

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,  
Plaintiff,

CRIMINAL NO. 2:10-CR-20005  
HONORABLE NANCY G. EDMUNDS

v.

D-1, UMAR FAROUK ABDULMUTALLAB,  
Defendant.

**MOTION TO SUPPRESS STATEMENTS MADE TO GOVERNMENT AGENTS AT  
THE MILAN CORRECTIONAL FACILITY**

NOW COMES the Defendant, UMAR FAROUK ABDULMUTALLAB (“Defendant ABDULMUTALLAB”), by and through standby counsel, ANTHONY T. CHAMBERS, and moves this Honorable Court to Suppress the statements made to government agents at the Milan Correctional Facility.

In support of said Motion, standby counsel further states as follows:

1. That Defendant ABDULMUTALLAB met with government agents on numerous occasions at the Milan Correctional Facility.
2. That the purpose of these meetings was to obtain statements from Defendant regarding the alleged incident on December 25, 2009.
3. That the government engaged in plea negotiations with the Defendant during the meetings.
4. That before the meetings began, the government agents verbally agreed that they would not use any statements Defendant made, against him.
5. That the government agents signed a Kastigar letter agreeing that they would not use any statements Defendant made, against him..
6. That the government agents are officers of the court.

7. That Defendant relied on the government agents' verbal agreement.
8. That the statements Defendant made during the meetings with the government agents are protected by Fed. R. Evid. 410, as they constitute plea negotiations.
9. That allowing the government to use Defendant's statements at trial would violate the informal agreement, Fed. R. Evid. 410, and *Kastigar*.
10. That allowing the government to use Defendant's statements would be fundamentally unfair and a violation of Defendant's due process rights.

WHEREFORE, standby counsel and Defendant ABDULMUTALLAB respectfully request that this Court suppress the statements Defendant made to the government agents at the Milan Correctional Facility.

Respectfully Submitted,

s/Anthony T. Chambers  
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Dated: August 5, 2011

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**BRIEF IN SUPPORT OF DEFENDANT'S  
MOTION TO SUPPRESS STATEMENTS MADE TO GOVERNMENT AGENTS**

This Brief is filed pursuant to *Kastigar v. United States*, 406 U.S. 441 (1972) and Fed. R. Evid. 410, and is submitted by Defendant UMAR FAROUK ABDULMUTALLAB (“Defendant ABDULMUTALLAB”), by and through standby counsel, ANTHONY T. CHAMBERS, in support of his Motion to Suppress Statements Made to Government Agents at the Milan Correctional Facility.

Defendant ABDULMUTALLAB met with government agents on numerous occasions at the Milan Correctional Facility. The government intended to obtain incriminating statements from Defendant regarding the alleged incident on December 25, 2009. In addition, the government engaged in plea negotiations with the Defendant during the meetings.

Before the meetings began, the government agents verbally agreed that they would not use any statements Defendant made, against him. Defendant relied on the government’s representation – as officers of the court – and made incriminating statements. *See United States v. Dudden*, 65 F.3d 1461, 1467 (9th Cir. 1995) (the government can grant the defendant varying degrees of immunity in an informal agreement). Allowing the government to use these statements at trial will violate the government’s agreement with Defendant.

Further, the statements Defendant made during the meetings with the government agents are protected by Fed. R. Evid. 410, as they constitute plea negotiations. *See* Fed. R. Evid. 410:

[E]vidence of the following is not, in any . . . criminal proceeding, admissible against the defendant who made the plea or was a participant in the plea discussions:

(3) any statement made in the course of any proceedings under Rule 11 of the Federal Rules of Criminal Procedure . . .; or

(4) any statement made in the course of plea discussions with the attorney for the prosecuting authority which do not result in a plea of guilty [.]

*See also* Fed. R. Crim. P. 11(f): “The admissibility or inadmissibility of a plea, a plea discussion, and any related statement is governed by Federal Rule of Evidence 410.”

Accordingly, the statements are barred from admission at trial.

Moreover, the government presented Defendant with a signed *Kastigar* letter before Defendant made incriminating statements. This letter prohibits the government from using Defendant’s statements at trial. *See Kastigar v. United States*, 406 U.S. 441 (1972).

WHEREFORE, standby counsel and Defendant ABDULMUTALLAB respectfully request that this Court suppress the statements Defendant made to the government agents at the Milan Correctional Facility.

Respectfully Submitted,

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**CERTIFICATION**

I hereby certify that the forgoing papers were hand delivered this date, served electronically or by mail to the following:

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Date: August 5, 2011

By: s/ Anthony T. Chambers