

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA,

V.

Docket No. 02 CR 395 (JGK)

AHMED ABDEL SATTAR,
MOHAMMED YOUSRY
and LYNNE STEWART,

NOTICE OF MOTION

Defendants.
-----X

PLEASE TAKE NOTICE that upon the annexed Affirmation of Michael E. Tigar, dated June 19, 2002, and the exhibits attached hereto, and all pleadings and proceedings herein, the undersigned will move this Court at the United States Courthouse, 500 Pearl Street, New York, New York 10007 for an order requiring the United States to conduct a thorough investigation and report to the Court concerning who was involved in the unauthorized disclosure of sealed material, the nature of each such person's involvement, and the dates of relevant conduct, and for a further order permitting the defense to move for an adversary hearing with respect to such matters, and for such other relief as may be proper.

Dated: Washington, DC
June 19, 2002

Michael E. Tigar
Attorney for Lynne Stewart
1025 Connecticut Ave., N.W.
Suite 1012
Washington, D.C. 20036
(202) 467-8583

TO:

CLERK

United States District Court for the
Southern District of New York
500 Pearl Street
New York, New York 10007

Honorable John G. Koeltl
United States District Court Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Joseph E. Bianco, Esq.
Christopher T. Morvillo, Esq.
Assistant United States Attorneys
Southern District of New York
United States Attorneys's Office
One St. Andrews Plaza
New York, New York 10007

All Co-Counsel

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA,

V.

Docket No. 02 CR 395 (JGK)

AHMED ABDEL SATTAR,
MOHAMMED YOUSRY
and LYNNE STEWART,

AFFIRMATION

Defendants.
-----X

Michael E. Tigar declares under penalty of perjury:

1. I am counsel for Lynne Stewart.
2. I received a copy of the letter to the Court dated June 3, 2002 (Exhibit A). I have also seen a copy of the letter to the Court dated April 30, 2002 (Exhibit B). I am aware that the search warrant applications in this case have been the subject of sealing orders entered by judicial officers, including this Court. This Court's initial and comprehensive order was entered April 26, 2002. Once that order was entered, all the relevant materials were covered by it. The disclosure that the government announced in its June 3, 2002 letter thus involves this Court's orders.
3. The violation of protective orders entered by any judicial officer is a serious matter that warrants this Court's concern. When, as here, the violation leads to inflammatory press reports (see Exhibit C), the matter is particularly of

concern. Exhibit C is misleading nonsense, but in order to show that we would have to delve into the protected discovery materials.

4. Since the indictment, counsel for defendant have received many press inquiries, answers to which would require us to disclose material under protective order. We have assiduously turned all those requests down. Media people have told us that they could not get access to sealed materials. Yet, suddenly the affidavit turns up in the hands of selected media people at the very time when the defense is holding lawful public meetings in an effort to protect Ms. Stewart's rights and livelihood. As Sherlock Holmes said to Watson, "I don't believe in coincidence."
5. I have been involved in many high-profile cases. FBI leaks have been unfortunately been the norm in these cases.
6. If the government opposes this motion, we request that it be heard at the next meeting of Court, and we intend to present additional evidence.

Dated: Washington, DC
June 19, 2002

Michael E. Tigar (SVT)
Michael E. Tigar

EXHIBIT A

FROM : LYNNE STEWART ESK
JUN 3 2002 4:48PM

FAX NO. : 2126253939

JUN 24 2002 12:26AM P2
3:28 PM



U.S. Department of Justice

United States Attorney
Southern District of New York

The Ethel L. Berlin Building
One State Street
New York, New York 10007

June 3, 2002

BY HAND

Honorable John G. Koeltl
United States District Judge
United States District Court
for the Southern District of New York
800 Pearl Street, Room 1030
New York, New York 10007

Re: United States v. Ahmed Abdel Sattar, et al.
02 Cr. 395 (JGK)

Dear Judge Koeltl:

It has come to my attention today that a correspondent for "Court T.V." has obtained from a Court file a copy of the affidavit submitted in support of the search warrant for defendant Ahmed Abdel Sattar's residence issued on April 9, 2002 (the "Affidavit"). The correspondent has advised our Press Office that he intends to post excerpts of the Affidavit on his website today.

As you are aware, in a letter to the Court dated April 30, 2002, the Government requested authorization to, among other things, produce various affidavits to defense counsel (including the Affidavit), but requested that the original search warrants and supporting affidavits remain under seal. The Court "So Ordered" the Government's request on May 2, 2002.

Based upon my discussions with individuals in the Magistrate Clerk's Office and the District Court Clerk's Office, it appears that the Affidavit was not properly sealed at the time it was signed by Magistrate Judge Ellis and, thus, was inadvertently filed in a "Miscellaneous" court file. At our request, the Affidavit has now been removed from the public file, and we will ensure that it is placed properly under seal. I have

FROM : LYNNE STEWART ESG

FAX NO. : 2126253939

JUN 04 2002 10:26AM P3

Honorable John G. Koeltl

- 2 -

June 3, 2002

been advised by the Magistrate Clerk's Office that the other affidavits filed in connection with this case are currently under seal and, therefore, this matter requires no further action at this time.

Respectfully submitted,

JAMES B. COMBY
United States Attorney
Southern District of New York

By: Joseph F. Bianco
Joseph F. Bianco
Christopher G. Morville
Assistant United States Attorneys
(212) 637-1038/2410

cc: All Counsel (by fax)

EXHIBIT B

U.S. Department of Justice



United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Place
New York, New York 10007

April 30, 2002

BY HAND

Honorable John G. Koeltl
United States District Court
Southern District of New York
United States Courthouse
500 Pearl Street, Room 1030
New York, New York 10007

Re: United States v. Ahmed Abdel Sattar, et al.
02 Cr. 395 (JGK)

Dear Judge Koeltl:

The Government respectfully requests that the Court enter an order authorizing the disclosure, for the limited purposes of questioning witnesses, making discovery, use in pre-trial preparation and proceedings, and use during the trial in the referenced case all search warrants and supporting affidavits (including amended affidavits and warrants) relating to the following locations:

1. 249 Hooker Place, Apartment 2E, Staten Island, New York and two locked briefcases retrieved therefrom;
2. the Garage at 249 Hooker Place, Staten Island, New York 10303 facing Pulaski Avenue;
3. the Law Offices of Lynne Stewart, Geoffrey Stewart, and Sabrina Shreff, 351 Broadway, Suite 3f, New York, New York; and
4. 30-31 84th Street, East Elmhurst, New York 11372.

Honorable John G. Koeltl

April 30, 2002

Page 2

The Government further requests that Court order that the original search warrants and supporting affidavits remain under seal until further order of the Court.

Respectfully submitted,

JAMES B. COMEY
United States Attorney

By:



JOSEPH A. BIANCO
CHRISTOPHER J. MORVILLO
Assistant U.S. Attorneys
(212) 637-1038/2410

cc: Kenneth A. Paul, Esq. (by fax)
Susan V. Tipograph, Esq. (by fax)
David Stern, Esq. (by fax)

SO ORDERED

HONORABLE JOHN G. KOELTL
UNITED STATES DISTRICT JUDGE

EXHIBIT C

'TERROR' LAWYER CAUGHT IN 'ACT'

3
New York Post, Tuesday, June 4, 2002
nypost.com

By JOHN LEHMANN

The lawyer accused of helping imprisoned blind terror sheik Omar Abdel-Rahman smuggle communiqués out of his cell joked that she could "get an award" for acting for deceiving the guards, a secret FBI affidavit says.

In one prison meeting with his lawyer, Lynne Stewart, his translator, Mohammed Yousry, and his spokesman, Ahmed Sattar — all indicted on conspiracy charges in April — the Egyptian sheik laughingly said his "trained doves" were transporting messages to his disciples, according to the sealed affidavit obtained by Court TV's "The Smoking Gun."



LYNNE STEWART