

1 (WEST PALM BEACH, PALM BEACH COUNTY, FLORIDA; AUGUST 16, 2013,
2 IN OPEN COURT.)

3 THE COURT: ALL RIGHT. I THINK WE HAVE ONE MORE
4 MATTER ON THE DOCKET.

5 MS. MITRANI: HELLO?

6 THE CLERK: HELLO, MISS MITRANI. HOLD ON FOR A
7 SECOND.

8 MS. MITRANI: SURE.

9 THE CLERK: CALLING THE CASE OF UNITED STATES OF
10 AMERICA VERSUS ROGERIO CHAVES SCOTTON, CASE NUMBER
11 12-60049-CR-ROSENBAUM/MATTHEWMAN, SECOND SUPERSEDING.

12 THE COURT: ALL RIGHT. GOOD AFTERNOON, EVERYBODY.

13 THIS IS JUDGE MATTHEWMAN. I AM IN THE COURTROOM AND
14 WE HAVE MISS MITRANI, THE PROSECUTOR, ON THE PHONE, IS THAT
15 CORRECT?

16 MS. MITRANI: YES, YOUR HONOR.

17 THE COURT: ALL RIGHT. GOOD AFTERNOON, MA'AM.

18 MS. MITRANI: GOOD AFTERNOON.

19 THE COURT: ALL RIGHT. AND WE HAVE MR. SCOTTON HERE
20 IN THE COURTROOM.

21 WHO ELSE DO WE HAVE HERE IN THE COURTROOM?

22 MS. MITRANI: I THINK, YOUR HONOR, THERE MAY BE AN
23 AGENT FROM THE FBI IN THE COURTROOM. HIS NAME IS MACON FRANK.
24 HE MAY BE SITTING IN THE GALLERY. I'M NOT SURE.

25 AGENT FRANK: YES. I'M AGENT FRANK.

1 THE COURT: ALL RIGHT. AND YOU ARE AN FBI AGENT?

2 AGENT FRANK: I AM AN FBI ANALYST.

3 THE COURT: AN FBI ANALYST.

4 AGENT FRANK: YES.

5 THE COURT: ALL RIGHT.

6 MS. MITRANI: I APOLOGIZE FOR THE (UNINTELLIGIBLE).

7 HE IS THERE BECAUSE YOU MAY WANT TO TAKE THIS UP LATER IF THE
8 COURT WANTS. YOU HAVE SOME DOCUMENTS THEY WANT THE PRODUCE TO
9 THE DEFENDANT --

10 THE COURT: I SEE.

11 MS. MITRANI: -- AT THE END OF THE HEARING.

12 THE COURT: OKAY. ALL RIGHT. SO MR. FRANK IS HERE.
13 HE IS AN FBI ANALYST.

14 AND WHO ELSE DO WE HAVE?

15 AGENT FUGLER: MATTHEW FUGLER, ALSO FBI ANALYST.

16 THE COURT: MR. FUGLER?

17 AGENT FUGLER: FUGLER.

18 THE COURT: HOW DO YOU SPELL THAT?

19 AGENT FUGLER: F-U-G-L-E-R.

20 THE COURT: ALL RIGHT. MR. FUGLER, YOU ARE ALSO AN
21 FBI AGENT?

22 AGENT FUGLER: THAT'S CORRECT.

23 THE COURT: ALL RIGHT. WELCOME.

24 AND THEN WE HAVE MISS DOAKES.

25 MR. ADELSTEIN: GOOD AFTERNOON, YOUR HONOR.

1 THE COURT: GOOD AFTERNOON, MISS DOAKES. HOW ARE YOU
2 TODAY?

3 MR. ADELSTEIN: I'M GOOD, YOUR HONOR.

4 THE COURT: ALL RIGHT. AND, GOOD AFTERNOON,
5 MR. SCOTTON.

6 NOW, I BELIEVE WE ARE GOING TO HAVE TO PUT MR. SCOTTON
7 SOMEWHERE BY A MICROPHONE SO THAT WE CAN SPEAK TO HIM. SO, THE
8 IF MARSHALS WILL MAKE WHATEVER ARRANGEMENTS ARE NECESSARY.

9 ALL RIGHT. SO, I HAD SET THIS MATTER DOWN TODAY ON A
10 SEALED EX PARTE MOTION FILED BY THE FEDERAL PUBLIC DEFENDER'S
11 OFFICE. IT IS DOCKET ENTRY NUMBER 127.

12 HOWEVER, I ONLY HAVE THE GOVERNMENT ON THE PHONE AT
13 THIS POINT. I JUST WANTED TO MAKE SURE THE GOVERNMENT KNEW WE
14 WERE HAVING THIS HEARING. HOWEVER, I ANTICIPATE THAT MOST OF
15 THIS HEARING IS GOING TO BE SEALED AND EX PARTE.

16 SO, LET ME FIRST ASK, MISS MITRANI, DO YOU HAVE
17 ANYTHING THAT YOU WISH TO PUT ON THE RECORD BEFORE I PROCEED TO
18 THE SEALED EX PARTE HEARING WITH MR. SCOTTON AND HIS CURRENT
19 STANDBY COUNSEL, THE ASSISTANT FEDERAL PUBLIC DEFENDER CHANTEL
20 DOAKES?

21 MS. MITRANI: IT'S HARD TORE ME TO SAY, YOUR HONOR,
22 SINCE I AM NOT ENTIRELY SURE WHAT THE HEARING IS ABOUT. I
23 GUESS I COULD POSSIBLY SURMISE.

24 I ASSUME THE COURT AFTER THE HEARING WILL TELL ME IF
25 ANYTHING HAS BEEN DONE THAT MIGHT POTENTIALLY AFFECT THE STATUS

1 OF THE CASE?

2 THE COURT: YES. I CAN CERTAINLY TELL YOU THIS.

3 IT IS A MOTION TO WITHDRAW BY THE FPD AS STANDBY
4 COUNSEL. I DON'T WANT TO GET INTO THE SPECIFICS OF IT BECAUSE
5 THAT'S MORE SUITED FOR A SEALED EX PARTE PROCEEDING. BUT IT'S
6 THE FEDERAL PUBLIC DEFENDER'S MOTION TO WITHDRAW AS STANDBY
7 COUNSEL.

8 MS. MITRANI: OKAY, YOUR HONOR. AFTER THE HEARING
9 WILL THE COURT LET US KNOW IF THE COURT HAD MADE ANY
10 DETERMINATIONS ON THAT RULING OR WHERE WE GO FROM THERE?

11 THE COURT: YES. WHAT I WOULD ASK YOU TO DO IS STAND
12 BY. I AM GOING TO ASK THE TWO FBI ANALYSTS TO STEP OUTSIDE IN
13 A MINUTE AND I AM GOING TO TERMINATE THE CONTACT WITH YOU, THE
14 PHONE CONVERSATION.

15 WHAT WE WILL DO IS, WE WILL GO INTO A SEALED EX PARTE
16 HEARING WITH MR. SCOTTON AND MISS DOAKES. AND THEN WHEN WE ARE
17 DONE I WILL HAVE MY COURTROOM DEPUTY CALL YOU. AT THAT POINT
18 WE CAN HAVE THE FBI ANALYSTS COME BACK IN AND THEN WE CAN
19 PROCEED WITH WHATEVER ELSE WE NEED TO PROCEED WITH AT THAT
20 TIME.

21 MS. MITRANI: THAT SOUNDS GREAT, YOUR HONOR.

22 SO, IF I UNDERSTAND YOU CORRECTLY I WILL HANG UP THE
23 PHONE NOW, STAND BY MY PHONE AND I WILL WAIT TO HEAR FROM YOU.
24 YOU WILL CALL ME BACK.

25 THE COURT: THAT'S CORRECT. THE HEARING COULD TAKE A

1 LITTLE WHILE. BUT AS SOON AS WE ARE DONE WE WILL GO AHEAD AND
2 CALL YOU BACK, GET YOU BACK ON THE LINE, HAVE THE ANALYSTS COME
3 BACK IN AND WE WILL DEAL WITH WHATEVER ELSE WE NEED TO DEAL
4 WITH REGARDING IF THERE IS A DISCOVERY ISSUE.

5 MS. MITRANI: THAT SOUNDS GREAT, YOUR HONOR.

6 I APPRECIATE THE ACCOMMODATION. I ALSO APPRECIATE THE
7 ACCOMMODATION OF ALLOWING US TO APPEAR BY PHONE. I HAD OTHER
8 CONFLICTS THAT PREVENTED ME FROM BEING THERE.

9 THE COURT: WELL, IT'S NOT A PROBLEM. IT'S A FRIDAY
10 AFTERNOON AND IT IS A LONG TRIP FROM MIAMI. SO, AS MUCH AS I
11 KNOW YOU WOULD LOVE TO BE IN PALM BEACH COUNTY I UNDERSTAND AND
12 I CERTAINLY WOULDN'T WANT TO HAVE TO PUT YOU THROUGH ANYTHING
13 THAT'S UNNECESSARY LOGISTICALLY. BUT YOU CERTAINLY CAN APPEAR
14 BY PHONE AND IT IS NOT A PROBLEM AT ALL WITH THE COURT.

15 MS. MITRANI: THANK YOU SO MUCH, YOUR HONOR.

16 THE COURT: OKAY. LET'S GO AHEAD. WE WILL TERMINATE
17 YOUR CALL NOW AND WE WILL GET BACK TO YOU IN A LITTLE WHILE.
18 AND THEN I'M GOING TO ASK THE TWO ANALYSTS IF YOU WILL JUST
19 WAIT OUTSIDE AND WE WILL GET BACK TO YOU AT WHATEVER POINT WE
20 FINISH UP THIS HEARING.

21 (WHEREUPON, THERE WAS AN EX PARTE HEARING)

22 THE COURT: ALL RIGHT. SO, WE HAVE UNSEALED THE
23 RECORD AT THIS POINT AND WE ARE GOING TO GO AHEAD AND GET THE
24 PROSECUTOR, MISS MITRANI, ON THE PHONE AND SEE WHAT THE ISSUE
25 WAS THAT SHE WISHED TO DEAL WITH.

1 MS. MITRANI: HELLO.

2 THE COURT: YES. MISS MITRANI?

3 MS. MITRANI: YES.

4 THE COURT: HI. THIS IS JUDGE MATTHEWMAN AGAIN.

5 MS. MITRANI: HI, JUDGE.

6 THE COURT: HI. WE HAVE CONCLUDED THE SEALED EX PARTE
7 PORTION OF THE HEARING AND THE COURT WILL BE ENTERING AN ORDER.

8 I HAVE DISCHARGED THE FEDERAL PUBLIC DEFENDER AS
9 STANDBY COUNSEL FOR MR. SCOTTON AND I WILL BE ENTERING AN ORDER
10 ON THAT IN THE NEAR FUTURE.

11 I HAVE ADVISED MR. SCOTTON IF AT SOME POINT IN THE
12 FUTURE HE CHANGES HIS MIND AND WISHES TO HAVE STANDBY COUNSEL
13 HE CAN FILE A MOTION WITH THE COURT, AND THE COURT AT THAT
14 POINT WILL ADDRESS THAT MATTER.

15 SO, I KNOW THERE IS A CALENDAR CALL COMING UP AT ONE
16 O'CLOCK ON WEDNESDAY IN THIS CASE BEFORE JUDGE ROSENBAUM. AND
17 I HAVE BOTH OF THE FBI ANALYSTS HERE IN THE COURTROOM WHO HAD
18 NOTED THEIR APPEARANCES EARLIER IN THE HEARING AND I WANTED TO
19 GET YOU BACK ON THE PHONE.

20 WE ARE NOW BACK AT A PUBLIC HEARING, MR. SCOTTON IS
21 HERE REPRESENTING HIMSELF PRO SE. MISS DOAKES HAS LEFT. AND I
22 JUST WANTED TO TURN TO YOU TO SEE WHAT THE ISSUE WAS THAT YOU
23 WANTED TO RAISE.

24 MS. MITRANI: SIR, THERE ARE TWO ISSUES.

25 ONE, YOUR HONOR, THE FBI ANALYSTS HAVE SOME DOCUMENTS

1 AND SUPPLEMENTARY DISCOVERY THAT WE WANTED TO PRODUCE TO THE
2 DEFENDANT. IT'S A LITTLE BIT DIFFICULT SITUATION SINCE, AS THE
3 COURT KNOWS, HE IS INCARCERATED AND IS GETTING MOVED AROUND.
4 IN FACT, I KNOW HE WILL BE IN FORT LAUDERDALE NEXT WEDNESDAY.

5 I AM NOT SURE WHEN HE WILL GET HERE. SO, IN ANY
6 EVENT, I FIGURED SINCE HE WAS THERE IF IT WAS PERMISSIBLE WITH
7 THE COURT AND WITH THE MARSHALS WHETHER WE COULD HAND HIM THAT
8 DISCOVERY.

9 THE COURT: THE MARSHALS ARE SHAKING THEIR HEADS YES
10 THAT IT IS PERMISSIBLE. HE WILL BE AT SOME POINT TAKEN FROM
11 THE PALM BEACH COUNTY JAIL TO THE BROWARD COUNTY JAIL FOR HIS
12 HEARING COMING UP ON WEDNESDAY FOR THE CALENDAR CALL.

13 CAN YOU JUST BRIEFLY DESCRIBE FOR THE RECORD WHAT THE
14 DISCOVERY IS THAT IS GOING TO BE PRODUCED TODAY TO MR. SCOTTON?

15 MS. MITRANI: I'M TRYING TO THINK. (UNINTELLIGIBLE)
16 FINALLY GET AN INDEX.

17 IT IS SOME SPREADSHEETS. I THINK WE HAVE A COVER
18 LETTER THAT WE HAVE INCLUDED TO MR. SCOTTON THAT FURTHER
19 DELINEATES IT. BUT IT'S SOME SPREADSHEETS OF SOME SUMMARIES OF
20 CHECKS THAT WERE DEPOSITED IN MR. SCOTTON'S ACCOUNT.

21 IT IS SOME DOCUMENTS THAT WE RECEIVED FROM THE
22 DEPARTMENT OF STATE IN CONNECTION WITH HIS APPLICATION FOR A
23 VISA IN 2008. IT IS SOME FEDEX -- ADDITIONAL FEDEX LABELS.

24 I'M TRYING TO THINK, YOUR HONOR. THERE MAY BE ONE OR
25 TWO CATEGORIES THAT I HAVE MISSED. WE DO HAVE A RECORD OF WHAT

1 WE ARE PRODUCING TO HIM.

2 THE COURT: ALL RIGHT. THAT'S FINE.

3 LET ME ASK ONE OF THE FBI ANALYST. IS THERE A COVER
4 LETTER THAT GOES ALONG WITH THAT DOCUMENTARY DISCOVERY?

5 AGENT FRANK: YES, YOUR HONOR.

6 THE COURT: WHAT'S YOUR NAME AGAIN?

7 AGENT FRANK: NATHAN FRANK.

8 THE COURT: ALL RIGHT, MR. FRANK. IF YOU WILL GO
9 AHEAD, PLEASE, AND TAKE THAT DISCOVERY. IT LOOKS TO ME TO BE A
10 COUPLE INCHES THICK, IS THAT RIGHT?

11 AGENT FRANK: YES, YOUR HONOR.

12 THE COURT: ALL RIGHT. IF YOU COULD HAND THAT TO THE
13 MARSHAL AND LET THE MARSHAL LOOK THROUGH IT. THEN ONCE THEY
14 ARE AT SATISFIED THAT IT'S OKAY THEN THEY CAN HAND IT TO
15 MR. SCOTTON AND MR. SCOTTON WILL HAVE THEN BEEN HANDED HIS
16 DISCOVERY HERE IN OPEN COURT AND HE CAN TAKE THAT WITH HIM FOR
17 THE WEEKEND TO REVIEW.

18 MS. MITRANI: AND THERE IS ONE OTHER THING, YOUR
19 HONOR.

20 I DON'T THINK THE COURT WILL BE ABLE TO ANSWER THIS
21 BUT I WILL PUT IT ON THE RECORD NOW. IT IS OUR INTENT TO FILE
22 ANOTHER INTENT TO INTRODUCE EVIDENCE UNDER THE INEXTRICABLY
23 INTERTWINED DOCTRINE, AS WELL AS 404(B). I ANTICIPATE FILING
24 THAT NOTICE OVER THE WEEKEND.

25 BUT BECAUSE I DON'T KNOW WHERE MR. SCOTTON IS GOING TO

1 BE IT IS HARD FOR ME TO PUT WHAT I SHOULD PUT ON MY CERTIFICATE
2 OF SERVICE. SO, AT THIS POINT MY INTENTION JUST TO SERVE HIM
3 IN PERSON ON WEDNESDAY UNLESS WE GET NOTIFICATION THAT HE IS IN
4 BROWARD ON TUESDAY PERHAPS WE CAN WALK IT OVER THERE.

5 THE COURT: RIGHT. I IMAGINE AT SOME POINT HE WILL BE
6 IN THE BROWARD COUNTY JAIL NEXT WEEK. FOR SECURITY REASONS THE
7 MARSHALS CAN'T DIVULGE THAT.

8 MS. MITRANI: I UNDERSTAND.

9 THE COURT: BUT YOU CERTAINLY CAN -- YOU MAY WANT TO
10 SERVE IT BOTH ON HIM AT THE BROWARD COUNTY JAIL AND BRING A
11 COPY WITH YOU AT THE CALENDAR CALL THAT WAY TO MAKE SURE THAT
12 MR. SCOTTON'S RIGHTS ARE PROTECTED AND HE HAS A COPY OF THE
13 PLEADING.

14 MS. MITRANI: OKAY. I GUESS I'LL DO SOMETHING TO THE
15 CERTIFICATE OF SERVICE TO THE FACT THAT SINCE IT WILL BE FILED
16 BEFORE IT IS SERVED WHICH, YOU KNOW, AS THE COURT KNOWS IS NOT
17 TYPICAL.

18 THE OTHER THING I WOULD ASK, AND I'M SURE I KNOW THE
19 ANSWER, BUT I ASSUME AT THIS POINT THERE IS NO STANDBY COUNSEL.
20 THE COURT HAS NOT APPOINTED ANYBODY TO STAND IN THE PUBLIC
21 DEFENDER'S STEAD?

22 THE COURT: THAT IS CORRECT.

23 MS. MITRANI: OKAY.

24 THE COURT: THAT IS CORRECT.

25 MS. MITRANI: OKAY.

1 THE COURT: ALL RIGHT. SO THE DISCOVERY HAS BEEN
2 HANDED -- JUST FOR THE RECORD THE DISCOVERY HAS BEEN HANDED TO
3 MR. SCOTTON. THE MARSHAL HAS REVIEWED IT. HE IS GOING TO BE
4 PERMITTED TO TAKE THAT WITH HIM WHEN HE GOES BACK TO THE PALM
5 BEACH JAIL THIS AFTERNOON, AND THAT SHOULD CONCLUDE ALL THE
6 MATTERS FOR TODAY. I WILL ENTER A WRITTEN ORDER IN THE NEAR
7 FUTURE.

8 ALL RIGHT, MISS MITRANI?

9 MS. MITRANI: JUDGE MATTHEWMAN, THANK YOU SO MUCH FOR
10 THE INFORMATION.

11 THE COURT: THANK YOU. HAVE A GOOD WEEKEND.

12 AND, MR. SCOTTON, HAVE A GOOD WEEKEND AS WELL, SIR.

13 THIS HEARING IS ADJOURNED.

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C E R T I F I C A T E

UNITED STATES OF AMERICA
SOUTHERN DISTRICT OF FLORIDA

I, CARL SCHANZLEH, OFFICIAL COURT REPORTER OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, DO HEREBY CERTIFY THAT THE FOREGOING 11 PAGES CONSTITUTE A TRUE TRANSCRIPT OF THE PROCEEDINGS HAD BEFORE THE SAID COURT HELD IN THE CITY OF WEST PALM BEACH, FLORIDA, IN THE MATTER THEREIN STATED.

IN TESTIMONY WHEREOF, I HEREUNTO SET MY HAND ON THIS 20TH DAY OF JULY 2014.

/S/CARL SCHANZLEH
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