

EXHIBIT E

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA

v.

SAMI AMIN AL-ARIAN

Case No. 1:08-cr-131

SUPPLEMENTAL DECLARATION OF LINDA MORENO, ESQ.

I, Linda Moreno, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am an attorney, duly licensed to practice in the state of Florida and its Middle District, and I was co-counsel with William Moffitt, Esq. in the criminal proceedings in Florida in the matter of *United States vs. Sami Amin Al-Arian*, Case No. 8:03-cr-77.
2. This Declaration is meant to supplement my Declaration of October 25, 2006 that I wrote for the above referenced Florida proceeding.
3. I write this Declaration to more specifically address the issue of “cooperation,” our understanding and our client’s understanding of “cooperation,” and our plea negotiations with the government on behalf of Dr. Al-Arian as it related to “cooperation.”
4. Without a doubt, Dr. Al-Arian knew and understood the concept of “cooperation” to include, among other things, testimony before any future grand jury because both Mr. Moffitt and I fully explained it to him in this manner. As a criminal

defense attorney for nearly 30 years, I have customarily explained the issue of “cooperation” to include, among other things, grand jury testimony to numerous clients and, without question, explained the same to Dr. Al-Arian.

5. Without doubt, Dr. Al-Arian understood and rejected any notion of cooperation, especially testifying before any future grand jury, because of its potential harm to him in two significant ways:

- 1) Such cooperation posed a potential danger to his life. This was specifically discussed as it related to Dr. Al-Arian’s uncertain future in the unknown country to which he would be deported. A reputation as a cooperating witness for the United States government would have branded Dr. Al-Arian, in some dangerous circles, as a “snitch” and could have subjected him to violence or worse.
- 2) And such cooperation would inevitably delay the *expedited deportation* that the government promised, and which was specifically bargained for in the plea agreement. In fact, Dr. Al-Arian’s attorneys, led by Simon Gaugush, met with Department of Homeland Security officials to discuss deportation issues and release dates in an effort to confirm that Dr. Al-Arian would be deported in the weeks after entering his plea. Expedited deportation was critical to the plea agreement, and the government acknowledged that when they agreed to assist in a speedy, uncomplicated process of deportation.¹

¹ It should also be noted here that Dr. Al-Arian considered the impact of any plea agreement on his devoted family, which included his five children. During the 6 month trial and the subsequent plea negotiations, two of his youngest children were sent out of

6. On April 6, 2005, before trial and upon our request, Mr. Moffitt and I met with Assistant United States Attorneys Terry Zitek, Cherie Krigsman and Walter Furr to discuss any potential plea agreement.
7. At that meeting, AUSA Furr suggested that the government was looking for “100% cooperation” because, as he suggested, Dr. Al-Arian was “connected.” In fact, Mr. Furr mentioned the witness protection program as a possible scenario for Dr. Al-Arian and his family. Mr. Moffitt immediately made it clear to the government that any successful plea agreement could not include any cooperation provision. He specifically explained that the only acceptable plea agreement would have to end all business between Dr. Al-Arian and the government. Grand jury testimony would prolong, indefinitely and dangerously, further business with the government; this was clearly unacceptable and Mr. Moffitt was unambiguous about it.
8. Thus, even *before* Dr. Al-Arian’s successes in his first trial, when his exposure if convicted was life in prison, the issue of cooperation, including testifying before a grand jury, was never acceptable. Understandably, after the government lost the first trial, when the defense was in a much stronger position to negotiate a favorable plea disposition, cooperation was immediately rejected.
9. Over the initial two and a half years of Dr. Al-Arian’s pretrial incarceration, I personally visited him in the local Tampa jails and at USP Coleman over 150

the country to live with family members for their own well being (one child is still living out of the country). An expedited deportation would insure Dr. Al-Arian’s speedy reunification with his loved ones. And his rejection of any cooperation provision would also insure his safe return to his family, avoiding any potential threats from persons who might feel betrayed by such cooperation.

times. We had lengthy discussions over all aspects of his case, his trial, and possible sentencing scenarios. I knew Dr. Al-Arian to be someone of profound personal faith, deeply committed to the cause of Palestinians under the Israeli occupation. I understood that the notion of testifying before a grand jury against other Palestinians would be morally repugnant to Dr. Al-Arian, even if it meant his freedom. Mr. Moffitt and I had no doubt that Dr. Al-Arian would never agree to cooperate with the government in any manner, including grand jury investigations.

10. As I stated in my original Declaration, we wanted to bind the United States as a sovereign to the plea agreement. It was manifestly clear to the government lawyers in Tampa, and the Counter-Terrorism section of the U.S. Department of Justice, that Dr. Al-Arian understood and signed the plea agreement believing he would never have to testify in any existing and future cases.

11. In late May 2006, I received the phone call from AUSA Krigsman where she explained that Dr. Al-Arian would be subpoenaed before the Eastern District of Virginia grand jury, I expressed my shock and disappointment over such an egregious violation to our agreement, signed only a few weeks previously. In an apologetic tone, Ms. Krigsman asserted that she had been unaware of the subpoena prior to that point. Contrary to Mr. Kromberg's new position, AUSA Krigsman never asserted that her understanding was that the plea agreement (that she negotiated) left open the issue of Dr. Al-Arian's cooperation as a grand jury witness.

12. Since Mr. Moffitt and I negotiated the terms and conditions of this plea agreement with the Justice Department, I have watched, in horror, Mr. Kromberg manipulate and pervert its meaning to this Honorable Court. As a defense attorney, my sense of confidence in dealing with the Department of Justice has been undermined by the blind eye that the AUSA of the Eastern District of Virginia has turned to our honestly brokered negotiations in the Middle District of Florida. The Justice Department should not be able to negotiate plea agreements in one jurisdiction and then ignore them in another.

In conformity with 28 U.S.C. § 1746, I, Linda Moreno, Esq. declare under penalty of perjury that the foregoing is true and correct.

Executed on February 17, 2009.

/s/ Linda Moreno
Linda Moreno