

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
v.)	No. 09-CR-10017-GAO
)	
TAREK MEHANNA,)	
)	
Defendant.)	
)	
)	
)	

**ASSENTED-TO MOTION FOR LEAVE TO FILE
A MEMORANDUM IN EXCESS OF TWENTY PAGES**

Pursuant to Local Rule 7.1(b)(4), Tarek Mehanna moves for leave to file a memorandum in excess of twenty pages in support of his motion under 28 U.S.C. § 2255(a) to vacate and set aside his sentence. As grounds, Mehanna says:

1. At Mehanna’s trial in 2011, Evan Kohlmann was the government’s star witness. Testifying as an expert over three days, Kohlmann offered opinions through which the jury was permitted to find that Mehanna’s otherwise protected speech was “coordinated” with a terrorist organization. Kohlmann’s testimony provided grounds for Mehanna’s conviction for provision of material support to terrorists and related crimes.
2. In a prosecution that government said was “about the defendant providing material support to al Qa’ida,” Dkt. 409, 81:19-20, Kohlmann provided the only link to al Qa’ida. The government referred to Kohlmann by name twelve times during its closing arguments. Dkt. 419, 44:15-17, 66:2-3, 68:22-69:2, 69:7-9, 75:17-24, 144:8-12, 145:24, 146:13.

3. In 2014, in *United States v. Ahmad*, 04 Cr. 301 (JCH) (D. Conn.), the government disclosed over 600 pages of classified material concerning Kohlmann, conceding that it was required to do so under *United States v. Giglio*, 405 U.S. 150, 153-54 (1972). The government has never disclosed this information to Mehanna or his attorneys. Mehanna intends to challenge his conviction on the grounds that the government withheld this information in violation of his Constitutional rights.
4. The question whether suppressed impeachment evidence had a material impact on the integrity of the proceedings must be evaluated “*in the context of the entire record.*” *Conley v. United States*, 415 F.3d 183, 189 (1st Cir. 2005) (emphasis added). The trial lasted thirty-five days, with fifteen pre-trial conferences and hearings. The transcript of the proceedings is well over 5,000 pages, and the government introduced over 800 trial exhibits. Accordingly, review of the materiality of the *Giglio* material requires a memorandum in excess of the usual limit.
5. As a grant of this motion lies within the sound discretion of the Court, no memorandum of law is necessary.
6. The government has assented to the relief requested by this motion.¹

WHEREFORE, Mehanna requests that the Court allow him to file a brief of up to thirty pages in support of his motion under 28 U.S.C. § 2255, and grant to him such other and further relief as may be just and proper.

¹ The government has advised that it expects to object to the grant of substantive relief under 28 U.S.C. § 2255.

Respectfully submitted,

TAREK MEHANNA

By his Attorneys,

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Dated: September 1, 2015

RULE 7.1(a)(2) CERTIFICATION

Pursuant to Local Rule 7.1(a)(2), I certify that on September 1, 2015, Sabin Willett, counsel for Tarek Mehanna, conferred with Assistant United States Attorney Alope Chakravarty with respect to this motion. The government assented to the requested relief.

/s/ Julie V. Silva Palmer

Julie V. Silva Palmer

CERTIFICATE OF SERVICE

I, Julie V. Silva Palmer, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on September 1, 2015.

/s/ Julie V. Silva Palmer

Julie V. Silva Palmer