

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Miami Division

Case Number: 04-60001-CR-COOKE/BROWN

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ADHAM AMIN HASSOUN, et al.,

Defendants.

ORDER ADOPTING MAGISTRATE'S REPORT AND RECOMMENDATION DENYING DEFENDANT HASSOUN'S MOTION TO SUPPRESS ILLEGALLY OBTAINED FISA EVIDENCE [D.E. 727] AND AFFIRMING MAGISTRATE'S SUPPLEMENTAL ORDER DENYING MOTION FOR PRODUCTION OF ALL FISA APPLICATIONS, ORDERS, AND RELATED MATERIALS, AND FOR DISCLOSURE OF ALL OTHER ELECTRONIC SURVEILLANCE OF DEFENDANT [D.E. 728]

Defendant Hassoun's Motion to Suppress Illegally Obtained FISA Evidence [D.E. 200] and Defendant Hassoun's Motion for Production of All FISA Applications, Orders, and Related Materials, and for Disclosure of All Other Electronic Surveillance of Defendant [D.E. 201] were referred to the Honorable Stephen T. Brown, United States Magistrate Judge for a Report and Recommendation [D.E. 204] on February 16, 2006.¹ The Magistrate Judge filed a Report and Recommendation [D.E. 727] on December 15, 2006. The Court has reviewed the objections to the Magistrate Judge's Report and Recommendation, and the appeal from the supplemental order being

¹ Defendant Jayyousi adopted Defendant Hassoun's Motion for Production of All FISA Applications, Orders and Related Materials and for Disclosure of All Other Electronic Surveillance and Defendant Hassoun's Motion to Suppress Illegally Obtained FISA Evidence on March 15, 2006 [D.E. 247]. Defendant Padilla adopted Defendant Hassoun's Motion to Suppress Illegally Obtained FISA Evidence on October 4, 2006 [D.E. 594].

otherwise fully advised in the premises, for the reasons more fully set forth below it is

ADJUDGED that United States Magistrate Judge Stephen T. Brown's Report and Recommendation [D.E. 727] is **AFFIRMED** and **ADOPTED** and the Supplemental Order [D.E. 728] is **AFFIRMED**.

Defendant Hassoun objects to the Report and Recommendation because he has "no way to assess whether . . . the Magistrate Judge applied the correct legal standards, or made correct factual determinations." Defendant Hassoun's Objections to Magistrate Judge's Report and Recommendation Denying Defendant Hassoun's Motion to Suppress Illegally Obtained FISA Evidence [D.E. 752], pg. 2. Defendant contends that the request for production of FISA materials was denied on the basis of two Declarations which Defendant and his counsel had never seen, and that production is appropriate for any defense counsel with security clearances.² Defendant Hassoun's Notice of Appeal from Magistrate's Supplemental Order on Motion for Production of All FISA Applications, Orders and Related Materials, and for Disclosure of all Other Electronic Surveillance of Defendant. [D.E. 753]. The Defendant urges this Court to conduct a *de novo* review of all applications, orders and other FISA materials pertinent to the electronic surveillance of defendant conducted pursuant to FISA, as well as the applications for such surveillance of any third-party target which intercepted defendant, and based on that review, disclose the applications, orders and other FISA materials to the defense. In addition to the request for a *de novo* review, Defendant Hassoun contends that a hearing is required pursuant to Franks v. Delaware, 438 U.S. 154 (1978).

Although the Magistrate Judge carefully reviewed the FISA applications and other materials

² Declaration and Claim of Privilege of the Attorney General of the United States filed on April 5, 2006. [D.E. 271]. An additional copy of the declaration was filed on January 17, 2007. [D.E. 782-2].

that are the subject of the instant motions, I also reviewed the applications. On review, I agree with Magistrate Judge Brown.³ The FISA collection was lawful and properly conducted.

Accordingly, it is

ADJUDGED that:

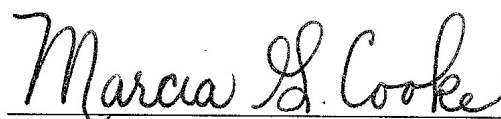
1. The Report and Recommendation [**D.E. 727**] and the Supplemental Order on Motion for Production of All FISA Applications, Orders and Related Materials, and for Disclosure of all Other Electronic Surveillance of Defendant [**D.E. 728**], both filed December 15, 2006 are **AFFIRMED and ADOPTED**.

2. Defendant Adham Amin Hassoun's Motion to Suppress Illegally Obtained FISA Evidence [**D.E. 200**] and his subsequent objections to Magistrate Judge Brown's Report and Recommendation [**D.E. 752**] are **DENIED**.

3. With regard to Defendant Adham Amin Hassoun's Motion for Production of All FISA Applications, Orders and Related Materials, and for Disclosure of all Other Electronic Surveillance of Defendant [**D.E. 201-1**], paragraph 1 is **DENIED** and paragraph 4 is **DENIED as moot**. Accordingly, Defendant Hassoun's Notice of Appeal from Magistrate's Supplemental Order [**D.E. 753**] is **DENIED**.

³ I incorporate by reference the Magistrate Judge's Report and Recommendation [**D.E. 727**]. I find the Magistrate's Report and Recommendation is analytically sound, well-reasoned and correctly states the law. See also Magistrates Report and Recommendation on Defendant Kifah Wael Jayyousi's Motion to Suppress Evidence Obtained by Means of the Foreign Intelligence Surveillance Act. [**D.E. 692**].

DONE AND ORDERED in Chambers at Miami, Florida, this 4th day of April, 2007.

A handwritten signature in cursive script that reads "Marcia G. Cooke". The signature is written in black ink and is positioned above a horizontal line.

MARCIA G. COOKE
United States District Judge

Copies provided to all counsel of record.