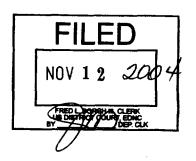
## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

NO. 5:04-CR-211-BO(1)



UNITED STATES OF AMERICA

MOTION TO COMPEL DISCOVERY

DAVID A. PASSARO

٧.

Court for an order directing the government to immediately provide Mr. Passaro with all information discoverable pursuant to Rule 16 of the Federal Rules of Criminal Procedure and all documents in its possession containing exculpatory evidence, or which could lead to exculpatory evidence, in accordance with *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny,

(1) Mr. Passaro further moves this Court for an order directing the government to immediately disclose its witness list, and for early disclosure of all Jencks Act material.

2

As demonstrated on page 7 of the supporting memorandum, Defendant has complied with Local Criminal Rule 12.2, EDNC. Pursuant to that rule, the undersigned asserts that (a) government counsel provided discovery in lieu of a discovery conference, and (b) agreement could not be reached concerning discovery or inspection that is the subject of this motion, because government counsel has declined to provide further discovery without stating reasons for withholding discovery.

(b) Defendant respectfully requests an order granting the specific relief requested and any other form of relief this Court determines is reasonable and prudent.

(c) Respectfully requested this \_\_\_\_\_ day of November, 2004.

THOMAS P. McNAMARA
Federal Public Defender
N.C. State Bar No. 5099

H GERMO BRANER F. THOMAS HOLT III MARK A. SIGNALIGITI DAND T. COURS

## BEAVER HOLT STERNLICHT & COURIE, PA

ATTORNEYS AND COUNSELORS AT LAW

www.beavesholicom



אאפיר א Downing ו ישאאנו סו לטשאנו

May 7, 2004



RE: David P

Dear

(4) In preparation of the matter of David P there is certain information which I am informed and believe is in the exclusive control of your HQ, which it is necessary that I have access to in order to provide my client with constitutionally required effective counsel. I request that I be given access to the following information:

(U) 1. Client's handwritten notes containing his recollection and reconstruction of events in Asadabad regarding Abdul W. These are contained in a stone book containing approximately one dozen pages which was obtained from my client by an individual identified as "Nip" for transportation to HQ, the receipt of which was hand-receipted to my client.

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Any correspondence, reports or message traffic between the Department of Defense, United States Army, Department of Justice, the Government of Alghanistan or any other US agency concerning Abdul Wali or my client David P (a/k/a Charles K),

- We would also ask HQ to give us assistance in locating and interviewing all of these people;
- Any and all photographs, videotapes, audio tapes or written reports concerning same in possession of HQ regarding Abul Wali and David P, aka Charles K.
- Full contents of any investigation concerning Abudi Wali. David P, aka Charles K conducted by or in the possession of HQ;
- All information in the possession of HQ regarding SERE (Survival, Evade, Resist and Escape) School and training.
- All photographs, interviews or reports concerning post-mortem examination of Abdul Wali.

With kindest regards I remain,

Very truly yours.