Eco Sport. Mr. Beltran Leon felt a person on each side of him. Initially, his abductors pushed his head down between his knees so he would not be visible from outside the vehicle. At a traffic light, however, his abductors sat him up, uncovered his face, rolled down the windows of the vehicle and played loud rock music. Because it was a weekend, there were many people on the streets of Culiacán who turned to view the proceedings. Mr. Beltran Leon believes his captors were mocking him and that he was being exhibited to the people they were passing as a type of trophy. After a period of time, Mr. Beltran Leon was again blindfolded and ordered to place his head between his knees. Although he could not see outside the vehicle, it was evident that the truck traveled along a dirt road.

When the truck finally stopped, Mr. Beltran Leon's captors removed him from the vehicle and angrily threatened that, if he made a sudden move or refused to answer their questions, they would kill him. They removed his blindfold, and Mr. Beltran Leon observed what appeared to be a military field. There were approximately forty men and women standing around him. They again demanded his identifying information, which he provided. Again, Mr. Beltran Leon included the fact that he was an American citizen in the hope that he might be provided access to help from the United States embassy. This hope was, however, futile.

Mr. Beltran Leon also asked to be presented before a District Attorney, but his request was ignored.

While standing in the field, his captors completed forms, inked his fingers, and placed his fingerprints on the forms. They used a device to take a picture of his eyes. The abductors then removed all of his clothing to determine whether he had tattoos, moles, and other identifying characteristics. The examiners were indifferent to the many bruises and lacerations that were the result of his abductors' repeated assaults. Mr. Beltran Leon concluded that his brutal injuries did not phase his captors because they were part of a death squadron.

While this was occurring the women in the group started to laugh and humiliate Mr. Beltran Leon. They repeatedly stated, "He doesn't know all the fucking shit that awaits this Blondie. For sure they're going to rape him." Thereafter, the armed men around Mr. Beltran Leon began shouting insults including, "We are going to rape you, son of a bitch. Go fuck your mother. You are going to die, Blondie son of a bitch. This asshole is not going to hang on. Let me fuck him first, chief! I'm going to fuck you up son of a bitch!" They also bellowed alarming remarks about his wife, among them, "Your wife was so good. I fucked her too. We all did. I think the gringo was the first to rape her! She didn't even yell, that whore!"

When the verbal onslaught began to subside, Mr. Beltran Leon asked

permission to use a bathroom, and was walked, naked and barefoot, to a port-a-potty. When he returned, his abductors instructed him to redress, blindfolded him, bound his hands, and placed him back into the same white Ford SUV. Three other people also entered the vehicle and were surprisingly friendly, offering Mr. Beltran Leon food, political asylum, and other assistance, if he told them where Ivan Archivaldo and Alfredo Guzman lived. In response, Mr. Beltran Leon explained that, although he had been friends with the men in primary school, he no longer knew where they resided. His interrogators then removed his blindfold and untied his hands, and he observed boxes of plastic bags on the floor of the car by his feet. They offered to let him remain incarcerated in Culiacán if he provided the information they wanted.

During the ensuing drive, Mr. Beltran Leon was able to identify the driver and the front-seat passenger as two of the men who had been present at his home – the sixty year-old, white haired commander, who had an accent from southern Mexico; and the thirty year-old man who wore glasses, carried a laptop, and had a Mexico City accent. Unsatisfied with his answers, the people in the car became hostile and threatened to retrieve Mr. Beltran Leon’s wife, daughter, and mother, who would pay the price if he failed to cooperate. Suffering intense pain, exhausted, terrified, and desperate to protect his loved ones, at this point, Mr. Beltran Leon broke into tears and told his abductors that he did not know where

Ivan Archivaldo and Alfredo Guzman lived because they only met at restaurants, discos, or at social events.

Thereafter, three men exited the car and another four got in. These men slowly and skillfully applied feminine sanitary napkins to Mr. Beltran Leon's hands and neck, which was designed to eliminate friction burns when Mr. Beltran Leon struggled against his restraints. This conduct established that his captors were skilled in the art of torture. His captors then began to asphyxiate him with plastic bags while punching him in the stomach. Mr. Beltran Leon desperately tried to chew through the plastic bags to obtain oxygen, ultimately damaging eight molars. In response, his persecutors placed bag-over-bag on his head, creating more and more pressure, until Mr. Beltran Leon lost consciousness. He awoke to the feeling of electrodes injecting intense electric shocks to the calves of his legs.

After what seemed an eternity, Mr. Beltran Leon's torturers transferred him to an armored Ford heavy-duty truck and changed personnel. Even though Mr. Beltran Leon remained blindfolded, he knew that his captors changed personnel based on the manner in which these people changed the restraints on his hands and neck. Thereafter, the vehicle began to move and Mr. Beltran Leon felt it traverse a number of hills and speed bumps. During this part of the journey, his captors were deadly silent and did not engage in conversation or ask questions. Mr. Beltran Leon recalls that they played loud heavy metal music. When he told his captors he

needed to urinate, they stopped the vehicle and he was able to establish that they were on a dirt road.

After traveling an additional distance, the vehicle stopped and Mr. Beltran Leon was transferred to another vehicle. Although still blindfolded, he was able to identify a great deal through his other senses – the heat of other bodies, which of his captors had bathed, the differences in perfumes and deodorants, as well as the odor of the vehicle. Through this non-visual information, it was clear to Mr. Beltran Leon that they had transferred him back to the white Ford EcoSport SUV, and that they had again changed personnel.

Mr. Beltran Leon's new captors then engaged in the same torture routine – replacing the restraints on his hands and neck, and placing bag after plastic bag over his head as he fought desperately for breath. He often felt that his lungs were going to burst and frequently succumbed to unconsciousness, only to revive briefly and have to face his merciless captors and the application of more plastic bags. Despite their earlier demands for his cooperation, during these episodes, his tormentors asked no questions.

Eventually, Mr. Beltran Leon's captors transferred him to yet another location, which he later identified as one of the city's oldest parks, Park 87. Mr. Beltran Leon was ordered out of the car and his restraints were removed. By this time, his hopes were beginning to wane that he would be able to survive the

nightmare, and he began to succumb to the terror. When his blindfold was removed, he could not bring himself to open his eyes. As he stood trembling and broken, Mr. Beltran Leon was again assaulted with loud verbal threats that he would be raped. His captors then ordered him to remove all of his clothing.

Once naked, Mr. Beltran Leon's abductors tied his hands behind his back with a thicker restraint and wrapped him, mummy-like, from his ankles to his head in cloth. His captors then dumped him, head-first, into a waiting barrel of water. Mr. Beltran Leon lost consciousness. When he regained his senses, he found himself lying face-up on the ground, and realized that some of the cloth binding had been cut off.

At this point, Mr. Beltran Leon was able to observe a Marine helicopter, and realized that he was in Park 87. He also realized that there were numerous people passing by on a city street that was situated just meters from his location. Despite the fact that they were able to clearly observe what was happening, the spectators simply looked down and hurried away. Mr. Beltran Leon also realized that his cloth bindings were full of excrement and urine, which must have been released while he was unconscious. Angered by this event, his captors began kicking him and said, "Now for being a shitter, bathe him!" They then removed the remaining cloth restraints and dumped Mr. Beltran Leon into the barrel of water, where he again lost consciousness.

He next awoke in the trunk of a car, where he began throwing up water. When his captors opened the trunk, Mr. Beltran Leon observed a large number of military people standing around the trunk, laughing at him. His captors warned him that they had orders to inflict water torture all night. Mentally collapsing from fear and physical exhaustion, he begged to speak to whomever was in charge, assuring them that he would fully cooperate.

During the night or early morning hours, his captors began throwing buckets of cold water on him to wash off the excrement. During this “bath,” his abductors continued to taunt Mr. Beltran Leon with promises of additional torture, assurances of impending rape, as well as threats to transport and inflict similar torture on his family.

Eventually, Mr. Beltran Leon’s assailants ordered him to get dressed. Thereafter, the young white man with glasses arrived, and again asked for the address of Alfredo Guzman. He realized that, since he was not in possession of the information his captors sought, he had nothing at his disposal to save his own life or the lives of his family. When Mr. Beltran Leon tearfully explained that he did not know where Guzman lived, the man with glasses threatened to shoot him in the head, and leave a “Z” (the sign of the Zetas Cartel organization) on him. In response, he begged to be taken to a police station, where he was prepared to confess to *anything* in order to bring an end to the nightmare.

Rather than transporting Mr. Beltran Leon to jail, however, his captors replaced his restraints and blindfold, and placed him in the armored Ford truck. Accompanied by three people, he was again driven through the same hills and speed bumps, with the loud rock music blaring, until they returned to his captors' apparent base of operation. There, the abductors removed him from the vehicle and led him into a military barracks where people were sleeping on the floor. As he was guided through the facility, still blindfolded, his escort would force him to stumble and fall onto the sleeping men and women. Angered by his unexpected presence, the sleeping troops would lash out and kick him or curse at him.

Mr. Beltran Leon was escorted to, and seated in, a small black booth that, based on the odor, had been recently painted. There, his captors removed his blindfold and ordered him to read the words on a poster, threatening that if Mr. Beltran Leon did not comply, they would murder him and his family would pay the consequences. A man with a Chicano (American) accent told him to look straight at the camera on his cellular phone or he would break Mr. Beltran Leon's arm. This man was muscular and he and his companions wore better-quality sport clothes including Under Armour and new military boots. They did not fit a military profile. Although Mr. Beltran Leon did not recognize the man with the Chicano accent as one of the men who invaded his home, he was able to identify the man holding the poster as the white man with glasses who was present at his

home and in the park.

Mr. Beltran Leon spoke with the man with the Chicano accent for approximately an hour. The man wanted to know details about Ivan Archivaldo and Alfredo Guzman, such as the vehicles they drove, where they ate, and how they communicated. The man wanted to speak only in Spanish, but Mr. Beltran Leon replied only in English.

Thereafter, Mr. Beltran Leon read the contents of the poster while being filmed on the iPhone. This recitation included alleged admissions that Mr. Beltran Leon, Ivan Archivaldo Guzman Salazar, and Alfredo Guzman flew from Culiacán to Chiapas to buy cocaine. He further admitted that each man was tasked with a particular job – Mr. Beltran Leon loaded the cocaine into the plane, Alfredo stacked the cocaine inside the plane, and Ivan piloted the plane.

After completing the video, Mr. Beltran Leon's captors again blindfolded him and removed him from the video booth. At that point, he could hear that the people sleeping on the floor were beginning to waken, and heard several voices. His abductors then placed him face down on a cot, pulled his pants down to his ankles, and threatened to rape him. He heard someone say, "bring the board." As this was being done, his tormentors told him they were going to hit him with the board forty times, as was the Marine tradition. Despite Mr. Beltran Leon's resolute resistance, his captors were able to physically assault him. After each

contact occurred, his captors struck him forcefully across the buttocks with a board. His resistance was also countered with painful blows to the head.

Following this agony, Mr. Beltran Leon was rendered exhausted and withdrawn, and did not resist when his abductors placed a variety of firearms into his hands, presumably in order to transfer his fingerprints to the weapons.

Still blindfolded, Mr. Beltran Leon was later removed from the building and placed in what felt like a truck, where he was ordered to sit on a three-legged camping stool. There, he was questioned by someone with an unmistakable American accent regarding the whereabouts of Ivan Archivaldo, believed to be facing charges in a San Diego case, and Alfredo Guzman, and Victor Felix, who are co-defendants in the present case. In response to each question, Mr. Beltran Leon honestly responded that he did not know. He also told his interrogator that he was a U.S. citizen. In response, the American interrogator confirmed, in Spanish, that he was aware of Mr. Beltran Leon's citizenship, and also knew that he was going to be extradited to the United States for money laundering.

In Spanish, the man with the Chicano accent also asked whether Mr. Beltran Leon "knew about the three letters." When Mr. Beltran Leon asked which three letters, his interrogator answered, "D.E.A." In response, Mr. Beltran Leon explained that he knew nothing about the D.E.A.; that he did not have any reason to be worried about the D.E.A., and that he had no reason to believe he was in any

trouble. The man with the Chicano accent stated that he was, in fact, with D.E.A. He went on to talk, in a bragging manner, about how great D.E.A. was, and that they knew about everything that went on. The man stated that he knew about a time when Mr. Beltran Leon was detained in the Los Angeles International Airport, and said that the person who had interrogated Mr. Beltran Leon there was his friend from San Diego. He also told Mr. Beltran Leon that he was aware of the fact that Mr. Beltran Leon had once been detained in Las Vegas by an ICE agent. During this conversation, Mr. Beltran Leon described, in English, the nature and intensity of the torture to which he had been subjected, but his interrogator departed without another word.

His captors then transferred him to what he believed was the armored heavy-duty Ford truck. There, Mr. Beltran Leon met with the white-haired commander, who had been present during his abduction from his home. The commander removed his blindfold and untied his hands, then explained that he was just doing his job and that he was only following orders. The commander stated they were going to take Mr. Beltran Leon to the airport. He further warned that, if Mr. Beltran Leon did not honor his agreement to say he was guilty of the charges, they would kill his wife and daughter, as well as the rest of his family. As night began to fall, his captors delivered him to another group of Marines, who loaded him onto a Hercules airplane and transported him from Culiacán to the

Federal District in Mexico City. While en route, the Marines again warned Mr. Beltran Leon that failure to admit guilt would result in the death of his wife and daughter.

According to records in Mexico, the Hercules airplane landed in Mexico City at 11:15 p.m. on November 16, 2014. According to Mr. Beltran Leon, upon arrival, he was turned-over to a fresh group of abusive Marines who delivered swift punches and brutally kicked him while wearing heavy combat boots. These men also screamed verbal insults in his face and told him they would prefer to kill him than to take him to prison. He was then escorted to a waiting armored truck. Mr. Beltran Leon recalls that the truck's back seats swivelled 360 degrees and that his captors demanded that he only focus his eyes on the floor. When the truck arrived at its destination, he and his captors remained outside for a long period of time. Eventually, Mr. Beltran Leon was escorted to the top floor of an office building. On the way there he observed that the building was full of video cameras. He also observed numerous people stacking file boxes to block the cameras' view of certain parts of the building.

Mr. Beltran Leon was ordered to sit, face down, at a desk. There, he heard the unmistakable sounds of another man being viciously tortured. He heard the man crying and yelling for help, and he heard the interrogator ask about the Ford EcoSport in which Mr. Beltran Leon had been tortured. When the man finally

succumbed to his agony and lost consciousness, the torturers carried the man to another room. Later, additional people arrived and recommenced choking the man with plastic bags – an unmistakable sound in light of the fact that Mr. Beltran Leon himself had been the victim of the same treatment just hours before.

Mr. Beltran Leon later learned that he was being held in the offices of SEIDO (Subprocuraduría Especializada en Investigación de Delincuencia Organizada) – the organized-crime division of Mexico's Office of the Attorney General. During the time when the man within earshot of him was being tortured, various employees, including secretaries and attorneys, arrived at the office and went about their daily business. None of these people registered the slightest concern about the fact that a human being was being tortured, possibly to death, in their presence. For them, it was simply a normal business day. Mr. Beltran Leon found this realization shocking and deeply disheartening.

According to records in Mexico, Mr. Beltran Leon was examined by Itzel Dayana Garcia Dominguez, a lieutenant in the Navy and a certified doctor. (Exhibit B).² The examination was alleged to have commenced at 11:47 p.m., on November 16, 2014, and concluded at 12:36 a.m., on November 17, 2014,

² Exhibits B through I are documents from the Mexican legal system, written in the Spanish language. The defense is in the process of having them translated to English, and will file them as supplemental exhibits when that process has been completed.

approximately 24 hours after Mr. Beltran-Leon's arrest. Despite the fact that his body displayed numerous deep bruises, cuts, and abrasions, the doctor's report indicated there were no signs of torture. Reports in Mexico further indicate that Mr. Beltran Leon was examined by two SEIDO forensic medical experts – Maria Bautista Garcia and Karla Corrales Gonzalez. (Exhibit C). These women noted that he displayed injuries (which included scratches on both forearms and underneath his naval), but concluded that the injuries were not life-threatening and would require less than 15 days to heal. Fearing for his life and the lives of his family, and in light of the impunity with which the people in the Attorney General's Office committed such horrific torture, Mr. Beltran Leon did not believe it was safe to complain to his examiners about the abuse he had endured.

Thereafter, he was delivered to a man he believed to be a District Attorney, who said he was from Sinaloa and was present to assist Mr. Beltran Leon. The District Attorney gave him documents that, he said, were provided by Mr. Beltran Leon's attorneys. The documents may have included a confession, an agreement to waive extradition proceedings, or other written instruments that were against Mr. Beltran Leon's interest. Mustering every ounce of his remaining strength, Mr. Beltran Leon refused to sign anything until he could have contact with a trusted attorney. Upon his refusal, his captors recommenced physical torture. Thereafter, he was subjected to a repeating cycle in which he was told he needed to sign the

documents and, upon his refusal, his captors recommenced their abuses.

At one point, a woman from the United States Embassy briefly visited Mr. Beltran Leon. During this visit, he told the woman about the physical and psychological torture to which he had been subjected. He also explained that he believed he could die while in custody and desperately feared for the safety of his family. In response, the woman indicated that “they were recording” and said she could do nothing to help him.

Mr. Beltran Leon was subsequently transferred to the Federal Center of Social Rehabilitation #11, in Sonora, Mexico. Upon arrival, his escort from SEIDO angrily instructed the guards to give him “special attention.” Following his arrival, Mr. Beltran Leon spent most of the next three months in solitary confinement.

At 12:05 p.m., on November 21, 2014, six days after the arrest, Mr. Beltran Leon appeared before a judge with appointed counsel. (Exhibit D). During this court appearance, Mr. Beltran Leon stated that he was tortured and asphyxiated by officials of the Navy (marina) who abducted him from his home. (Id. at p. 5) He further explained that, while he was at SEIDO, he did not provide a statement regarding the abuses he endured because he was overwhelmed and intimidated by what his captors had done and threatened to continue to do to him and to his family. The record from this proceeding includes evidence of purple bruising,

approximately seven centimeters in length on Mr. Beltran Leon's right abdomen.

(Id.) It also includes puncture wounds, approximately one centimeter in length, on the calves of both legs. (Id.)

At 11:05 a.m., on November 24, 2014, just eight days after his arrest, Mr. Beltran Leon appeared before a judge with a retained attorney and provided an extended statement regarding his abduction and torture at the hands of the Mexican Marines. (Exhibit E). That more detailed statement is consistent with the sworn affidavit now before this Court, although the latter contains some information that was not relevant to his case in Mexico, but is relevant now.

In his statement to the Court he stated that he was asleep when numerous Navy personnel entered his bedroom, that he was struck, and yelled at, and taken downstairs to the kitchen. He was held at gunpoint, a plastic bag was placed over his head, he was hit and yelled at some more and told to think about what he was going to say. The sailors threatened to put a bag over his daughter's head, or to rape his wife. He was blindfolded, and they bandaged his arms with feminine napkins to avoid friction burns. They put cell phones before him and made him touch them so as to leave fingerprints on them. They put him in an Eco-sport truck, then they removed the blindfold and told him to do what they say, or if not they would return for his wife or daughter. They stayed in his house for several hours. They then drove him around with continued beating, asphyxiation,

mistreatment and threats. Eventually, they took him to the Navy base where he received more blows, threats and abuse. They continually subjected him to asphyxiation with plastic bags and also used electric shocks before he was taken to the airport. Thus, within eight days of his arrest, Mr. Beltran Leon had given to a court a statement about his torture much the same as his affidavit in support of this motion.

At 1:53 p.m., on November 25, 2014, attorney Omar Alejandro Gonzalez Vazquez filed a court document in which he asked for it to be noted on the record that Mr. Beltran Leon sustained human rights violations at the hands of his captors. (Exhibit F). These violations included the fact that naval officers held Mr. Beltran Leon for more than twenty hours without notifying anyone of his whereabouts. This prolonged secret detention made it possible for the officers to intimidate and torture him. In addition, it was alleged that the naval officers failed to immediately notify the United States Embassy when they were informed that he was a United States citizen. According to the document, these violations should be reported to the American Convention on Human Rights.

At 2:00 p.m., on November 25, 2014, Mr. Beltran Leon's wife, Brianda Lizbeth Felix Beltran, provided a statement confirming that the Mexican Marines stormed into their home at about 1:20 a.m. on November 16, 2014. (Exhibit G). They seized her husband, took him out of the bedroom without his clothing and

kept him for several hours. During this time she heard loud voices, after which her husband was taken away. They kept her in the house until about noon.

On December 4, 2014, Mr. Beltran Leon's attorneys filed a legal document captioned "Da Vista." (Exhibit H). This document was an obligation to legally deliver a copy of a request for a public minister to commence an investigation into the crime of torture based on Mr. Beltran Leon's statements that he was beaten, tortured and threatened by the arresting military elements on the day of his arrest.

On January 27, 2015, an appellate court issued an order to release Mr. Beltran Leon from imprisonment in Sonora, Mexico. (Exhibit I). This order was predicated on the fact that there was insufficient evidence to support the charges that were levied against him in that venue. In its resolution, the appellate court ordered the Attorney General's representative in Sonora to open an investigation involving the acts of torture that were inflicted upon Mr. Beltran Leon in connection with his arrest on November 16, 2014. (Id. at pp. 83-87.) This order, however, was never acted upon because, upon his release from custody in Sonora, Mr. Beltran Leon was returned to the Federal District in Mexico City to address the extradition request from the United States.

On December 7, 2014, Mr. Beltran Leon submitted a form provided by a woman from the United States Embassy while he was at the Federal Center of Social Rehabilitation #11 in Sonora. This form had to do with recognition of his

status as a citizen of the United States. In the "comments" section of this form, he began to detail the torture that he had endured. He continued to detail the torture on additional pieces of paper that the woman from the Embassy provided. In the statement, he explained that, during his arrest, he was abused by members of the Mexican Navy, as well as agents from the United States Drug Enforcement Administration.

SIMILAR CASES

The Mexican National Commission of Human Rights has recently verified numerous allegations of torture remarkably similar to that made by Jesus Raul Beltran Leon. One decision, issued February 7, 2017, which is attached to this motion as Exhibit J, can also be found at http://www.cndh.mx/sites/all/doc/Comunicados/2017/Com_2017_044.pdf.

The Commission's report to the Secretariat of the Navy (SEMAR), Vidal Francisco Soberón Sanz, involved the illegal search, arbitrary detention, illegal retention and torture of a man in Culiacán, Sinaloa. The man was later acquitted of criminal wrongdoing, as was Mr. Beltran Leon.

According to the complaint, on November 14, 2014, at approximately 3:00 a.m. (two days before the events of Mr. Beltran Leon's case), members of the Navy, their faces concealed with ski masks, violently burst into the victim's home

without a judicial order, and called him by a nickname he did not recognize. They demanded that he tell them where "the others" were. The demands were accompanied by beatings and threats.

One of the uniformed men slapped the man's wife twice, in the presence of her one year-old daughter, for asking why they were beating her husband. Other uniformed persons removed the victim's other two children, ages two and seven, from the bedroom. The uniformed men transported the detained man in a white van, took his belongings, and tied his hands and feet. Shouting profanities, they struck the victim's head and threatened to beat him with a stick.

The Navy officers showed the victim photographs on a tablet computer and drove him to several addresses around the city, where he was ordered to identify the homes of the people they were seeking. When he did not provide the information they wanted, the victim's abductors took him to a house where he was tortured by suffocation with plastic bags, in addition to burning and tearing the skin on the soles of his feet.

The man was then transferred to a detachment of the Navy, near the Ernesto Millán Escalante Park in Culiacán. There he was taken to another truck where, over several hours, they beat and threatened him repeatedly.

The Navy personnel later ordered the man to say that his injuries had been caused by a fall. A female naval medical officer later examined the victim and

cared for his wounds. Another naval officer told him that he would see to it that the man would stay in jail for several years because he did not cooperate. Nine hours after his detention, at 12:20 p.m. on November 14, 2014, the man was taken to the offices of the Attorney General of the (PGR) and was eventually presented to the Federal Public Ministry.

On November 27, 2014, the Sinaloa State Human Rights Commission forwarded a complaint written by the victim's wife to the Mexican Commission on Human Rights ("CNDH"). After completing its investigation, the CNDH found that the Mexican Army did not participate in these events, and instead determined that the human rights violations were attributable to members of the Mexican Navy.

Based on these findings, the Human Rights Commission recommended that the Navy pay full compensation to the victim for damages to the victim, his wife, and his three children, including medical and psychological care. It also recommended that the Navy cooperate in the follow-up of the preliminary investigation by the PGR, and in the processing and follow-up of the complaint against the naval agents that the Commission was submitting to the Inspector and Comptroller General of the Navy.

The facts and findings underpinning that case are remarkably similar to the torture inflicted upon Mr. Beltran Leon. The cases occurred just two days apart in

the same city, involved a raid on the suspect's home at approximately the same time of night by naval personnel, who were intent upon finding out where certain people lived. They both involved beatings and suffocation with plastic bags, some of which took place in a public park near a military facility. Indeed, one wonders whether Mr. Beltran Leon's home was one of those they were seeking. In any event, this verified case strongly indicates a pattern of conduct by the Mexican naval authorities in Mr. Beltran Leon's city to do exactly what he has reported was done to him.

In addition, the Mexican Human Rights Commission has found the Mexican Navy guilty of human rights violations that amount to torture on numerous other occasions. Those incidents show a pattern of behavior that was, or should have been, known to the United States Government prior to Mr. Beltran Leon's arrest. This pattern often includes conduct remarkably similar to what happened to Mr. Beltran Leon, consisting of nighttime raids on homes by large numbers of sailors, pulling sleeping occupants out of bed, blindfolding and transporting them far away and infliction of torture over extended periods of time, including beating, electric shock, immersion in cold water, repeated asphyxiation with plastic bags, humiliation, sexual assault and threats to family members.

The defense has examined numerous CNDH reports issued between December 21, 2010 and July 31, 2014 and found at least 16 which held the

SEMAR (*i.e.* Mexican Navy) responsible for torture similar to that inflicted upon Mr. Beltran Leon. The years and report numbers are listed in the table below:

Year_Report no	Year_Report no	Year_Report no	Year_Report no
2010_ 86	2011_ 34	2011_ 63	2011_ 71
2012_ 10	2012_ 50	2012_ 68	2012_ 69
2012_ 73	2013_ 15	2013_ 16	2013_ 37
2013_ 41	2013_ 53	2013_ 68	2014_ 31

These can be accessed at the CNDH official website:

<http://www.cndh.mx/Recomendaciones>

It must be emphasized that every one of these official reports involved the SEMAR (the group that tortured Mr. Beltran Leon), and every one of these reports was officially issued before Mr. Beltran Leon's arrest. Thus, the United States government was on notice of the kind of torture that would be inflicted on Mr. Beltran Leon when the SEMAR arrested him at the request of the U.S. Government.

The reports speak for themselves, but are difficult to read as they are written in Spanish, and are heavily couched in medical and official jargon. Therefore, for the Court's convenience, attached to this motion as Exhibit K is a table prepared by defense counsel summarizing them. Here are a few examples from that summary:

- Report no. 63 of 2011³ documents a raid in Colima, Colima on the evening of February 7, 2011, in which some 40 hooded SEMAR forces arrived at the house of the victim's mother-in-law. Two children were present. There, the victim was subjected to beating and to asphyxiation by plastic bag, similar to the suffocation inflicted upon Mr. Beltran Leon. The victim and his mother-in-law were later transferred to naval facilities in Manzanillo, Colima, where the victim was beaten, asphyxiated with plastic bags, subjected to electrical shocks, cigarette burns and threats that he would be raped if he did not provide information. Most of these techniques were used on Mr. Beltran Leon as well. The victim and his mother-in-law were eventually taken to Mexico City by airplane, as was Mr. Beltran Leon.

- Report no. 69 of 2012 concerns the case of a January 2011 raid in Manzanillo, Colima.⁴ At 2:40 a.m. approximately 25 SEMAR members burst into the victim's home while he and his wife and children were asleep, closely paralleling what happened to Mr. Beltran Leon. They covered the victim's face with his shirt, and took him away in a truck to a naval base in Manzanillo. There, he was repeatedly punched in the head, and threatened that his wife would be raped, similar to the SEMAR's threats against Mr. Beltran Leon's wife. He was taken to a room where he was thrown to the floor and questioned. His pants were taken down and his buttocks, waist, knees and shins were beaten with a baseball bat. A SEMAR member suffocated him with a plastic bag over his head until he blacked out. He was also beaten on the ears and testicles. He was driven around town so he could show them the address of person called "El Gordo," but failed to do so because he did not know the address sought. He was then returned to the naval installation, but could not stand up because he was bleeding from his buttocks. He was then subjected to further threats to kill his family and to rape his girlfriend. Subsequently, he was forced to read a statement to a video camera,

³ Available at:
http://www.cndh.mx/sites/all/doc/Recomendaciones/2011/Rec_2011_063.pdf

⁴ Available at:
http://www.cndh.mx/sites/all/doc/Recomendaciones/2012/Rec_2012_069.pdf

and later taken by airplane to Mexico City where he was transferred to the Attorney General's office. Virtually all of these things were inflicted upon Mr. Beltran Leon as well.

- Report no. 41 of 2013⁵ covers events that began on January 20, 2011 while the victim, his partner and their 5 year-old son were vacationing in Huatulco, Oaxaca, when SEMAR personnel arrested them outside a hotel. They were put into a Suburban, handcuffed and blindfolded. The primary victim was beaten on the legs and head with gun handles while being asked about organized crime. They were taken to an airplane. Upon arriving in Mexico City he was put into a van and taken to a naval facility, where his pants were taken down and, like Mr. Beltran Leon, he was beaten on the buttocks with a board, and also on the soles of the feet. He was asphyxiated with a wet rag and with a plastic bag over his face. He was given electric shocks to his testicles, penis and anus. His tormentors threatened to kill his family. These attacks were repeated for days after his arrest. The victim was taken to an apartment in Mexico City, and later to his home, where several valuable items were stolen. Due to the beatings, there was blood in his urine and stool. SEMAR members later forced the victim to record a video in which he provided the names of persons involved in organized crime. He was eventually taken to the offices of the Deputy Attorney Specializing in Organized Crime, where he was forced to sign a document, but was not informed of its content. Much of this happened to Mr. Beltran Leon as well.

The other 13 reports all summarize brutality and torture during and after arrests by the Mexican Navy. In sum, it is clear from the reports mentioned above, and the others listed in the chart provided, that the Mexican SEMAR has been engaged in an ongoing pattern of kidnaping, torture and other human rights abuses upon detainees for a long period of time – similar to the abuses inflicted upon Mr.

⁵ Available at:
http://www.cndh.mx/sites/all/doc/Recomendaciones/2013/Rec_2013_041.pdf

Beltran Leon here. This pattern was known to the world for years before Mr. Beltran Leon's arrest.

UNITED STATES GOVERNMENT SUPPORT FOR THE SEMAR

The United States Government provides extensive support for the Mexican Navy, or SEMAR. Specifically, it is known that the SEMAR receives substantial funding and training from the United States Government for its work against drug trafficking. According to *Time Magazine*:

U.S. diplomatic cables, made public by Wikileaks, detail how the Mexican marines were "extensively trained" with the U.S. Northern Command, the Pentagon's joint operations center in Colorado, which focuses on North America.⁶

Although the total amount of funding received by the SEMAR per year is not known to the defense, the website for the United States Department of State indicates that billions of dollars have been transferred from the United States government to Mexico over the last nine years. The funding includes equipment (e.g. CASA CN-235 transport aircraft and other vehicles) as well as training.⁷ Some of this funding stems from the so-called "Merida Initiative" (Iniciativa

⁶ Ioan Grill, Inside the Elite Mexican Marine Corps That Recaptured 'El Chapo' Jan 08, 2016, available at <http://time.com/4174001/mexico-marines-capture-el-chapo-drug-lord/>.

⁷ Stratfor Mexico Country Brief 12/01/2011 available at https://wikileaks.org/gifiles/docs/28/2865108_-latam-mexico-country-brief-111201-.html at p. 13.

Merida). The State Department website (as of July 30, 2017) notes that the U.S. Congress has appropriated \$2.5 billion to Mexico since the Merida Initiative began in Fiscal Year 2008. Some of the activities under the partnership include training of Mexican law enforcement “including crime investigation, criminal intelligence,” as well as air mobility of Mexican forces through the delivery of specialized aircraft and training for pilots and technicians. See:

<https://www.state.gov/j/inl/merida/>

C. Defense requests for further Government disclosure regarding torture have been unavailing.

On May 12, 2017, defense counsel sent a letter to Michael J. Ferrara, the Assistant United States Attorney then prosecuting this case. A copy of that letter is attached to this Motion as Exhibit L. That letter explained to the Government in great detail the torture that had been inflicted upon Mr. Beltran Leon by the Mexican Navy during and after his arrest, and the involvement therein by authorities of the United States Government. It then made substantive requests for disclosure related to that torture and that U.S. involvement.

About a month later, on June 9, 2017, then-lead-prosecutor Michael Ferrara responded by e-mail that he was going to have to refer the matter out for consultation to investigators who handle allegations of misconduct. On June 14,

2017, this Court conducted a status hearing in this case and continued the case for approximately 90 days due to the complexity of the case, and also for the Government to investigate the issues raised in the defense's May 12 letter.

Toward the end of August, 2017, Mr. Ferrara began to transition out of the Chicago office and Ms. Erika Csicsila became the Government's primary counsel on this matter. On August 31, 2017 the defense sent a second letter to Ms. Csicsila adding further reasons for requesting disclosure. A copy of that letter is attached to this Motion as Exhibit M. That letter disclosed the reports by the Mexican Commission on Human Rights (CNDH) that are discussed above in this motion, finding torture by the Mexican Navy similar to that inflicted upon Mr. Beltran Leon, that were publicly available on the internet. The letter went on to discuss other reasons why the United States Government was aware of the Mexican Navy's practice of torturing its captives, or at least should have been aware of this, when it used that unit to arrest Mr. Beltran Leon for the charges in this case. The letter made further requests for disclosure.

On September 6, 2017, Government's counsel sent defense counsel an email discussing the investigation that was underway into the defense claims of torture. In that email, Government's counsel stated that a team was in place working on an investigation, but that she, the prosecutor, was "walled off from that team." On September 13, 2017, this Court held a status hearing in this matter, continuing the

deadlines for approximately 60 days.

The next status hearing was held on November 1, 2017. In conjunction with that hearing the attorneys conferred and Government's counsel presented to defense counsel a letter dated October 31, 2017. The essence of the letter was that the D.E.A. Office of Professional Responsibility had conducted a preliminary inquiry into the allegations in the letters sent by the defense and had interviewed agents involved in Mr. Beltran Leon's arrest. A copy of that letter is attached to this Motion under seal as Exhibit N. In that letter the Government denies that any D.E.A. agents participated directly in Mr. Beltran Leon's arrest or torture, or had any knowledge of defendant being tortured during or after his arrest.

Interestingly, however, the letter goes on to state that the D.E.A. Resident Agent in Charge of the Mazatlan Resident Office during the relevant time period was not sure if any personnel from other U.S. agencies participated in defendant's post-arrest interview because that Resident Agent in Charge was not present during any of post-arrest interviews. However, in the corresponding section of the D.E.A. Memorandum concerning the investigation, where it discusses the possibility of other agencies having personnel present, there are two redactions, suggesting that specific agencies (*e.g.* possibly U.S. Marshals Service) are named in the Memorandum, but not in the letter sent to counsel.

The letter does state, however, that at one point that four D.E.A. agents were

deployed “in the area of the defendant’s arrest,” but that they “did not respond to the scene” because D.E.A. agents are “prohibited from participating in any arrests in Mexico.” Three of the agents claim to have been “several blocks away in their vehicles when SEMAR arrested defendant,” while the fourth “did not specifically recall being in the area of defendant's arrest location.” The letter also states that all four of the agents traveled to the naval base where Mr. Beltran Leon was taken, and “examined defendant's Blackberry telephones for intelligence, but none of the special agents encountered or interview [sic] defendant at the operations base,” which was described by an agent with an Hispanic surname as “an old theater.” Interestingly, this naval base was the location where Mr. Beltran Leon states that he had the conversation with the man with the Chicano accent about the letters “D.E.A.” and his past detentions in Los Angeles and Las Vegas.

**THE UNITED STATES GOVERNMENT’S AWARENESS OF
HUMAN RIGHTS VIOLATIONS BY THE SEMAR**

General Awareness of Torture by the SEMAR

The United States Government has long been aware of human rights violations by the Mexican Navy, or SEMAR. This is evident from the fact that the U.S. Department of State analyzes and discusses the complaints made against the SEMAR, and the documentation of those complaints by the Mexican Human

Rights Commission, in various official releases. For example, a 2012 State Department Report on Mexico discusses a multiple-victim kidnap-arrest by the SEMAR in June of 2011 in which SEMAR members detained several individuals in homes, places of work, and at other commercial establishments and then, as with Mr. Beltran Leon, transported them in SEMAR vehicles to an unknown destination, without a court order or judicial proceedings. In one specific case, six victims remained “disappeared” at the end of the year.⁸ The same report indicates that the Human Rights Commission received 495 complaints against the SEMAR in 2011 and 418 in 2012.⁹

⁸ United States Department of State, Bureau of Democracy, Human Rights and Labor 2012 Country Reports on Human Rights Practices, Mexico 2012 Human Rights Report at 4, available at <https://2009-2017.state.gov/documents/organization/204674.pdf> ; <https://2009-2017.state.gov/j/drl/rls/hrrpt/2012/wha/204464.htm>

⁹ Id. at 11. See also United States Department of State, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices for 2009, available at <https://www.state.gov/j/drl/rls/hrrpt/2009/wha/136119.htm> (Detailing allegations known to U.S. government of killings by Mexican government security forces, and an increase in complaints involving cruel or degrading treatment and torture in 2009, as compared to 2008, few of which resulted in punishment); See also United States Department of State, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices for 2014 at 4-5, available at <https://www.state.gov/documents/organization/236914.pdf> (Discussing the hundreds of complaints of torture received and the report of the United Nations Special Rapporteur for Torture, who observed that torture of detainees usually occurred within hours after arrest).

Indeed, knowledge of such torture by the Mexican military is widespread.

Moreover, in April of 2016, the Mexican Secretary of Defense, Gen. Salvador Cienfuegos Zepeda, conducted a televised address apologizing for torture by military units. His speech was necessary after the public disclosure of a video



Still from video showing woman being asphyxiated by a plastic bag placed over her head

showing a young woman with a rifle muzzle pressed to her head by a Mexican military police officer and her being asphyxiated by a plastic bag placed over her head, as depicted in the photo at right.¹⁰ Although this televised address occurred after Mr. Beltran Leon's arrest, it indicates the widespread use of these torture tactics.

Specific Awareness of Torture in This Case

In addition to the general knowledge by the U.S. Government, there is the Government's specific knowledge in this case. It has denied that its agents were present during Mr. Beltran Leon's torture or were even aware of it, but this flies in the face of common sense. Mr. Beltran Leon has submitted a sworn affidavit stating that he observed three people at his home he believed to be Americans.

¹⁰ See <https://apnews.com/b624b80d30534d77a0547039259175db/medicos-defense-secretary-apologizes-torture-incident>; <http://www.latimes.com/world/mexico-americas/la-fg-mexico-army-torture-20160416-story.html>

These men were taller than the Mexican Navy personnel and had white skin. Two had blonde hair, and one had red hair and a red beard. They whispered to each other in American English.

The Government now concedes that the D.E.A. was working with the Mexican Navy in a joint investigation to capture Mr. Beltran Leon, supplying them with “actionable information.”¹¹ The D.E.A. admits that it dispatched four agents to the area of Mr. Beltran Leon’s home during the arrest. Had Mr. Beltran Leon not actually seen and heard these men in his home, one wonders how he would just happened to have made up a claim that there were multiple American agents in his home, and then have it turn out that there actually were multiple D.E.A. agents in the area. He describes three Americans that were there: tall with light skin, two with blond hair and one with red hair and a red beard. Later at the naval base he met another American who talked to him about the three letters “D.E.A.” whom he described as “muscular” and having an American “Chicano” accent. Thus, Mr. Beltran Leon saw four Americans in all – three Anglo, one Hispanic. If one examines the names of the agents listed in Exhibits N and O, three of them have non-Hispanic given names and surnames, while the fourth has a Hispanic given name and a Hispanic surname. Mr. Beltran Leon gave his

¹¹ Memorandum dated 9/11/2017, disclosed to the defense 11/22/2017. Filed under seal herewith as Exhibit O.

account to defense counsel many months ago, and counsel included it in a letter to Government's counsel last May, well before the disclosure of the reports bearing the agents' names in October. One wonders what the odds are of Mr. Beltran Leon having concocted a false story of seeing four Americans, three Anglo and one Hispanic, and then having it randomly turn out to apparently match the Government's own disclosure months later. On the contrary, it is an indication that he is telling the truth: the D.E.A. agents were in his home while he was being tortured, and he talked with one while he was at the naval base.

Moreover, it is obvious the presence of D.E.A. agents in the area was not a random coincidence. The Mexican Navy clearly must have advised the D.E.A. in advance of the arrests, of where to be, and when to be there, for the agents to have been "deployed" to the area. Thus, it is evident that the D.E.A. was working hand-in-glove with the Mexican Navy on Mr. Beltran Leon's arrest. In effect, the Mexican Navy acted as an agent of the United States Government in this arrest and the subsequent torture.

It must further be considered that the arrest and initial torture in the home took hours. Does it make any sense that four D.E.A. agents just sat in their cars blocks away and never once came inside or communicated in any way with their allies in the house for hours, even after the home was secured from any danger? U.S. officials are not supposed to participate in arrests in Mexico because they are

not allowed to carry firearms there. It is hard, however, to understand why the D.E.A. would not participate in a post-arrest interview of a fugitive once the scene has been cleared, a huge military force is present, and there is no longer any danger of violence. This is especially so because the information the naval personnel wanted to extract from Mr. Beltran Leon was the whereabouts of other fugitives – fugitives who were wanted by the D.E.A. in this very case. One wonders why the D.E.A. agents would not go inside and question Mr. Beltran Leon about that. Unless, perhaps, they knew that their Mexican Navy surrogates were subjecting him to torture to get him to talk. Surely the D.E.A. agents were not so naive as to think that the dozens of heavily armed marines in the home were politely discussing this topic for hours with Mr. Beltran Leon over a pleasant cup of tea. The propensity for the SEMAR to torture its captives was abundantly well-known throughout Mexico.¹² The CNDH cases cited above show that what happened to Mr. Beltran Leon fits the pattern of what the SEMAR is infamous for doing. It strains credulity to believe that American D.E.A. agents are the last people in Mexico to be unaware of this.

The truth is exactly what Mr. Beltran Leon's sworn statement specifies: that

¹² According to Reuters, the SEMAR received some 1,100 complaints ranging from torture and robbery to murder and forced disappearances during the six-year term of Mexican President Felipe Calderon from 2006 to 2012. <https://in.reuters.com/article/us-mexico-drugs/analysis-mexican-navy-to-hold-the-fort-during-shift-in-drug-war-idUSBRE8B90U920121210>

Americans were present at the home when he was arrested. They weren't supposed to be there, but they were. They are not going to admit it now in response to a simple inquiry, not under oath, from a D.E.A. investigator. The assigned prosecutor, in her own words has been "walled off" from investigating these allegations for reasons unexplained, and so has not been in a position to interview the agents for herself. This seems anomalous in a case where facts have been alleged that could potentially result in dismissal of the case or other sanctions.¹³

Likewise, the D.E.A. agents have admitted to having been at the naval base where Mr. Beltran Leon was tortured. Four agents say they went there to examine three cell phones. That may well have left one agent with little or nothing to do while the three others scrolled through data on those three phones. Can it be just a coincidence that this naval base is where Mr. Beltran Leon says that he had a lengthy conversation with a "Chicano" man who identified himself as a D.E.A. agent and who questioned Mr. Beltran Leon, discussing matters that only a United States D.E.A. agent would know, such as prior questioning of Mr. Beltran Leon in Los Angeles and Las Vegas? No. The facts support what Mr. Beltran Leon is

¹³ Generally an attorney is "walled off" when there is a potential conflict of interest. It is not immediately apparent to undersigned counsel what conflict a prosecutor has in investigating whether or not the arresting agents in her case behaved lawfully.

saying under oath, subject to the penalties of perjury. D.E.A. agents were present, and they knew full well of the torture inflicted by the SEMAR upon Mr. Beltran Leon, and that torture was being done under the agency of, and with the blessing of, the United States Government. Thus, there is at least a *prima facie* case here that the United States knew of this torture, condoned it, and even encouraged it for its own ends.

II. LEGAL REASONS WHY DISCLOSURE SHOULD BE ORDERED

A. Relevancy of the requested disclosure

1. Disclosure is needed to investigate possible dismissal.

The disclosure requested herein is relevant for the defense to investigate at least two possible motions of great importance in this case. The first is a motion for outright dismissal of this case for outrageous government conduct. The sustained and repeated torture of Mr. Beltran Leon constituted such conduct.

Federal courts have the authority to dismiss a federal indictment pursuant to their supervisory powers over the administration of criminal justice, as first outlined by the Supreme Court in McNabb v. United States, 318 U.S. 332, 340-41 (1943). This power includes dismissal for outrageous government conduct, such as torture. This concept was first articulated in United States v. Russell, 411 U.S. 423, 431-32 (1973) (if the government's conduct was so outrageous that it

shocked the conscience, the government would be barred from obtaining a conviction); Hampton v. United States, 425 U.S. 484, 489 (1976) (plurality opinion with five justices leaving open the possibility of dismissal where government conduct violated a protected right of the defendant); see also United States v. Payne, 962 F.2d 1228, 1231 (6th Cir. 1992). Outrageous government conduct is not a defense *per se*, but rather “a claim that government conduct in securing an indictment was so shocking to due process values that the indictment must be dismissed.” United States v. Williams, 547 F.3d 1187, 1199 (9th Cir. 2008).

In the context of extradition and torture, the Second Circuit impliedly recognized the potential for dismissal under a Due Process rationale in United States v. Toscanino, 500 F.2d 267 (2d Cir. 1974); see also Ex rel. Lujan v. Gengler, 510 F.2d at 69 (2d. Cir. 1975) (Anderson, J. concurring) (explaining that Toscanino “rest[ed] solely and exclusively upon the use of torture and other cruel and inhuman treatment”). In order for a court to grant such a dismissal in the context of a foreign arrest, the proponent must demonstrate that “representatives of the United States participated or acquiesced in the alleged misconduct of the [foreign] officials,” or that the arresting officers of the foreign country “were acting as agents of the United States in arresting or mistreating [the defendant] or that United States representatives were aware of such misconduct.” United States

v. Lira, 515 F.2d 68, 70-71 (2d. Cir. 1975).

The Seventh Circuit has concluded that Toscanino lacks continuing vitality insofar as far as it creates an exclusionary rule. Matta-Ballesteros v. Henman, 896 F.2d 255, 263 (7th Cir. 1990); United States v. Mitchell, 957 F.2d 465, 470 (7th Cir. 1992) citing Matta-Ballesteros. However, the Matta-Ballesteros Court specifically did not reach the “Outrageous Government Conduct” aspect of Toscanino and its progeny. Matta-Ballesteros, 896 F.2d at 263, n.9. Thus, the claim of Outrageous Government Conduct is not precluded under Seventh Circuit case law.

In this case, the evidence indicates that the arrest and torture of Mr. Beltran Leon was carried out at the behest of the United States Government, with the Mexican officials acting as agents of the United States Government. The United States Government knows full well that the Mexican naval officials regularly extract confessions through torture within hours of arrest, but rarely face any negative consequence for it. Nonetheless, there is nothing in the record to indicate that the Government did anything to stop the torture, or ask the SEMAR not to engage in it, even though Mr. Beltran Leon was initially arrested exclusively for U.S. charges in this case, not for charges in Mexico, and was questioned about co-defendants herein.

2. Disclosure is needed to investigate possible suppression.

Even if this Court does not ultimately dismiss this case on the grounds of outrageous government contact, the information requested by the defense may still be relevant to suppressing evidence obtained as fruits of Mr. Beltran Leon's arrest. Suppression of statements may result from a finding that the statements were involuntary, or that the statements were made in violation of Miranda.

a. Voluntariness

Courts may, on Due Process grounds, suppress involuntary confessions obtained by the use of torture, even if that torture occurred in another country. See Bram v. United States, 168 U.S. 532, 561-66 (1897) overruled on other grounds by Arizona v. Fulminante, 499 U.S. 279, 285 (1991); United States v. Cotroni, 527 F.2d 708, 712 n. 10 (2d Cir. 1975) (“were the conduct of foreign police so reprehensible as to shock the conscience,” application of the exclusionary rule might be warranted); United States v. Maturo, 982 F.2d 57, 60–61 (2d Cir. 1992) (noting that courts have suggested that the “shocks the conscience” standard can apply to exclude evidence even when it was obtained by agents of a foreign country through methods legal there); United States v. Angulo–Hurtado, 165 F.Supp.2d 1363, 1370 (N.D.Ga. 2001) citing United States v. Rosenthal, 793 F.2d 1214, 1230–31 (11th Cir.1986) (suppression warranted where “the foreign officers’

conduct is so egregious that it ‘shocks the conscience’ of the American court”); United States v. Nagelberg, 434 F.2d 585, 587 n. 1 (2d Cir. 1970) (suggesting that “rubbing pepper in the eyes” or other shocking conduct by a foreign officer could warrant the exclusion on Due Process grounds of any admissions obtained as a result of such conduct); United States v. Abu Ali, 395 F.Supp.2d 338, 380 (E.D. Va. 2005). See also Culombe v. Connecticut, 367 U.S. 568, 602 (1961) (“The ultimate test” for determining whether a statement was coerced is “the test of voluntariness”).

The voluntariness test requires the Court to ask whether “the confession is the product of an essentially free and unconstrained choice by its maker,” or whether “his will has been overborne and his capacity for self-determination [has been] critically impaired . . .” Id. The answer to this question is determined by considering “the totality of all of the surrounding circumstances – both the characteristics of the accused and the details of the interrogation.” Schneckloth v. Bustamonte, 412 U.S. 218, 226 (1973). Accordingly, the defense requires the disclosure requested herein to support a contention that the post-arrest statements of Mr. Beltran Leon were not voluntary, and were instead obtained by coercion that shocks the conscience.

b. Miranda violation

Miranda warnings are generally not required for statements made to foreign police officers abroad, rather than U.S. officers, unless United States law enforcement agents, as part of a “joint venture,” actively participate in the questioning of the defendant or the foreign officials act as agents or virtual agents of the United States. In such cases, the absence of a Miranda warning can render the statement inadmissible. United States v. Straker, 800 F.3d 570, 615 (D.C. Cir. 2015); United States v. Suchit, 480 F. Supp. 2d 39, 56 (D.D.C. 2007); United States v. Karake, 281 F.Supp.2d 302, 308 (D.D.C.2003); Maturo, 982 F.2d at 61.

As set forth in the factual recitation above, the arrest and interrogation carried out by the Mexican naval authorities on Mr. Beltran Leon were done at the behest of U.S. officials, with intelligence supplied by U.S. officials, for the purpose of extraditing Mr. Beltran Leon to this Court’s jurisdiction. It is clear that the U.S. authorities were working hand-in-glove with the Mexican authorities in this matter. The defense needs the requested disclosure to establish this fact.

B. The requested items constitute *Brady* material.

The Government is required to disclose the materials requested herein under the principles of Brady v. Maryland, 373 U.S. 83 (1963), and also by Rule 16 of the Federal Rules of Criminal Procedure. In Brady, the Supreme Court held that the “suppression by the prosecution of evidence favorable to an accused upon

request violates due process where the evidence is material either to guilt or punishment irrespective of the good faith or bad faith of the prosecution.” 373 U.S. at 87. Evidence is material if “there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different.” United States v. Bagley, 473 U.S. 667, 682 (1985).

It is true that “[n]o Brady violation exists where a defendant knew or should have known the essential facts permitting him to take advantage of any exculpatory information,” Abdur' Rahman v. Colson, 649 F.3d 468, 474 (6th Cir. 2011) citing United States v. Clark, 928 F.2d 733, 738 (6th Cir.1991) (per curiam); Gauger v. Hendle, 349 F.3d 354, 360 (7th Cir. 2003), overruled on other grounds by Wallace v. City of Chicago, 440 F.3d 421 (7th Cir. 2006) (prosecution has no duty to disclose falsity of police account of interrogation where defendant knows what he said). The government might, thus, argue that, since Mr. Beltran Leon is aware of his own torture, therefore Brady does not require disclosure. The problem here, however, is that the evidence corroborating Mr. Beltran Leon’s assertions lies solely in the hands of the Mexican officials or the United States Government. The defense has no access to it; the United States Government does.

The Brady obligation extends to all government actors, not just the individual prosecutor assigned to the case. Kyles v. Whitley, 514 U.S. 419, 437 (1995) (“[T]he individual prosecutor has a duty to learn of any favorable evidence

known to the others acting on the government's behalf in the case, including the police”); Youngblood v. West Virginia, 547 U.S. 867, 869-870 (2006) (*per curiam*) (Brady violation occurs when the government fails to turn over evidence “known only to police investigators and not to the prosecutor”); Moldowan v. City of Warren, 578 F.3d 351, 381 (6th Cir. 2009) (due process guarantees recognized in Brady also impose an analogous or derivative obligation on the police to disclose exculpatory materials); United States v. Monroe, 943 F.2d 1077, 1011 n.2 (9th Cir. 1991) (prosecution must disclose any Brady information within the possession or control of law enforcement personnel); United States v. Blanco, 392 F.3d 382, 388 (9th Cir. 2004) (“A prosecutor's duty under Brady necessarily requires the cooperation of other government agents who might possess Brady material”). In the instant case, the Mexican naval squadron was acting as the “police” on behalf of the United States Government.

Given that the torture of Mr. Beltran Leon occurred as an integral part of his arrest by the Mexican Navy, which was made at the behest of the United States government, and given that the defense has specifically requested the information corroborating that torture, this information is subject to disclosure under Brady. Bagley, 473 U.S. at 682 (Brady violation can occur where the Government’s failure to disclose certain specifically-requested evidence would tend to cause detriment to the defense case, and reviewing court may consider “any adverse

effect that the prosecutor's failure to respond might have had on the preparation or presentation of the defendant's case). See also United States v. Ogden, 685 F.3d 600, 605 (6th Cir. 2012) (evidence is discoverable under Brady when it will lead to admissible evidence, not merely when it is admissible at trial) citing United States v. Phillip, 948 F.2d 241, 249–50 (6th Cir. 1991).

It is further important to recognize that the United States Government has access to this information through its powers under international treaty, and the defense does not. “Brady simply recognizes the disparity in resources between the defendant and the State and attempts to level the playing field to some extent.” O'Guinn v. Dutton, 88 F.3d 1409, 1419 (6th Cir. 1996) (Merritt, C.J., concurring).

In the context of the present case, the important point is that the Government's failure to disclose material information can violate Brady if it affects the success of a defendant's pretrial suppression motion. Biles v. United States, 101 A.3d 1012, 1020 (D.C. App. 2014); Smith v. Black, 904 F.2d 950, 965-66 (5th Cir.1990) (vacated on other grounds, 503 U.S. 930 (1992) (applying Brady disclosure requirements to a motion to suppress); United States v. Barton, 995 F.2d 931, 935 (9th Cir.1993) (holding that Brady applied to a suppression hearing involving a challenge to the truthfulness of allegations in an affidavit for a search warrant); United States v. McElroy, 697 F.2d 459, 465 (2d. Cir. 1982) (applying Brady to undisclosed information relating to a Miranda violation).

Disclosure of the materials requested herein is critical to Mr. Beltran Leon's ability to make the showings necessary for dismissal of this case, or for suppression of any statements he may have made, or other evidence that may be the fruit of this unlawful questioning. Wong Sun v. United States, 371 U.S. 471, 487-88 (1963).

To summarize, then, the requested information is in the hands of the Government, and not available to the defense. It has the potential to be case-dispositive, both by supporting dismissal of the case, and by supporting suppression of Government evidence. Accordingly, it must be disclosed under Brady.

C. The requested items must be disclosed under Fed. R. Crim. P. 16 .

The requested items are also disclosable under Rule 16 (a)(1)(E) of the Federal Rules of Criminal Procedure, which provides that:

Upon a defendant's request, the government must permit the defendant to inspect and to copy or photograph books, papers, documents, data, photographs, tangible objects, buildings or places, or copies or portions of any of these items, if the item is within the government's possession, custody, or control and: (I) the item is material to preparing the defense

Simply put, the requested disclosure relating to the torture of Mr. Beltran Leon is material to preparation of the defense, either by dismissal of the case or by

suppression of evidence, as explained above. It is within the Government's control. Accordingly, it must be disclosed under Rule 16, as well as under Brady.

D. Further delay should not be encouraged.

Mr. Beltran Leon was arrested on the instant charges some three years ago. He remains in custody far from his home and family. The defense first notified the Government of the torture issues herein and requested disclosure on this issue in May of 2017, six months ago, within months of his arrival in the United States. The defense understands and accepts that the Government has required time to investigate the matter. Three status hearings have been continued. It is now time for the Government to supply the disclosure requested so that the case can proceed forward.

It is well established that evidence must be provided to the defense in a timely manner. United States v. Farley, 2 F.3d 645, 654 (6th Cir. 1993) (Due Process requires disclosure of exculpatory material in sufficient time to permit the defendant to make effective use of that material); Gantt v. Roe, 389 F.3d 908, 912 (9th Cir. 2004) (Disclosure must be made at a time when it would be of value to the accused); Benn v. Lambert, 283 F.3d 1040, 1059 (9th Cir. 2002) (Government must disclose its witnesses and corresponding Brady evidence so as to afford the defense time to investigate the witnesses and prepare for cross-examination). See

also ABA Standards for Criminal Justice, Prosecution Function and Defense Function 3-3.11(a)(3d ed. 1993) (“A prosecutor should not intentionally fail to make timely disclosure to the defense, at the earliest feasible opportunity, of the existence of all evidence or information which tends to negate the guilt of the accused or mitigate the offense charged or which would tend to reduce the punishment of the accused”); ABA Model Rule of Professional Conduct 3.8(d) (2008) (The prosecutor in a criminal case shall ... make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense”). Thus, timely disclosure is required, and this Court’s order now appears necessary to obtain that disclosure.

E. Summary

It must be remembered that, at this time, the defense is not litigating a substantive motion for dismissal or suppression. Instead, it is asking for disclosure. That disclosure is needed as a preliminary step toward the defense proving its case on the substantive motions. However, the information presented herein, supported by voluminous exhibits, and which can be established at an evidentiary hearing on this motion, creates at least a *prima facie* case that Mr. Beltran Leon endured lengthy and horrendous torture with the full knowledge and blessing of the United States Government, and that this establishes sufficient

grounds for this Court to order further disclosure.

The defense has waited patiently for the answers to the questions posed many months ago. So far, almost none of the requested information has been disclosed. Accordingly, the defense now requests the assistance of this Court in obtaining the needed information. It is anticipated that the persons responsible for fulfilling the Defendant's requests, whether in the U.S. Government, the Mexican Government, or elsewhere, will respond to this Court's order in a more timely manner than they have responded to the written and oral requests of defense counsel.

III. Requested disclosure

Based on the foregoing statements of fact and law, the defense requests that this Court order the Government to disclose to the defense the facts and documents set forth below.

MLAT REQUEST

It is expected that some of the facts or documents requested herein will not yet be known to, or in possession of, members of the United States Government, but are known to members of the Government of the Republic of Mexico.

Accordingly, the defense requests that this Court direct the Government to file a

request for disclosure of the specified information from the Mexican Government under the Treaty on Cooperation between the United States of America and the United Mexican States for Mutual Legal Assistance, signed at Mexico City on December 9, 1987, also known as the Mutual Legal Assistance Treaty or “MLAT.” If necessary, it is requested that the Government request that the leaders of the Mexican military unit that arrested Mr. Beltran Leon, and all other persons in possession of the relevant information, be made available to the defense for deposition in this matter, so that the disclosure requests discussed herein can be properly addressed. Counsel undersigned is aware of at least one other case in which the Mexican Government has agreed to a similar request for depositions by the United States Government in a criminal case involving allegations of torture.

DEFENSE REQUESTS FOR DISCLOSURE

1. From the letter dated May 12, 2017 (Exhibit L):

GENERAL REQUESTS

The defense requests that the Government disclose any and all evidence of torture, brutality, physical coercion, and/or psychological coercion that was employed upon Mr. Beltran Leon, his wife, and/or any member of his family. It further includes the torture, brutality, physical coercion, and/or psychological coercion that was employed upon any person who is expected to be, or may

become, a witness against Mr. Beltran Leon. This request for evidence involves actions by agents and authorities of the United States; actions by agents and authorities of the Republic of Mexico and any other government, whether or not their actions were known to, or approved by, the United States government; and actions by any other person acting, arguably, as a “free agent.”

The requests for disclosure contained in this motion specifically include, but are not limited to, information regarding:

- (1) the use of any form of suffocation or other coercion in which a person is made to feel that he or she cannot breathe, for example, by placement of a plastic bag over the head;
- (2) immersion of the person in water or other liquid to inflict the feeling of drowning, and to inflict suffering from cold;
- (3) any beating, punching, kicking, slapping, hair pulling, electric shock, and any other attempt to inflict physical pain;
- (4) attempts to inflict suffering in other forms, such as exposure to loud noise, being held without food or water, exposure to uncomfortable temperatures, solitary confinement, sexual abuse, degrading living conditions, and the prevention of normal sleep;
- (5) psychological coercion including death threats and threats involving imminent pain and suffering, rape, extended incarceration, or the loss of contact with family members including children;
- (6) threats to harm a family member or other loved one of the person; and
- (7) promises of assistance or beneficial treatment, including the opportunity to end physical or psychological suffering.

The requests for disclosure contained in this motion encompass evidence in

all forms including, but not limited to, police reports, notes, audio and videotapes, electronic recordings, transcripts, emails, texts, photographs, and anything else of a tangible or electronic nature. If the Government is aware of evidence that has been communicated orally, it is requested that the information be reduced to written memoranda and disclosed. Further, should the Government have already disclosed the information requested in this motion, and in light of the massive volume of the Government's disclosure herein, it is requested that the Government provide the location of the evidence within the disclosure by Bates stamp number.

In addition the general requests above, the defense makes the following specific requests for discovery:

PRE-ARREST

A. The origin of Mr. Beltran Leon's arrest:

- (1) Copies of any formal or informal documents¹⁴ in which United States authorities¹⁵ requested the arrest of Mr. Beltran Leon, his wife, his daughter, or his mother.
- (2) Copies of any formal or informal documents in which an authority

¹⁴ The word "document" includes any letter, statement, note, video or audio recording, email, text message, or any form of memorialized communication.

¹⁵ "United States authorities," as used herein, includes any member of the military or law enforcement agent, member of a prosecuting authority, diplomat or other State Department employee, or any other person authorized to act on behalf of the United States government or any subpart thereof.

other than the United States, including but not limited to, Mexican authorities,¹⁶ authorized or ordered the arrest of Mr. Beltran Leon or his wife, daughter or mother.

- (3) If the following information is not included in items (1) and (2) of this subsection, disclosure of the following is requested:
- a. The names, positions held, and last known business addresses for the United States authorities who requested that Mexican authorities detain and/or arrest Mr. Beltran Leon.
 - b. The names, positions held, and last known business addresses for the Mexican Authorities who received the detention request from the United States authorities.
 - c. Information regarding whether the detention request was made orally or in writing.
 - d. The date of the United States' detention request.
 - e. The court and case number for any United States' case upon which Mr. Beltran Leon's arrest was predicated.
 - f. Evidence regarding whether electronic surveillance methods were employed in investigating Mr. Beltran Leon, such as wire intercepts, "intel-T-III" records, pen registers, GPS trackers, whether initiated by law enforcement authorities of the United States or any other country.

B. Pre-arrest United States – Mexico communications:

- (1) Documents, reports, memoranda, email messages, text messages, and other communications to and/or from the United States Embassy regarding Mr. Beltran Leon.

¹⁶ "Mexican authorities," as used herein, includes any member of the military or law enforcement agent, diplomat, member of a prosecuting authority, or other person authorized to act on behalf of the Republic of Mexico or any sub-part thereof.

- (2) Communications between United States authorities and Mexican authorities discussing the proposed arrest of Mr. Beltran Leon, including plans for when and where it would occur.
- (3) Requests from the United States authorities to the Mexican authorities regarding information the United States hoped the Mexican authorities would elicit from Mr. Beltran Leon and/or his family upon their apprehension. This request includes, but is not limited to, the identity of particular people, lists of names, information about particular events, the location of particular people, or the possession of real and personal property.
- (4) For each communication included in (1) through (3) of this subsection, the following information is requested:
 - a. The date for each communication.
 - b. The form of each communications (e.g., written, telephonic, email).
 - c. The identity of the correspondents in both Mexico and the United States, their current professional positions, and their last known business addresses. This request specifically includes people who received copies of the communications.
 - d. Information regarding which party was the sender, receiver, and copied recipient.
 - e. Information regarding the existence of records memorializing the communication (e.g., copies of letters, emails, audio recordings).

ARREST

- A. All records, reports, memoranda or other documents indicating the time of day or night that Mexican authorities first entered the residence where Jesus Beltran Leon was at on the night he was arrested (believed to be Sunday, November 16, 2014).

- B. The names of the leaders or commanders of the force that arrested Mr. Beltran Leon, including but not limited to the man described by the defense as a commander, approximately sixty years old, with white hair and an accent from southern Mexico, and a light-skinned man roughly thirty years of age who wore glasses, carried a laptop, and had a Mexico City accent.
- C. The names and job titles of all U.S. Authorities, law enforcement personnel or other United States persons who were present during the arrest of Jesus Beltran Leon or his family members on that night.
- D. Any communications in which Mexican Authorities notified U.S. Authorities within 24 hours after the apprehension of Mr. Beltran Leon that he had been apprehended.
 - 1. In the event that the documents requested above in Item A cannot be disclosed, or if they do not fully and accurately contain the information requested in items (a) through (d) below, then disclosure of the following facts regarding such communications:
 - a. The date and time of the communication;
 - b. The names and job titles of the sender and receiver of the communication, as well as all others who received copies of or otherwise participated in the communication;
 - c. Was the communication originated by the United States authority, or originated by the Mexican authority?
 - d. For each communication between U.S. authorities and Mexican Authorities regarding the arrest of Mr. Beltran Leon, provide information requested above under “Pre-arrest” in items (B)(4)(b) through (e).
- E. The complete reports, notes and memoranda authored by Mexican Marines, or other law enforcement personnel involved in the apprehension or arrest of Mr. Beltran Leon;
- F. The names and complete reports, notes and memoranda of all U.S. Authorities or other law enforcement personnel involved in the

apprehension or arrest of Mr. Beltran Leon;

- G. The names and job titles or assignments of any Mexican Authorities who notified any U.S. Authorities that Mr. Beltran Leon had been apprehended;
- H. The date and time at which the Mexican Authorities notified any U.S. Authorities that Mr. Beltran Leon had been apprehended, including the name and job title or assignment of the U.S. Authority who was notified;
- I. Copies of any communications in which any Mexican Authorities notified any U.S. Authorities that Mr. Beltran Leon had been apprehended;
- J. Any photographs or video taken during the arrest/apprehension and transportation of Mr. Beltran Leon, of his arrest, or transportation to police offices including, but not limited to, photographs or video recordings from cellular telephone cameras, dashboard cameras, body cameras, cameras affixed to buildings or other structures near the site of the arrest, and cameras affixed to structures housing the offices of Mexican military or law enforcement authorities.
- K. A physical description of the four D.E.A. special agents who were deployed in the area of defendant's arrest location in Culiacán, Sinaloa, Mexico and /or to the military base where he was taken on the night of the arrest, to include their height, complexion, hair color, whether they had facial hair at that time.

DETENTION

- A. A detailed recitation of each place where Mexican Authorities took Jesus Beltran Leon on the night of Sunday, November 16, 2014 and next morning, including but not limited to who transported him to each place, and what activities involving Mr. Beltran Leon occurred there, specifically including each and every act inflicting torture, brutality, asphyxiation, pain, fear, and physical or psychological coercion upon Mr. Beltran Leon.
- B. All records of military personnel, or any military base or installation, indicating that Mr. Beltran Leon was taken to a military base or installation on or about Sunday, November 16, 2014.

- C. A detailed recitation of each place to which Mexican Authorities took Jesus Beltran Leon after transporting him to the Federal District in Mexico City on Monday, November 17, 2014, including, but not limited to, who transported him to each place, and what activities involving Mr. Beltran Leon occurred there, specifically including each and every act inflicting torture, brutality, asphyxiation, pain, fear, and physical or psychological coercion upon Mr. Beltran Leon.
- D. The date and time(s) when Mr. Beltran Leon arrived at each place he was taken to in the Federal District in Mexico City following his arrival there.
- E. The time when U.S. authorities arrived at, and departed from, the vicinity of any location where Mr. Beltran was held after his arrest.

INTERROGATION AND TORTURE

- A. The specific dates and times that each form of torture, brutality, physical coercion, or psychological coercion occurred, and the duration that each of these events lasted.
- B. A full description of the activity constituting each act of torture/coercion.
- C. A statement of what charges Mr. Beltran Leon was being held on in the first 24 hours after his arrest, whether charges by the United States government or any component thereof, or charges by the Republic of Mexico or any component thereof, including all of the identifying information for those charges, such as the name of the court in which they were pending, the case number, the date and time filed, the name or type of each charge, and all other related information.
- D. A statement of whether Mr. Beltran Leon was informed after his arrest that he had a right not to answer any questions, and had a right to have an attorney present during questioning.
- E. A statement of whether any person employed by, or associated with, the United States Government questioned Mr. Beltran during or after his arrest, but before his presentment to a prosecutor in Mexico City, including the dates and times such questioning occurred, and the names and job titles of

the U. S. persons who participated in, or were present during, the questioning.

- F. With regard to each act of torture/coercion, disclosure of whether Mr. Beltran Leon was told or directed what to say in response to questions, or told what he was expected to say, or had to say either orally or in writing in order to avoid infliction of further torture/coercion or harm to his family. If so, then the defense requests disclosure of what he was directed to say or not to say.
- G. For each act of torture/coercion that took place, disclosure of the date and time when any person working for or on behalf of the United States Government first learned that such torture/coercion had occurred.
- H. Disclosure of any and all recordings of such torture, brutality, physical coercion, or psychological coercion, including any and all video recordings, audio recordings, or any other kind of electronic or other recording.
- I. Disclosure of any and all notes, or other memorializations regarding any torture, brutality, physical coercion or psychological coercion that was used, whether made by persons present at the activities, or at any other time.
- J. Disclosure of the names of any and all personnel who were involved in inflicting any such torture, brutality, physical coercion, or psychological coercion, whether or not they are now or ever have been associated with the government of the United States of America.
- K. Disclosure of whether personnel associated with the government of the United States of America were physically present in the same place or building where such torture/coercion was occurring, during the time it was taking place, even if no personnel associated with the government of the United States of America physically participated in such torture/coercion.
- L. Disclosure of the name and job title of each person associated with the United States or any agency or subdivision thereof who was present in a building where Mr. Beltran Leon was located during the torture/coercion activity in relation to where such torture/coercion activity was occurring, and also disclosure of whether any such personnel were able to see, hear or otherwise observe in any way the torture/coercion activities.

- M. In the event that any personnel employed by, or otherwise associated with, the government of the United States of America or any agency or subdivision thereof knew of the use of the torture, brutality, or coercion activities set forth above, then the defense requests disclosure of the names of each such person, and in what capacity they are employed by, or otherwise associated with the United States government.
- N. A full and complete description of what each such person knew in advance of such torture/coercion regarding whether torture, brutality, or coercion would be used, what that person saw, heard and/or otherwise discerned while the torture/coercion activity was occurring, and what such person learned about the torture/coercion activities after they occurred.
- O. Whether any person employed by or associated with the United States government questioned Mr. Beltran Leon, his wife, or any other person in this matter after that person was subjected to torture, brutality, or other physical or psychological coercion, but at a location different from the location where the torture/coercion took place, and if so, whether the person employed by the United States was aware of the torture/coercion before the questioning.
- P. Any standing orders or standing requests by the U.S. government to the Mexican government or any of its officials or agents, regarding how detainees or prisoners apprehended at the behest of the U.S. Government are to be treated by the Mexican law enforcement agents.
- Q. Any special or individualized orders or requests from the U.S. government to the Mexican government or any of its officials or agents, as to how the U.S. government requested that Mr. Beltran Leon be treated by the Mexican law enforcement agents.
- R. Any report containing any information that United States law enforcement personnel, embassy personnel, prosecutors, or members of the United States Department of Justice were informed that Mr. Beltran Leon was going to be subjected to torture or other enhanced interrogation methods.

VIDEO(S)

- A. The video recording made on an iPhone, in which Jesus Beltran Leon read

the contents of a poster board, and also any other video recording or recordings of Mr. Beltran Leon speaking during his arrest and interrogation, including the chain of custody from the time the video recording was made up to and including the time it was disclosed.

- B. The names of all U.S. and Mexican authorities who were in the building(s) where the video recording(s) of Mr. Beltran Leon were made.
- C. The names and job titles of all witnesses to the pre-video interrogation.

MEDICAL RECORDS

As to any medical examination of Mr. Beltran Leon by Dr. Itzel Dayana Garcia Dominguez, Maria Bautista Garcia and Karla Corrales Gonzalez or any other medical examinations conducted on Mr. Beltran Leon before, during or after his interrogations:

- A. The name(s) of the person or persons who conducted such medical examination(s);
- B. The credentials of the person(s) who conducted the examinations;
- C. The identity of the person, organization, or agency that employed the person(s) who conducted such examinations;
- D. A complete record of any complaints that have been registered against the person(s) who conducted such examination(s);
- E. The complete record of any criminal convictions of the person(s) who conducted such examination(s);
- F. The location and time of the examination(s);
- G. The complete report(s) of the medical examination(s);
- H. All rough notes recorded in the process of those examinations, or afterward;
- I. All photos, video, or other recordings of such examinations;

- J. All reports or other communications indicating that the Mexican authorities administered any kind of drug or medicine to Mr. Beltran Leon, that would make him more cooperative in answering questions, or that such drugs, or medicines were found to have been in the body of Mr. Beltran Leon, upon medical examination.

2. **From the letter dated August 31, 2017 (Exhibit M):**

IDENTITIES OF MEXICAN OFFICIALS

- The names and/or identification numbers all of the Mexican SEMAR members in the unit that arrested Mr. Beltran Leon at the time of the arrest;
- The names and/or identification numbers of the Mexican SEMAR members in that unit who participated in the arrest;
- The names and/or identification numbers of any other Mexican SEMAR members or other law enforcement personnel who participated in the arrest;
- The names and/or identification numbers of the commanding officer or officers of that SEMAR unit at the time of the arrest;
- The name and/or identification number of the highest ranking officer in that SEMAR unit who physically participated in that arrest;

IDENTITIES OF U.S. OFFICIALS

- The name(s) of the D.E.A. agent or agents, or other U.S. personnel, who supervised that SEMAR unit at the time of the arrest;
- The name(s) of the previous D.E.A. supervising agent or agents, or other U.S. personnel, who supervised that SEMAR unit before the agent(s) who supervised it at the time of the arrest;

- The name(s) of all D.E.A. agents, or other U.S. personnel, who were involved in any way the arrest of Mr. Beltran Leon;
- The name(s) of all D.E.A. agents, or other U.S. personnel, who have any information about the arrest of Mr. Beltran Leon;
- The name(s) of all D.E.A. agents or other U.S. government officials who trained the SEMAR unit or any other persons who participated in the arrest of Mr. Beltran Leon;

TRAINING MATERIALS

- Copies of all training materials used for that SEMAR unit that related to the use of torture, or physical or psychological abuse;
- Copies of all training materials used for that SEMAR unit that related to the proper collection of evidence;
- Copies of all training materials used for that SEMAR unit that related to the admissibility of coerced confessions in U.S. courts;
- Copies of all information furnished to the D.E.A. or any component part thereof by the U.S. State Department, including, but not limited to, the Bureau for International Narcotics and Law Enforcement Affairs (“INL”), regarding the use of torture by Mexican law enforcement officials;
- All training materials provided by the U.S. government for training of the SEMAR unit members in Quantico, Virginia, or elsewhere;
- A copy of any written agreement between the D.E.A. or the U.S. government and the Mexican government or the SEMAR unit itself concerning this SEMAR unit;

REPORTS

- All reports authored by the SEMAR unit, either by the Mexican

officers or by D.E.A. agents or other U.S. personnel, concerning the arrests and the detention of Mr. Beltran Leon;

- All reports documenting previous instances of torture or physical or mental abuse by the SEMAR unit or members thereof;
- Any allegations known to the U.S. government of torture by members of any SEMAR unit in other cases in which D.E.A. agents, or other agents of the U.S. government were present during the torture;
- All reports of debriefings of Mexican agents in this SEMAR unit by the D.E.A. regarding Mr. Beltran Leon's arrest;
- All reports by Mr. Carlos Mitchem, D.E.A. Assistant Regional Director for North and Central America regarding the arrest;
- All reports evidencing the chain of custody for any video depicting an interrogation or confession of Mr. Beltran Leon;
- All reports from any case in any other jurisdiction of the United States that relate to the arrest and investigation of Mr. Beltran Leon;
- All letters, emails or other forms of correspondence regarding these arrests between the SEMAR unit and the D.E.A., the U.S. Consulate or other U.S. authorities;
- Any reports discussing any "Intel T-III" on Mr. Beltran Leon or his associates;

MONETARY DOCUMENTATION

- All documentation of any funds disbursed by any agency or other part of the U.S. Government to fund the operations of the SEMAR unit that conducted Mr. Beltran Leon's arrest;
- All documentation of the D.E.A., INL or other U.S. Government agency providing equipment to that SEMAR unit;

- All documentation of any funds disbursed by any agency or other part of the U.S. Government to fund direct payments to the members of that SEMAR unit;
- All documentation of any funds disbursed by any agency or other part of the U.S. Government to gather or provide intelligence to that SEMAR unit or any member thereof;
- All documentation of any funds disbursed by the U.S. Government or any agency or other part thereof to fund members of that SEMAR unit in installing or operating wiretaps or other interceptions of electronic communications;
- All records showing the amount of money paid by the United States government to that SEMAR unit, or to the Mexican Government on behalf of that SEMAR unit annually for the five years preceding 2014;
- Copies of all vouchers, bank statements, or receipts for payment by the U.S. government for expenses of that SEMAR unit, such as housing, utilities and other payments made to the SEMAR unit, to any individual members thereof, or to any third party, showing the amounts of money expended by the United States government on behalf of the SEMAR unit;
- The name of the United States official (whether D.E.A., INL or other agency), in charge of making payments to, or on behalf of, that SEMAR unit;
- The amount of compensation paid to individual Mexican SEMAR members in that SEMAR unit;
- Documentation of all monetary rewards or other benefits given to that SEMAR unit's members as a reward or as extra compensation for specific accomplishments, including but not limited to, participating in a wiretap, obtaining certain information, making an arrest, obtaining confessions, locating houses or other properties, participating in high-risk activities and so forth;

- Documentation of all rewards, awards, or extra benefits or compensation given to any U.S. agent or agents for their activities involving Mr. Beltran Leon;

OTHER CASES IN THIS JURISDICTION

- The case numbers of all other cases in the Northern District of Illinois that have been alleged to have involved torture inflicted by officials of the Mexican government that are known to your office;
- All police reports, D.E.A.-6 reports, or other official law enforcement reports in cases being prosecuted in the Northern District of Illinois concerning instances of alleged torture by Mexican government officials;

OTHER INFORMATION

- The accurate/correct time of day that the arrest of Mr. Beltran Leon was made, and the accurate time of day when he was taken before a public prosecutor as required under Mexican law;
- All reports authored by the SEMAR unit, other Mexican officers, D.E.A. agents, or other U.S. personnel, concerning the time of day that the arrest and detention of Mr. Beltran Leon occurred, and his being turned over to the judicial system, and what happened in between;
- Any report or other document discussing the expectation of U.S. officials that people arrested by the SEMAR at the behest of U.S. authorities would be tortured.

IV. REQUEST FOR HEARING

A hearing on this motion is requested.

RESPECTFULLY SUBMITTED THIS 30th DAY OF NOVEMBER, 2017

s/ Stephen G. Ralls

Stephen G. Ralls

Attorney for Defendant

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LIST OF EXHIBITS

- Exhibit A = Affidavit of Defendant Jesus Raul Beltran executed November 28, 2017.
- Exhibit B = *Certificado Medico De Lesiones*, report of medical examination by Dr. Itzel Dayana Garcia Dominguez dated November 16, 2014 at 23:47 hours.
- Exhibit C = *Dictamen De Integridad Fisica*, report of medical examination by Maria Bautista Garcia and Karla Corrales dated November 17, 2017 at 00:55 hours.
- Exhibit D = *Declaracion Preparatoria*, initial court appearance of Jesus Raul Beltran Leon dated November 21, 2014 at 12:05 p.m. in the city of Hermosillo, Sonora.
- Exhibit E = *Ampliacion De Declaracion a Cargo Del Indiciado Jesus Raul Beltran Leon, Alias "Chuy Raul"*
- Exhibit F = *Causa Penal: 163/2014 C. Juez Decimo De Distrito En El Estado De Sonora. Presente: Lic. Omar Alejandro Gonzalez Vazquez Exponer*, dated November 25, 2014.
- Exhibit G = *Testimoniales a Cargo De Brianda Lizbeth Felix Beltran, et. al*, in the City of Hermosillo, November 25, 2014 at 14:00 hours.
- Exhibit H = Document "*Da Vista*" dated December 4, 2104, by Lic. Nydia Bueras Felix.
- Exhibit I = *Sentencia: Visto Para Resolver En Grado De Apelacion El Toca Penal Numero 6/2015*, dated February 4, 2015 at Hermosillo, Sonora.
- Exhibit J = Report of Mexican National Commission of Human Rights issued February 7, 2017, available at http://www.cndh.mx/sites/all/doc/Comunicados/2017/Com_2017_044.pdf.
- Exhibit K = Table summarizing 16 Reports of Mexican National Commission of Human Rights issued between December 21, 2010 and July 31, 2014 which found the Mexican Navy (SEMAR) responsible for torture similar to that inflicted upon Mr. Beltran Leon.

Exhibit L = May 12, 2017 letter from defense counsel Stephen Ralls to Michael J. Ferrara requesting disclosure regarding torture.

Exhibit M = Letter dated August 31, 2017 from defense counsel Stephen Ralls to Ms. Erika Csicsila, requesting disclosure regarding torture.

Exhibit N = [To be filed under seal] Letter dated October 31, 2017 from Ms. Erika Csicsila regarding preliminary inquiry by Office of Professional Responsibility into allegations that D.E.A. Agents had participated in the arrest and post-arrest interviews of defendant Jesus Raul Leon Beltran in Culiacán, Mexico.

Exhibit O = [To be filed under seal] Memorandum dated 9/11/2017, disclosed to the defense 11/22/2017.

CERTIFICATE OF SERVICE

This is to certify that on November 30, 2017, I served a copy of the attached motion and brief upon Ms. Erika Csicsila, Assistant United States Attorney, by filing same electronically.

s/ Stephen Ralls

Stephen Ralls