

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
District Court File No. 15-237 (MJD/BRT)

UNITED STATES OF AMERICA,

Plaintiff,

v.

(1) USAMA DARWICH HAMADE,
a/k/a "Prince Sam" Hamade,
(2) SAMIR AHMED BERRO,
a/k/a "Tony," and
(3) ISSAM HAMADE,

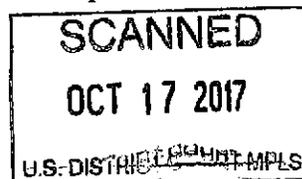
Defendants.

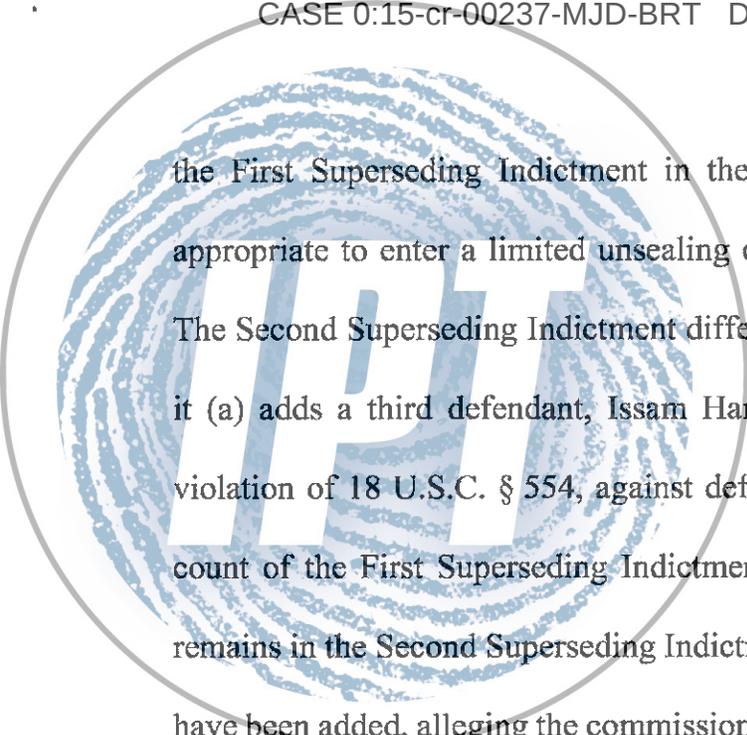
**MOTION FOR LIMITED
UNSEALING OF SECOND
SUPERSEDING INDICTMENT,
TO ALLOW, IN CONNECTION
WITH U.S. GOVERNMENT'S
REQUEST FOR EXTRADITION
OF TWO DEFENDANTS,
DISCLOSURE TO OFFICIALS OF
THE REPUBLIC OF SOUTH
AFRICA**

UNDER SEAL

The United States of America, through its attorneys, Gregory G. Brooker, Acting United States Attorney for the District of Minnesota, and Assistant United States Attorneys John Docherty and David MacLaughlin, respectfully moves this Court for an Order, in the form attached, permitting the United States to provide legal and diplomatic officials of the Republic of South Africa with a copy of the Second Superseding Indictment in this case. The Second Superseding Indictment is currently filed under seal with this Court.

On July 7, 2017, the Court signed a limited unsealing order in this case almost identical to the one which the United States now applies for. That July 7, 2017 limited unsealing order is document number 18 on the docket of District Court case number 15-cr-237 (MJD/BRT). It concerned the First Superseding Indictment in this case. Because a Second Superseding Indictment has now been returned, and will need to take the place of





the First Superseding Indictment in the South African extradition process, it is now appropriate to enter a limited unsealing order as to the Second Superseding Indictment. The Second Superseding Indictment differs from the First Superseding Indictment in that it (a) adds a third defendant, Issam Hamade, and (b) adds a charge of smuggling, in violation of 18 U.S.C. § 554, against defendant number one, Usama Hamade. The sole count of the First Superseding Indictment, conspiracy in violation of 18 U.S.C. § 371, remains in the Second Superseding Indictment, although three paragraphs (37, 38, and 39) have been added, alleging the commission of overt acts in furtherance of the conspiracy by the added defendant, Issam Hamade.

One of the three defendants charged in the Second Superseding Indictment, Usama Darwich Hamade, a/k/a “Prince Sam” Hamade, is a citizen and resident of South Africa (he is also, although it has no bearing on the instant motion, a citizen of Lebanon). The third defendant in the Second Superseding Indictment, Issam Hamade, is the brother of Usama Hamade. Issam Hamade has visited his brother in South Africa in the past. The U.S. Attorney’s Office for the District of Minnesota and the U.S. Department of Justice’s Office of International Affairs are preparing a request, which will be transmitted to South Africa, for the extradition to the United States, to stand trial on the charge contained in the Second Superseding Indictment, of both Usama and Issam Hamade. A copy of the charging instrument, in this case the Second Superseding Indictment, is a necessary part of that extradition request. Authority for the government’s request for limited unsealing of the indictment is found in Fed. R. Crim. P. 49.1(d) (permitting unsealing of sealed indictments), as well as Local Rule 49.1(e)(2) (permitting partial unsealing of a sealed

indictment under the different, but analogous, circumstance of the arrest of one defendant in a multiple-defendant indictment).

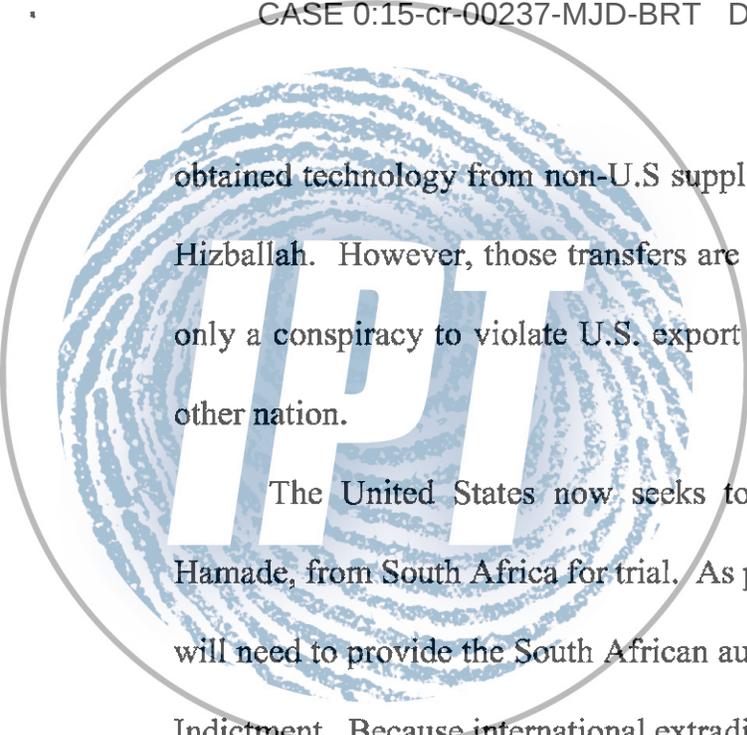
BACKGROUND FACTS AND PROCEDURAL POSTURE

On October 11, 2017, a grand jury for the State and District of Minnesota returned a Second Superseding Indictment (hereinafter “indictment”) in this case.¹ Defendants Usama Darwich Hamade, a/k/a “Prince Sam” Hamade (hereinafter “Hamade”), Samir Ahmed Berro, a/k/a “Tony,” and Issam Hamade, were indicted on one count of conspiring, contrary to Title 18, United States Code, Section 371, to violate the International Emergency Economic Powers Act and the Export Administration Regulations, and to Violate the Arms Export Control Act and the International Traffic in Arms Regulations. Defendant Usama Hamade was also charged with smuggling, in violation of Title 18, United States Code, Section 554.

The grand jury has alleged that all three defendants,² from 2009 to 2013, conspired with each other, and with others known and unknown, to buy parts for unmanned aerial vehicles (hereinafter “UAVs” or “drones”) from U.S. suppliers, and then to export those UAV parts, in violation of U.S. law, to Hizballah, which is designated as a “foreign terrorist organization” under Title 8, United States Code, Section 1189. The conspirators have also

¹ The original Indictment in this case was returned by the grand jury on August 19, 2015. The First Superseding Indictment was returned on June 6, 2017.

² The instant motion is made as part of an effort by the United States to have defendants Usama Hamade and Issam Hamade extradited from South Africa to the United States to stand trial. Co-defendant Berro is not in South Africa, and therefore the instant motion does not concern defendant Berro.



obtained technology from non-U.S. suppliers, and forwarded that non-U.S. technology to Hizballah. However, those transfers are not at issue in this criminal case, which alleges only a conspiracy to violate U.S. export control law, not the export control laws of any other nation.

The United States now seeks to extradite two defendants, Usama and Issam Hamade, from South Africa for trial. As part of that extradition process, the United States will need to provide the South African authorities with a copy of the Second Superseding Indictment. Because international extradition between the United States and South Africa is the creation of a treaty (here, the Extradition Treaty Between the Government of the United States of America and the Government of the Republic of South Africa, U.S.-S. Afr., Sept. 16, 1999, S. TREATY DOC. NO. 106-24 (2000)), the extradition package will be delivered, by U.S. State Department personnel at the United States Embassy in Pretoria, to the South African Ministry of Foreign Affairs, which will pass the extradition request on to the South African Ministry of Justice. In consequence, both diplomatic and legal officials of South Africa will work with the extradition request, and therefore both diplomatic and legal officials will need to see the Second Superseding Indictment. Accordingly, the United States respectfully asks this Court to allow a limited unsealing of

the Second Superseding Indictment, to allow it to be disclosed, as necessary to support the extradition request of the United States, to diplomatic and legal officials of the Republic of South Africa.

CONCLUSION

For the foregoing reasons, the United States respectfully asks that this Court enter an Order permitting the government to share with South African legal and diplomatic personnel a copy of the Second Superseding Indictment; a copy of the affidavit in support of extradition of Assistant United States Attorney John Docherty; and a copy of the affidavit in support of extradition of FBI Special Agent Steven Warfield, all as necessary to support the efforts of the United States government to have defendants Usama Hamade and Issam Hamade extradited from South Africa to the United States, to stand trial in the District of Minnesota on the charges alleged in the Second Superseding Indictment.

Dated: October 16, 2017

Respectfully Submitted,

GREGORY G. BROOKER
Acting United States Attorney



BY: JOHN DOCHERTY
Assistant United States Attorney
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