

FROM: 92036054
TO:
SUBJECT: NY case Amendment
DATE: 06/09/2016 06:26:50 PM

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

RICHARD A. CHICHAKLI

PLAINTIFF

V.

PREET BHARARA, U.S. ATTORNEY; et al.

DEFENDANTS

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

AMENDMENT TO PLAINTIFF'S ORIGINAL
COMPLAINT AND REQUEST FOR
EXPEDITIOUS CONSIDERATION BY THE COURT

CASE NO. 15-CV-4583 (LAP)

COMES NOW Richard A. Chichakli, an incarcerated Pro-Se Plaintiff, and amends his originally filed complaint against defendants in regards to his money damages claim due to the lack of jurisdiction by this Court to rule on money damages claim against the United States government in any amount in excess of Ten Thousand U.S. Dollar (\$10,000), and to request expedited processing to his complaints because of the damage he is suffering due to the delay in receiving the documents that were ordered to be released to him in 2014.

Plaintiff has filed this case in June 2015, along with motion to proceed in Forma Pauperis. In August 2015 this Court ordered Plaintiff to pay Court Fee, which was paid by the Plaintiff in September 2015. The Court has not notified the Plaintiff of any further action taken by this Court since the Court Fee was paid in Aug/2015.

Plaintiff has not yet received the Court's ruling on his motion to proceed in Forma Pauperis. Plaintiff's request for a Copy of the Docket was not answered, also he has not received the Court's ruling on his Nov/2016 motion for expeditious processing due to the damage caused by defendant's refusal to abide by the Court order dated Dec/16/2013 in which Honorable Judge William Pauley III ordered the defendants in this case to release plaintiff's records and documents which was not used in the trial of case 09-CR-1002 (WHP), SDNY-2013.

Plaintiff is incarcerated; thus, in his request for a leave to proceed in Forma Pauperis, Plaintiff has also requested service to defendants by U.S. Marshalls pursuant to Fed. R. Civ. P. 4(c)(3). Plaintiff is not aware whether defendants has been served or not, and he has not received a copy of any "Notice of Appearance" by

the defendants.

STATEMENT OF JURISDICTION

This Court has original jurisdiction over this case pursuant to 24 U.S.C. 1331. The APA, Title 5 U.S.C. 701-706 provides the limited waiver of "Sovereign Immunity" that may be required by this Court.

The Judicial review provisions of the APA, 5 U.S.C. sections 701-706, "contain[] a limited waiver of sovereign immunity." *Geronimo v. Obama*, 725 F.Supp 2d 182, 186 (D.C Cir. 2010)

This Court LACKS JURISDICTION OVER PLAINTIFF'S MONEY DAMAGE CLAIM, as original jurisdiction over any claim against the United States in an amount in excess of Ten Thousand Dollars (\$10,000), pursuant to the Tucker Act is exclusively assigned to the United States Court of Federal Claims.

THEREFORE;

Plaintiff is hereby amends his original complaint by abandoning his claim for money damage, which cannot be adjudged by this Court because of lack of jurisdiction. Plaintiff re-assert all of the remaining issues he brought before this Court, and re-assert his demand for the reliefs sought in his original complaint, except for his money damage claim, upon which this Court lacks jurisdiction.

PLAINTIFF'S EARLIER REQUESTS FOR EXPEDITED PROCESSING

Plaintiff has been incarcerated since January 2013, and is still incarcerated in a federal prison. Plaintiff is expected to be released to Home Confinement or a Halfway House by December 2016. Otherwise, the release day of plaintiff is June 2017 In November 2015.

In November 2015 Plaintiff filed a request for expeditious processing of his case by this Honorable Court due to the fact that the absence of his original documents, which still held by Defendants in violation of the Court Order in the Southern District of New York, dated December 16, 2014 to release the documents requested by this

plaintiff. (see Exhibit-1: Court Order and description of documents requested by plaintiff).

Until this date, being April 15, 2015 the Court has not responded to Plaintiff requests, and defendants have not released the documents, in a clear continuous disregard of the Court Order dated Dec/16/2014.

PLAINTIFF DEMAND FOR DECLARATORY JUDGMENT

Plaintiff asserts that he is entitled for a "Declaratory Judgment" by this Court. There is no question of law concerning the issue raised in Plaintiff's complaint. Thus, declaratory judgment is warranted by statutes.

Defendants are ordered on December 16, 2014; nearly two years ago, by the Court in the Southern District of New York to release the military records and the other personal documents requested by this plaintiff upon the conclusion of the trial and sentencing, and upon the conclusion of case number 09-CRI-1002(WHP).

District Judge, the Honorable William Pauley III, issued an order to the government [Docket No. 248 /case No. 09-CRI-1002(WHP)] to release the documents demanded by this Plaintiff. The order was entered in the Docket on December 19, 2014.

Defendants have disregarded the Court's Order for almost two years as of date, and have refused to release and deliver to Plaintiff the documents and records as ordered by the Court on December 16, 2014. Defendants' failure to abide by the Court's Order damaged this defendant and is still causing damages, as the absence of the records related to Plaintiff

THUS;

Plaintiff contends that he is entitled to a declaratory judgment and an order by this Court to defendants to immediately deliver the documents addressed in the earlier Court Order to the defendants to release and deliver Plaintiff documents which are not related to Case number 09-CRI-1002(WHP) which has been concluded since 2013.

Plaintiff is hereby further demanding that defendants release and deliver all of documents, materials, and equipment that were seized by the government in 2005 from Plaintiff business and residences. The said material was not used in the trial of case number 09-CRI-1002, and the investigation upon which the

said property was seized by the government has been closed and concluded since 2012, as per the testimony of Agent William Hofmann of the FBI, and Agent Mathew Bechtel of the Department of Homeland Security. The documents, equipment, and other property are currently in the custody of the defendants in this case.

Plaintiff contends that this defendant is illegally holding his documents, and equipment which was seized in 2005. The 2005 investigation and case were closed without any charges since 2012 or earlier; these material are not related to the case 09-Cri-1002, and it was not used in the trial nor entered into evidence.

Plaintiff is further asserts that within the material remaining in the custody of the defendants in this case, certain personal writings, drafts of books, and other material which are all protected under the First Amendment of the United States Constitution. Plaintiff asserts that the defendants have violated his Constitutional rights, namely the guaranteed right of freedom of speech by taking, seizing, and refusing to release him memoir, book draft, and such other personal writings.

Plaintiff asserts that the defendant are still violating his constitutional rights, including the First and Fourth amendments, and he prays that this Court order defendants to immediately release and deliver, to his home in Texas all the documents, property, equipment, and personal effects which are now in the custody of the defendants, and which was seized by the government from plaintiff in 2005 in an unrelated investigation which has been closed since 2012, and since the unrelated case against this Plaintiff was also concluded in 2013.

SOVEREIGN IMMUNITY IS WAIVED BY 5 U.S.C. 702

The APA provide the necessary waiver of Sovereign Immunity; thus, this Court retains competent jurisdiction over this matter.

In particular, the APA provides that 'action[s] seeking relief other than money damages and stating a claim that an agency or an officer or an employee thereof acted or failed to act in an official capacity [can]not be dismissed nor relief therein denied on the ground that it is against the United States.: (quoting 5 U.S.C. Section 702).

ACCORDINGLY;

For all the reasons stated above, this Plaintiff prays that the Court grant him the requested expedited processing of his complaint, and relief in the form of a Declaratory judgment, and a mandamus to the defendants ordering performance of the earlier Court Order dated December 16, 2014, and which is docket number 248, in case number 09-CRI-1002(WHP) in the Southern District of New York, and all such other reliefs as this Honorable Court deems fair and equitable.

Dated: June 09, 2016
Ayer, MA

Respectfully Submitted

Richard A. Chichakli (Pro-Se)
Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RICHARD A. CHICHAKLI,

Plaintiff,

-against-

PREET BHARARRA, UNITED STATES
ATTORNEY FOR THE SOUTHERN
DISTRICT OF NEW YORK, IN HIS
OFFICIAL CAPACITY; CHRISTIAN
EVERDELL, ASSISTANT U.S.
ATTORNEY – SOUTHERN DISTRICT OF
NEW YORK, IN HIS OFFICIAL
CAPACITY, AND THEIR SUCCESSORS,

Defendants.

15-CV-4583 (LAP)

ORDER DIRECTING PRISONER
AUTHORIZATION

LORETTA A. PRESKA, Chief United States District Judge:

Plaintiff, currently incarcerated at the Federal Detention Center in Miami, Florida, brings this action *pro se*. Within thirty days of the date of this order, Plaintiff must either pay the \$400.00 in fees that are required to file a civil action in this court or submit a completed prisoner authorization.

To proceed with a civil action in this Court, a prisoner must either pay \$400.00 in fees – a \$350.00 filing fee plus a \$50.00 administrative fee – or, to request permission to proceed without prepayment of fees, submit a signed IFP application and a prisoner authorization. *See* 28 U.S.C. §§ 1914, 1915. If the Court grants a prisoner’s IFP application, the Prison Litigation Reform Act requires the Court to collect the \$350.00 filing fee in installments deducted from the prisoner’s account. *See* 28 U.S.C. § 1915(b)(1). A prisoner seeking to proceed in this Court without prepayment of fees must therefore also authorize the Court to withdraw these payments from his account by filing a “prisoner authorization,” which directs the facility where the prisoner is

incarcerated to deduct the \$350.00 filing fee¹ from the prisoner's account in installments and to send to this Court certified copies of the prisoner's account statements for the past six months. See 28 U.S.C. § 1915(a)(2), (b).

Plaintiff submitted an IFP application and a prisoner authorization, but the prisoner authorization authorizes the facility having custody of Plaintiff, or any facility to which Plaintiff is transferred, to send a certified copy of Plaintiff's prison account statement for the past six months to the "United States District Court in the Sithern [sic] District of Columbia" and to forward payments from Plaintiff's prisoner's account to the United States District Court for the Southern District of Florida rather than this Court. Within thirty days of the date of this order, Plaintiff must either pay the \$400.00 in fees or complete and submit the attached prisoner authorization. If Plaintiff submits the prisoner authorization, it should be labeled with docket number 15-CV-4583 (LAP).

The Clerk of Court is directed to assign this matter to my docket, mail a copy of this order to Plaintiff, and note service on the docket. No summons shall issue at this time. If Plaintiff complies with this order, the case shall be processed in accordance with the procedures of the Clerk's Office. If Plaintiff fails to comply with this order within the time allowed, the action will be dismissed.

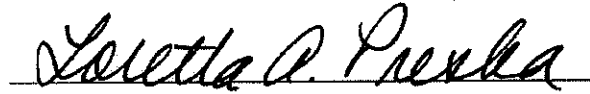
~~The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an~~

¹ The \$50.00 administrative fee for filing a civil action does not apply to persons granted IFP status under 28 U.S.C. § 1915

appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444–45 (1962) (holding that appellant demonstrates good faith when seeking review of a nonfrivolous issue).

SO ORDERED.

Dated: August 12, 2015
New York, New York

A handwritten signature in black ink, reading "Loretta A. Preska", written over a horizontal line.

LORETTA A. PRESKA
Chief United States District Judge

FROM: 92036054
TO:
SUBJECT: NY
DATE: 08/02/2016 06:06:39 AM

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
XXXXXXXXXXXXXXXXXXXXXXXXXX

RICHARD A. CHICHAKLI

PLAINTIFF

v.

PREET BHARARRA, et. al.

DEFENDANTS

XXXXXXXXXXXXXXXXXXXXXXXXXX

MOTION FOR LEAVE TO AMEND
PLAINTIFF'S ORIGINAL COMPLAINT

CASE NO. 15-CV-4583 (WHP)

Plaintiff Richard A. Chichakli, respectfully moves the Honorable Court for a leave to amend his original complaint pursuant to Rule 15, of Federal Rules of Civil Procedure (FRCP) in consideration of developing circumstances which require such amendment. Defendants were served on July 20, 2016; thus, his Amendment is permitted pursuant to Rule 15 of Fed R. Civ. Procedure.

In support of this motion, Plaintiff offers the Honorable Court the following facts:

1. On April 26, 2005 Plaintiff was placed under political sanctions pursuant to Executive Order (EO-1) 13448. On the said date, all of Plaintiff's properties were seized and frozen pursuant to the EO by the United States Government. The seized property included, in addition to funds in banks, real and personal properties, all of Plaintiff's papers, bank records, business and personal files, and documents. The seized documents (2005 document) included both paper-documents, and electronic data documents held on computers and servers.
2. Plaintiff's files and documents was originally held by the FBI in connection with an investigation which was conducted by the FBI at the time Plaintiff's assets were frozen in 2005. The said investigation was closed and terminated in 2012 according to a testimony given in 2013 by Agent William Hoffman, the FBI Agent in charge of the said investigation. The case related to the investigation was closed without any charges against this Plaintiff.
3. In 2013, and in connection with unrelated case, the defendant in the instant case, obtained all of Plaintiff's files and documents which was seized and frozen in 2005 from plaintiff's offices and home in a fishing expedition for possible violation of laws. The search yielded no relation of the 2005 documents to the 2013 trial's case.

4. In 2013, the defendant made a "judicial declaration" that the government DO NOT INTEND, and DID NOT use the 2005 files in the unrelated case which was tried in 2013. However; defendant maintained possession of the unrelated files and documents of 2005, both paper and electronic.
5. Defendant have made "legal declaration", as indicated in the Court records of case 09-Cr-1002 (WHP)(SDNY), that the "2005 documents" does not evidence to the unrelated case which was tried in 2013.
6. Noted for the records that defendants did not obtain search warrant for the "2005 documents", nor had they declared the authority upon which they seized and still seizing the assets of this plaintiff, nor have they justified the cause for taking possession, and/or seizing plaintiff's assets and documents, including the physical assets such as computers, servers, all related the electronic media and data files, and all non-electronic paper files and documents.
7. In December 2014, plaintiff requested the release of his document which was not used as evidence in the case of 2013. The Court issued an order to the government to release the requested documents. Defendants disregarded the Court's order until this day, being more than 20 months after the date the Court order was issued.
8. On November 12, 2015 President Barack Obama issued his Executive Order number 13710 (EO-2) which lifted all the sanctions that were imposed by (EO-1) in 2005.
9. The lifting of sanction MANDATE THE RETURNING OF ALL OF PLAINTIFF'S ASSETS which are in the possession of the government. Such assets include the assets currently still being held by the defendants.
10. Plaintiff further asserts, that on September 2nd, 2015, all of the Worldwide Sanctions that were imposed upon him were lifted and removed pursuant to the United Nations Security Council Resolution S/RES/2237 (2015)

ACCORDINGLY;

- A- Plaintiff is hereby re-asserting all of the demands stated in his original complaint; and in addition
- B- Plaintiff also asserts that defendants are, illegally holding his 2005 documents and assets, which defendants have obtained for, but did not use in the trial in 2013. The 2005 assets, are therefore, subject to the Court order of December 2014, and which ordered the defendants to release Plaintiff's non evidentiary documents. These assets were seized in 2005 in connection with the sanctions imposed by EO-1; thus, the lifting of the sanctions mandate

the release and return of the assets to Plaintiff in accordance with Executive Order 13710 of Nov 15, 2015.

The assets concerned include the computers, laptops, hand-held computers, servers, electronic media and all data storage and files, and paper documents, records, and files from 2005; and

Plaintiff is hereby demand that defendants return to him all of his "2005 assets" which are in their possession, pursuant to Executive Order 13710, and the Court order of of December 2014.

C- Plaintiff further demands that defendants returns to him all of the documents and files which are seized from his home in Melbourne-Australia (Australia documents) and which were not used or admitted into evidence in the trial of case 09-CR-1002 (WHP) in the Southern District of New York in 2013. Plaintiff asserts that "Australia documents" which were not admitted into evidence at trial is subject to the Court Order of December 2014 which ordered the release of Plaintiff's non-evidentiary documents.

D- Plaintiff further demands that defendants pays all court's fees and all the expenses related to this case; and

E- Plaintiff demands that defendants pay all the costs associated with the transportation of his assets and documents to his home in Texas.

WHEREOF;

Defendants have deliberately ignored and disregarded the order of the Court in the Southern District of New York, and which was signed and entered on December 16, 2014 by the Honorable Judge William Pauley; Thus, causing damages to this Plaintiff; and given for the outstanding Court order and the Executive Order 13710;

Plaintiff prays that this Court grants him the requested reliefs pursuant to the DECLARATORY JUDGMENT Statutes along with all other reliefs as this Court finds just and equitable.

Dated: August 01, 2016
Ayer, MA

Respectfully Submitted

Richard A. Chichakli (Pro-Se)
Plaintiff

TRULINCS 92036054 - CHICHAKLI, RICHARD AMMAR - Unit: DEV-H-B

FROM: 92036054
TO:
SUBJECT: NY
DATE: 08/02/2016 08:06:39 AM

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
XXXXXXXXXXXXXXXXXXXXXXXXXX

RECEIVED
SDNY PRO SE OFFICE
2016 AUG -8 AM 11:57
S.D. OF N.Y.

RICHARD A. CHICHAKLI

PLAINTIFF

v.

PREET BHARARRA, et. al.

DEFENDANTS

MOTION FOR LEAVE TO AMEND

PLAINTIFF'S ORIGINAL COMPLAINT

CASE NO. 15-CV-4583 (WHP)

XXXXXXXXXXXXXXXXXXXXXXXXXX

MEMO ENDORSED

Plaintiff Richard A. Chichakli, respectfully moves the Honorable Court for a leave to amend his original complaint pursuant to Rule 15, of Federal Rules of Civil Procedure (FRCP) in consideration of developing circumstances which require such amendment. Defendants were served on July 20, 2016; thus, his Amendment is permitted pursuant to Rule 15 of Fed R. Civ. Procedure.

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2. Plaintiff's files and documents was originally held by the FBI in connection with an investigation which was conducted by the FBI at the time Plaintiff's assets were frozen in 2005. The said investigation was closed and terminated in 2012 according to a testimony given in 2013 by Agent William Hoffman, the FBI Agent in charge of the said investigation. The case related to the investigation was closed without any charges against this Plaintiff.
3. In 2013, and in connection with unrelated case, the defendant in the instant case, obtained all of Plaintiff's files and documents which was seized and frozen in 2005 from plaintiff's offices and home in a fishing expedition for possible violation of laws. The search yielded no relation of the 2005 documents to the 2013 trial's case.

CHICHAKLI, RICHARD AMMAR - Unit: DEV-H-B

4. In 2013, the defendant made a "judicial declaration" that the government DO NOT INTEND, and DID NOT use the 2005 files in the unrelated case which was tried in 2013. However; defendant maintained possession of the unrelated files and documents of 2005, both paper and electronic.
5. Defendant have made "legal declaration", as indicated in the Court records of case 09-Cr-1002 (WHP)(SDNY), that the "2005 documents" does not evidence to the unrelated case which was tried in 2013.
6. Noted for the records that defendants did not obtain search warrant for the "2005 documents", nor had they declared the authority upon which they seized and still seizing the assets of this plaintiff, nor have they justified the cause for taking possession, and/or seizing plaintiff's assets and documents, including the physical assets such as computers, servers, all related the electronic media and data files, and all non-electronic paper files and documents.
7. In December 2014, plaintiff requested the release of his document which was not used as evidence in the case of 2013. The Court issued an order to the government to release the requested documents. Defendants disregarded the Court's order until this day, being more than 20 months after the date the Court order was issued.
8. On November 12, 2015 President Barack Obama issued his Executive Order number 13710 (EO-2) which lifted all the sanctions that were imposed by (EO-1) in 2005.
9. The lifting of sanction MANDATE THE RETURNING OF ALL OF PLAINTIFF'S ASSETS which are in the possession of the government. Such assets include the assets currently still being held by the defendants.
10. Plaintiff further asserts, that on September 2nd, 2015, all of the Worldwide Sanctions that were imposed upon him were lifted and removed pursuant to the United Nations Security Council Resolution S/RES/2237 (2015)

ACCORDINGLY;

- A- Plaintiff is hereby re-asserting all of the demands stated in his original complaint; and in addition
- B- Plaintiff also asserts that defendants are, illegally holding his 2005 documents and assets, which defendants have obtained for, but did not use in the trial in 2013. The 2005 assets, are therefore, subject to the Court order of December 2014, and which ordered the defendants to release Plaintiff's non evidentiary documents. These assets were seized in 2005 in connection with the sanctions imposed by EO-1; thus, the lifting of the sanctions mandate

the release and return of the assets to Plaintiff in accordance with Executive Order 13710 of Nov 15, 2015.

The assets concerned include the computers, laptops, hand-help computers, servers, electronic media and all data storage and files, and paper documents, records, and files from 2005; and

Plaintiff is hereby demand that defendants return to him all of his "2005 assets" which are in their possession, pursuant to Executive Order 13710, and the Court order of of December 2014.

C- Plaintiff further demands that defendants returns to him all of the documents and files which are seized from his home in Melbourne-Australia (Australia documents) and which were not used or admitted into evidence in the trial of case 09-CR-1002 (WHP) in the Southern District of New York in 2013. Plaintiff asserts that "Australia documents" which were not admitted into evidence at trial is subject to the Court Order of December 2014 which ordered the release of Plaintiff's non-evidentiary documents.

D- Plaintiff further demands that defendants pays all court's fees and all the expenses related to this case; and

E- Plaintiff demands that defendants pay all the costs associated with the transportation of his assets and documents to his home in Texas.

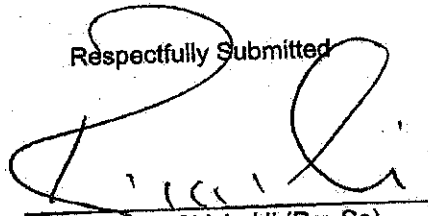
WHEREOF;

Defendants have deliberately ignored and disregarded the order of the Court in the Southern District of New York, and which was signed and entered on December 16, 2014 by the Honorable Judge William Pauley; Thus, causing damages to this Plaintiff; and given for the outstanding Court order and the Executive Order 13710;

Plaintiff prays that this Court grants him the requested reliefs pursuant to the DECLARATORY JUDGMENT Statutes along with all other reliefs as this Court finds just and equitable.

Dated: August 01, 2016
Ayer, MA

Respectfully Submitted



Richard A. Chichakli (Pro-Se)
Plaintiff

Plaintiff's motion for leave to file an amended complaint is granted. The Clerk of Court is directed to mail a copy of this Order to Richard Chichakli.

SO ORDERED:



WILLIAM H. PAULEY III
U.S.D.J. 8-9-16

TRULINCS 92036054 - CHICHAKLI, RICHARD AMMAR - Unit: DEV-H-B

FROM: 92036054
TO:
SUBJECT: Motion - EFC Service
DATE: 07/19/2016 01:48:42 PM

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MEMO ENDORSED

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

RICHARD A. CHICHAKLI

PLAINTIFF

V.

PREET BHARARRA, U.S. ATTORNEY, et al

DEFENDANTS

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

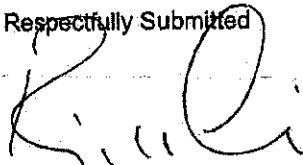
PLAINTIFF'S MOTION FOR LEAVE
TO SERVE DEFENDANTS VIA E.C.F.

CASE No.: 15-CIV-04583 (WHP)

Richard A. Chichakli, a Pro-Se incarcerated Plaintiff, Moves this Honorable Court for a Leave to allow him to serve the documents, paper, and other legal forms related to this proceeding via the Court's Electronic Case File system (ECF) by mailing the document to the Clerk who will then enter the documents into the ECF.

Dated: July 19, 2016
Ayer, MA

Respectfully Submitted



Richard A. Chichakli (pro-Se)
Plaintiff

According to the docket, Defendants have already returned executed summonses (ECF Nos. 13, 14). After Defendants' counsel files a notice of appearance, that counsel will receive Plaintiff's filings via ECF.

The Clerk of Court is directed to mail a copy of this order to Richard Chichakli.

SO ORDERED:


WILLIAM H. PAULEY III
U.S.D.J.

8-9-16

UNITED STATES DISTRICT COURT

for the

Southern District of New York

Richard Chichakli

Plaintiff

v.

Preet Bharara, United States Attorney, et al.

Defendant

Case No. 15-cv-4583-WHP

APPEARANCE OF COUNSEL

To: The clerk of court and all parties of record

I am admitted or otherwise authorized to practice in this court, and I appear in this case as counsel for: defendants United States Attorney Preet Bharara and Assistant United States Attorney Christian Everdell, in their official capacities.

Date: 09/20/2016

s/ Anthony J. Sun

Attorney's signature

Anthony J. Sun (SDNY No. AS2782)

Printed name and bar number

United States Attorney's Office, SDNY
86 Chambers Street, 3rd Floor
New York, NY 10007

Address

anthony.sun@usdoj.gov

E-mail address

(212) 637-2810

Telephone number

(212) 637-2786

FAX number



United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

September 20, 2016

BY ECF

The Honorable William H. Pauley III
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1920
New York, NY 10007

Re: *Chichakli v. Bharara*,¹ *et al.*, No. 15 Civ. 4583 (WHP)

Dear Judge Pauley:

This Office represents the defendants, United States Attorney Preet Bharara and Assistant United States Attorney Christian Everdell (collectively, "Defendants"), in the above-referenced action brought by Richard Chichakli ("Plaintiff"), who is proceeding *pro se*. Plaintiff asserts civil claims for damages and injunctive relief, alleging that this Office has not complied with a December 16, 2014, court order (the "2014 Order") entered in Plaintiff's underlying criminal action, *United States v. Chichakli*, 09 Cr. 1002 (WHP) (the "Criminal Action"). Defendants write respectfully pursuant to Section III.A.ii of the Court's Individual Practices to request a pre-motion conference concerning Defendants' anticipated motion to dismiss this action for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1).

Background

Plaintiff was tried in the Criminal Action and convicted by a jury on December 13, 2013, and was sentenced to 60 months' imprisonment on December 4, 2014. Following a letter request by Plaintiff for release of certain "documents," the Court issued the 2014 Order, which stated the following:

By letter dated December 10, 2014, Richard Chichakli requests the release of certain personal documents, such as his military discharge records, which he claims are unrelated and in the possession of the Government.

To the extent the Government has any of Chichakli's original records which are unrelated to this case, it is directed to produce them to the Defendant.

¹ Defendant Bharara's name is misspelled in the caption as "Bhararra."

The Honorable William H. Pauley III
Page 2

See Docket No. 248, 09 Cr. 1002 (WHP). The Government did not possess (and does not currently possess) originals of most of the requested documents. To the extent the Government does possess originals of the requested documents, those records were relevant to trial matters and/or any possible retrial. Accordingly, the Government retained the documents pending the conclusion of Plaintiff's direct appeal and has not yet released the requested documents to Plaintiff. However, during the discovery phase of the Criminal Action, more than a year before the 2014 Order, the Government provided extensive discovery to Plaintiff and his standby counsel pursuant to Fed. R. Crim. P. 16(a), including but not limited to digital copies of documents and electronically stored information seized from Plaintiff by law enforcement authorities in Australia and the United States. The discovery included copies of many of the documents Plaintiff now seeks, such as Plaintiff's military records, assorted financial records, and tax filings.

Plaintiff filed the original complaint (the "Complaint") in this action on June 9, 2015. *See* Docket No. 2. By Order dated July 1, 2016, the Court directed service on Defendants. *See* Docket No. 12. That same day, the Clerk of Court docketed a letter from Plaintiff that enclosed a purported amendment to the Complaint (the "Amendment"), which appears to abandon certain demands for relief and add a claim under the Administrative Procedure Act, 5 U.S.C. § 702. *See* Docket No. 11. On August 8, 2016, the Clerk of Court docketed a "Motion for Leave to Amend Plaintiff's Original Complaint" (the "Motion"), which appears to attempt to revive certain demands that were dropped in the Amendment. *See* Docket No. 16. The Court granted the motion to amend the next day. *See* Docket No. 17. Neither the Amendment nor the Motion was separately docketed as a pleading, and neither was served upon Defendants.²

Although it is not entirely clear from the three filings — the Complaint, the Amendment, and the Motion — precisely what claims Plaintiff intends to pursue against Defendants, it appears that he seeks an order directing Defendants to release the documents requested in the 2014 Order, as well as "all . . . [other] materials, and equipment that were seized by the government in 2005 from Plaintiff," such as "computers, laptops, hand-hel[d] computers, servers, electronic media and all data storage and files." *See* Compl. ¶¶ 16–17; Amendment at 3; Motion ¶ C. Plaintiff also alleges that the failure to provide documents in response to the 2014 Order resulted in: (a) an inability to receive proper medical care, Compl. ¶ 25; (b) an inability to discuss a tax filing resulting from his identity allegedly being stolen, Compl. ¶ 26; and (c) an inability to produce citizenship documents and participate in Bureau of Prisons re-entry programs, Compl. ¶ 27. Plaintiff also seeks \$100,000 in damages as well as fees and expenses. Compl. at 5 (Prayer for Relief); Motion ¶ C.

² It appears from the docket that Plaintiff sought leave to serve Defendants through the Court's Electronic Case Filing (ECF) system, *see* Docket Nos. 15, 18, but Defendants' counsel had not yet filed a notice of appearance, and thus service of the Amendment and the Motion via ECF was not effective. Accordingly, Defendants' time to respond to the amended complaint has not yet run. *See* Fed. R. Civ. P. 15(a)(3) ("any required response to an amended pleading must be made within the time remaining to respond to the original pleading, or within 14 days of service of the amended pleading, whichever is later"). Undersigned counsel has now filed a notice of appearance, and therefore will receive electronic service of the amended complaint when it is docketed.

The Honorable William H. Pauley III
Page 3

Defendants' Anticipated Motion

Upon docketing of the amended complaint, Defendants intend to move to dismiss the complaint for lack of subject matter jurisdiction, pursuant to Fed. R. Civ. P. 12(b)(1), as the action is barred by sovereign immunity. Because Plaintiff has sued Defendants only in their official capacities,³ sovereign immunity bars Plaintiff's civil action. "[T]he United States, as sovereign, is immune from suit save as it consents to be sued . . . , and the terms of its consent to be sued in any court define that court's jurisdiction to entertain the suit." *Makarova v. United States*, 201 F.3d 110, 113 (2d Cir. 2000) (quoting *United States v. Mitchell*, 445 U.S. 535, 538 (1980)). "The doctrine of sovereign immunity is jurisdictional in nature, and therefore to prevail, the plaintiff bears the burden of establishing that her claims fall within an applicable waiver." *Id.* (citations omitted). Absent a waiver, the United States is generally immune from suits against federal officers acting in their official capacities. *See Robinson v. Overseas Military Corp.*, 21 F.3d 502, 510 (2d Cir. 1994) (finding action against federal defendants in their official capacities was properly dismissed due to sovereign immunity).

Plaintiff has not established any applicable waiver of sovereign immunity that would permit his civil action to proceed. First, to the extent Plaintiff relies on the Administrative Procedure Act (the "APA"), 5 U.S.C. § 701 *et seq.*, the APA does not waive sovereign immunity with respect to Plaintiff's claims because he has another "adequate remedy in a court." *See* 5 U.S.C. § 704 ("Agency action made reviewable by statute and final agency action for which there is no other adequate remedy in a court are subject to judicial review."). The gravamen of Plaintiff's complaint is the alleged failure of Defendants to comply with the 2014 Order. There are available, proper avenues for the relief Plaintiff seeks in the form of either a motion under Fed. R. Crim. P. 41(g) or an application to the Court in the Criminal Action seeking enforcement of the 2014 Order. *See Ruffo v. United States*, 20 F.3d 63, 65 (2d Cir. 1994) (explaining that a motion for return of seized property made after the termination of criminal proceedings against the defendant should be treated as a civil complaint for equitable relief); *Mendez v. United States*, No. 99 Civ. 3496 (JFK), 2005 WL 1208512, at *2 (S.D.N.Y. May 19, 2005) ("[T]he APA is of no help to [plaintiff] because it does not permit the Court to order any relief over and above the Court's prior Rule 41(g) Order."). The APA also does not waive sovereign immunity when money damages are sought. *See* 5 U.S.C. § 702. Thus, the APA does not provide a waiver of sovereign immunity with regard to the claims asserted in this case.

Second, Plaintiff's conclusory allegations of violation of his First and Fourth Amendment rights (*see* Compl. ¶ 16; Amendment at 4) do not confer jurisdiction because sovereign immunity is not waived for constitutional tort claims against federal officers in their official capacities. *Keene Corp. v. United States*, 700 F.2d 839, 845 n.13 (2d Cir. 1983).

³ Thus, there is no basis to construe Plaintiff's claims as arising under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). Moreover, any *Bivens* claim against Defendants would be barred by absolute prosecutorial immunity because Defendants' alleged conduct was "intimately associated with the judicial phase of the criminal process." *Imbler v. Pachtman*, 424 U.S. 409, 430 (1976); *see also Butz v. Economou*, 438 U.S. 478, 509-11 (1978).

The Honorable William H. Pauley III
Page 4

Third, although Plaintiff does not purport to allege a claim pursuant to the Federal Tort Claims Act (the "FTCA"), to the extent the Court liberally construes the pleadings to assert an FTCA claim, there is no waiver of sovereign immunity here because the FTCA expressly exempts from the waiver "[a]ny claim arising in respect of . . . the detention of any goods, merchandise, or other property by any officer of customs . . . or any other law enforcement officer." 28 U.S.C. § 2680(c); see *Bertin v. United States*, 478 F.3d 489, 492 (2d Cir. 2007). In addition, Plaintiff has not presented any administrative claim, as required before a lawsuit may be filed under the FTCA. See 28 U.S.C. § 2675(a).

Although Plaintiff's lawsuit is jurisdictionally barred, Defendants wish to advise the Court and Plaintiff of the Government's intentions with regard to the seized property. Plaintiff's conviction was affirmed by the Second Circuit on June 8, 2016, and his petition for rehearing was denied on August 5, 2016. See Docket Nos. 150 (Summary Order) & 170 (denial of petition for rehearing), *United States v. Chichakli*, No. 15-4255 (2d Cir.). Plaintiff's conviction will become final, and all direct appeals will be terminated, after the expiration of the time for filing a petition for writ of certiorari with the Supreme Court of the United States or, if such a petition is filed, upon final disposition by the Supreme Court. Once Plaintiff's conviction becomes final, this Office will turn over all of the seized materials in its possession to an appropriate individual designated by Plaintiff to receive them on his behalf.

* * *

We thank the Court for its consideration of this submission.

Respectfully submitted,

PREET BHARARA
United States Attorney for the
Southern District of New York

By: s/ Anthony J. Sun
ANTHONY J. SUN
Assistant United States Attorney
86 Chambers St., 3rd Floor
New York, New York 10007
(212) 637-2810

cc: Richard Chichakli (via First Class Mail)
92036-054 / United HB
Federal Medical Center Devens
P.O. Box 879
Ayer, MA 01432-0879
Plaintiff Pro Se

TRULINCS 92036054 - CHICHAKLI, RICHARD AMMAR - Unit: DEV-H-B

FROM: 92036054
TO:
SUBJECT: Response To AUSA
DATE: 09/26/2016 10:42:17 AM

The Honorable William Pauley, III
United States district Judge
Western District of New York
500 Pearl Street
New York, NY 10007

Subject: Response to Letter by AUSA [Doc 20]
Reference: Chichakli V. Bharara, et. al.
Case NO.: 15-CIV-4583 (WHP)

Hon. Judge Pauley:

Plaintiff Richard Chichakli is in receipt of a copy of the letter addressed to Your Honor from Mr. Sun, the Counsel for Defendants in the instant case, and in which a "Request for Conference" is sought by defendant's attorney.

Plaintiff, is now writing in opposition of the requested conference on the ground that such conference is not necessary given for the fact that this case, is before this Honorable Court for ONE PURPOSE ONLY, and that cause DOES NOT contain a legal question nor a matter against which a "Fancy Lawyers arguments" is necessary.

The matter brought by this Plaintiff before this Honorable Court, ASKING FOR AN ENFORCEMENT OF AN EXISTING COURT ORDER; an Order that was issued by Your Honor nearly TWO YEARS AGO, and to which the defendants DID NOT OBJECT, NOR HAVE APPEALED. The indifference, and careless disregard of the Court's action by defendants is clear.

The Question before this Honorable Court is simple, and it is:

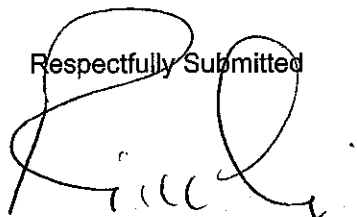
WHETHER THE ORDER YOUR HONOR ISSUED 2-YEARS AGO MEANS SOMETHING OR IT DOES NOT.

Plaintiff, asserts his objection to a Pre-Motion conference given that the matter before this Court is subject to a

Summary judgment motion, which will be sought by Plaintiff upon the submission of Defendant's motion.

Dated: September 26, 2016
Ayer, MA

Respectfully Submitted



Richard A. Chichakli
Pro-Se Plaintiff

TRULINCS 92036054 - CHICHAKLI, RICHARD AMMAR - Unit: DEV-H-B

FROM: 92036054

TO:

SUBJECT: Certificate of Service - NY

DATE: 09/26/2016 10:39:22 AM

CERTIFICATE OF SERVICE

I hereby certify that on September 26, 2016 I filed the attached document with the Clerk of Court. Based on records currently on file in this case, the Clerk of Court will transmit a Notice of Electronic Filing to those registered participants of the Electronic Filing System. Paper notice will be sent via U.S. Postal Service - First Class mail to non-ECF registered participants.

Dated: September 26, 2016
Ayer, MA

Respectfully Submitted

Richard A. Chichakli (Pro-Se)
Plaintiff

Reg# 92036-054
Federal Medical Center -Devens
P.O. Box 879
Ayer, MA 01432



U.S. Department of Justice

United States Attorney
Southern District of New York

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

November 18, 2016

BY ECF

The Honorable William H. Pauley III
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: **United States v. Richard Chichakli**
09 Cr. 1002 (WHP)

Dear Judge Pauley:

I write to inform the Court that I will soon be leaving the United States Attorney's Office and returning to private practice. Accordingly, I respectfully request that the Court order the Clerk to terminate my appearance in this matter. AUSA Ian McGinley will continue as counsel of record for the Government.

Respectfully submitted,

PREET BHARARA
United States Attorney

By: /s/ Christian R. Everdell
Christian R. Everdell
Assistant United States Attorney
(212) 637-2556

cc: Richard Chichakli
Reg. No. 92036-054
FDC Miami
Federal Detention Center
P.O. Box 019120
Miami, FL 33101
(by regular mail)

TRULINCS 92036054 - CHICHAKLI, RICHARD AMMAR - Unit: DEV-H-B

FROM: 92036054
TO:
SUBJECT: NY - Objection and Cross Motion
DATE: 12/12/2016 07:28:19 AM

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

XXXXXXXXXXXXXXXXXXXXXXXXXX

RICHARD A. CHICHAKLI

PLAINTIFF

V.

PREET BHARARA, et. al.

DEFENDANTS

XXXXXXXXXXXXXXXXXXXXXXXXXX

OBJECTION TO DEFENDANTS' MOTION TO DISMISS

AND PLAINTIFF'S

CROSS MOTION FOR SUMMARY JUDGMENT

PURSUANT TO FED.R.CIV.P. 56(c)

CASE NO. 15-CIV-4583 (WHP)

PLAINTIFF Richard A. Chichakli, an incarcerated Pro-Se Plaintiff, objects to Defendants' motion to dismiss plaintiff's complaint [DOC-], and is hereby moves this Honorable Court for a Summary Judgment in the instant case pursuant to Rule 56(c) of the Federal Rules of Civil Procedure.

DEFENDANTS' MOTION TO DISMISS

Defendants' Motion to dismiss is based on arguments that are unrelated to the subject matter of this case. The instance case addresses the subject matter of "Plaintiff's request to enforce a standing Court Order", an order which was issued by this very Court two-years ago." This is what this case is all about, there is nothing else in the complaint of this Plaintiff.

On the other hand, defendants fueled by an Evil intent to inflict the utmost harm possible upon this plaintiff, have intentionally, deliberately, and with callous indifference disregarded the Order issued by this Court in Dec 2014. Defendants refused to abide by the Court throughout the past two-years , are now attempting to avoid the inevitable by creating theories and issues that are inapplicable to the Order issued by this Court.

Defendants FALSELY CLAIMED that a "copy of the requested documents was provided to Plaintiff", that is a false claim in-fact and in-deed because:

-
- 1- The said "coded copy" which was provided on government computer was taken away immediately upon the completion of the trial.

 - 2- Financial records including tax records, bank records, and ALL OTHER RECORDS related to Plaintiff's existence and which ALL PRE-DATE the alleged "offense", AND ALL where investigated for TEN-YEARS on the account of of the unrelated THREE-GRAND JURY - investigation of 2002; ALL OF THESE RECORDS ARE:
 - a) NOT related to alleged offense of case 06-CRI-1002, and PRE-DATE the alleged offense by DECADES;
 - b) The government is ILLEGALLY POSSESSING AND HAS ILLEGALLY SEARCHED such records (Texas Document) WHITHOUT A WARRANT; and
 - c) The Court has ORDERED the release of the ORIGINALS - not copies.

FURTHERMORE;

AS OF NOVEMBER 15, 2015 The President of the United States has ordered the removal of sanctions against this Plaintiff; thus, ALL of Plaintiff's Property - INCLUDING - the property subject to this legal action MUST be returned to this Plaintiff as of Nov 15, 2015. DEFENDANTS HAS NO LEGAL RIGHTS TO POSSESS Dallas property, nor to keep NOR Search without a Warrant any of Plaintiff's (Texas Records of OFAC 2005 action).

Defendants' withholding of Plaintiff's Texas-Documents HAS CREATED SUBSTANTIAL FINANCIAL DAMAGE to Plaintiff, and the continued withholding of the UNRELATED - 2005 financial and bank records of Plaintiff is further aggribating the damages. Plaintiff RESERVES ALL RIGHTS and Declares his intention to bring legal actions against these defendants for recovery of financial losses pursuant to Tucker Act in the Proper venue.

DEFENDANTS FAILED TO APPEAL

Defendants had the right, back in 2014 to ask the Court for reconsideration of its order, as well had the right to appeal the order to the Second Circuit; however, their arrogance and apparent lack of respect to this Court made then think that their mere disregard is sufficient.

Defendants' arrogance and evil intent to inflict pain upon this plaintiff motivated them disregard his countless requests to release the documents as ordered by the Court in 2014; documents that are essential for his file in the BOP and for his plan of release, and halfway house compliance among other ESSENTIAL matters.

DEFENDANTS, driven by an EVIL DESIRE INTENDED TO HARM THIS PLAINTIFF in vengeance for all that transpired in the matters related to Victor Bout since 2008. By their refusal to obey the Court's Order, Defendants have indeed violated this Plaintiff's Constitutional Rights; namely the Due Process, by their deliberate indifference.

Defendants have OBJECTIVELY AND SUBJECTIVELY violated this plaintiff's rights as in Farmers v. Brennan, 511 U.S. 825, 834, 114 S. Ct. 1970, 128 L.Ed. 2d 811 (1994). Defendants' action intent with malice to inflict pain and suffering upon this plaintiff.

The documents ordered released by the Court are not part of the evidence admitted in a proceeding, nor bare relevance, or impact on the tried case or its re-trial. Possible re-trial is a meaningless excuse used now as a pivot-point by defendants to create a "way-out" from the unquestionable position of having disrespected and disregarded the Court's order.

NEITHER PLAINTIFF Social Security Card, NOR his Bar-Mitzvah papers, NOR his Drivers' License or State ID is, the least relevant to any trial. NOT Plaintiff's U.S. Army Decoration and service Records, Nor his service records with the U.S Department of justice or Department of Defense, or certain other U.S. Government Agency were allowed in the trial. All of the said documents were kept away from the jury at the request of these defendants; thus, the documents are unrelated and must be returned. There is no "ABSOLUTE IMMUNITY CLAIM" against a Court Order, Nor there is any "Qualified Immunity Claim" for the defendants ARE AWARE THAT SUCH ORDER EXISTS.

Qualified immunity shield government officials from damages suits "insofar as their conduct does not violate clearly established statutory or constitutional right of which a reasonable person would have known." Harlow v. Fitzgerald, 457 U.S. 800, 818, 102 S. Ct. 2727, 73 L. Ed. 2d 396 (1982). A qualified immunity defense is established if "(a) the defendant's action did not violate clearly established law, or (b) it was objectively reasonable for the defendant to believe that his action did not violate such law." Tierney v. Davidson, 133 F. 3d 189, 196 (2d Cir. 1998)

IT IS IRREFUTABLE FACT that defendants have FAILED to TIMELY petition this Court to reconsider - assuming that a ground for such reconsideration exists; and it is IRREFUTABLE that defendants have failed to TIMELY appeal the Court's Order of 2014. TWO YEARS have already passed, and these defendant are trying now to negotiate an escape from the reality of being sued to enforce a binding Court Order upon them.

"To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state

claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S. Ct. 1937, 173, L. Ed. 2d 868 (2009) (quoting *Bell Atl. Corp. v. Twobly*, 550 U.S. 544, 570 127 S. Ct. 1955, 167 L. Ed. 2d 929 (2007)). This standard is met "when the plaintiff pleads factual content that allows the Court to draw the reasonable inference that defendant is liable for the misconduct alleged." The Court must accept all well-pleaded factual allegations in the complaint as true, and draw all reasonable inference in the plaintiff's favor. See: *Chambers v. Time Werner, Inc.*, 282 F.3d 147, 152 (2d Cir. 2002).

Plaintiff's complaint and pleadings CLEARLY REQUEST AN ENFORCEMENT OF AN EXISTING COURT'S ORDER
THUS; dismissal of Plaintiff's complaint is improper in accordance with the Supreme Court Case in *Ashcroft* (supra).

PLAINTIFF'S MOTION FOR A SUMMARY JUDGMENT

Courts will grant Summary Judgment under Rule 56(c) of the federal Rules of civil Procedure if the pleadings, discovery, and disclosure materials on file, and any affidavits, show that there is no genuine issue as to any material fact, and that the moving party is entitled to judgment as a matter of law" Rule-56(c)2 Fed. R. Civ. P.

Plaintiff asserts that he is entitled to judgment as a matter of law, because he is seeking enforcement of a Court Order, issued by this very Court nearly two-years ago. Further asserting that defendants HAVE NEVER - TIMELY opposed, objected, or protested the said Court Order; AND the defendants DID NOT appeal the Court's Order, nor such appeal is now available for the time to appeal has already passed long-time ago.

Defendants are WITHHOLDING DOCUMENTS THEY SEARCHED ILLEGALLY WITHOUT WARRANTS in 2013; namely, ALL the documents and electronic assets obtained from Plaintiff's offices and various properties in Texas in 2005. Defendants do not have legal ground to hold these documents, and these documents are ALL DATED TO TIME PERIOD 3-years earlier than the alleged offense of 2007; thus, it was-not before, and could-not later be used in the imaginary "re-trial theory" these defendants have now invented.

Defendants, are trying to make a "case" and "invent causes" to maintain their arrogant disrespect to the orders issued by this Court which does not favor the government; Thus, this case is simple and there is no question of law in this case. In this case, and simply stated;

THERE IS A COURT ORDER, ISSUED BY A JUDGE IN GOOD STANDING, AND THE ORDER IS NOT SUBJECT TO ANY "IMMUNITY", AND APPEAL IS TIME-BARED AFTER TWO YEARS OF WAITING.

ALL the delusional creations and meaningless arguments brought by the defendants' Motion mounts to smoke-screens intended to conceal the reality of the matter before this Court; which is defendant's disregards to Court's Order that was ISSUED BY THIS COURT two years ago.

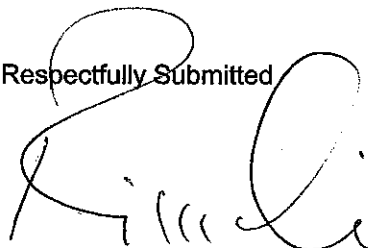
This Court is obligated, under the "Equal treatment under the law" to consider Defendant's "dislike" of the order, which is being voiced anew now, equal to Plaintiff's dislike of the Court's Orders which favored these defendants. The Constitutionally required impartiality of this Court is expected.

ACCORDINGLY;

Plaintiff prays that this Honorable Court dismiss Defendants' motion for dismissal, and grants his motion for Summary judgment, in affirmation of justice and that THE SAME STANDARD, and equal protection under the law applies to all the citizens under the Constitution of the United States.

Dated: December 13, 2016
Ayer, MA

Respectfully Submitted



Richard A. Chichakli (Pro-Se)
Plaintiff

FROM: 92036054

TO:

SUBJECT: Certificate of Service - NY


DATE: 12/12/2016 07:29:37 AM

CERTIFICATE OF SERVICE

I hereby certify that on October 14, 2016 I filed the attached document with the Clerk of Court. Based on records currently on file in this case, the Clerk of Court will transmit a Notice of Electronic Filing to those registered participants of the Electronic Filing System. Paper notice will be sent via U.S. Postal Service - First Class mail to non-ECF registered participants.

Dated: December 13, 2016
Ayer, MA

Respectfully Submitted



Richard A. Chichakli (Pro-Se)
Plaintiff

Reg# 92036-054
Federal Medical Center -Devens
P.O. Box 879
Ayer, MA 01432



*United States Attorney
Southern District of New York*

*86 Chambers Street
New York, New York 10007*

January 27, 2017

BY ECF

The Honorable William H. Pauley III
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1920
New York, NY 10007

Re: *Chichakli v. Bharara*,¹ *et al.*, No. 15 Civ. 4583 (WHP)

Dear Judge Pauley:

This Office represents the defendants, United States Attorney Preet Bharara and former Assistant United States Attorney Christian Everdell (collectively, "Defendants"), in the above-referenced action brought by Richard Chichakli ("Plaintiff"), who is proceeding *pro se*. I write respectfully regarding the status conference set for February 2, 2017, at 11:30 a.m.

Plaintiff is incarcerated at Federal Medical Center Devens and must appear at the conference by telephone. This Office has been advised by the Bureau of Prisons that the facility requires an order from the Court directing the facility to produce Plaintiff for any telephonic appearance. Defendants respectfully submit the enclosed proposed order directing the facility to produce Plaintiff for the February 2 conference.

We thank the Court for its consideration.

Respectfully submitted,

PREET BHARARA
United States Attorney for the
Southern District of New York

By: s/ Anthony J. Sun
ANTHONY J. SUN
Assistant United States Attorney
86 Chambers St., 3rd Floor
New York, New York 10007
(212) 637-2810

¹ Defendant Bharara's name is misspelled in the caption as "Bhararra."

The Honorable William H. Pauley III
Page 2

Enclosure

cc: Richard Chichakli (via First Class Mail)
92036-054 / United HB
Federal Medical Center Devens
P.O. Box 879
Ayer, MA 01432-0879
Plaintiff Pro Se

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

RICHARD A. CHICHAKLI,
Plaintiff,

15 Civ. 4583 (WHP)

v.

PREET BHARARA, *et al.*,
Defendants.

[PROPOSED] ORDER

WHEREAS on January 23, 2017, the Court ordered that the parties appear for a pre-motion conference on February 2, 2016, at 11:30 a.m.,

WHEREAS Plaintiff *pro se* Richard A. Chichakli is incarcerated at the Federal Medical Center Devens in Ayer, MA,

IT IS HEREBY ORDERED that the Warden or other official in charge of the Federal Medical Center Devens produce Plaintiff Richard Chichakli, No. 92036-054, on February 2, 2017, no later than 11:30 a.m., to a suitable location within the facility that is equipped with a telephone, for the purpose of participating by telephone in a conference with the Court and defense counsel,

IT IS FURTHER ORDERED that if this time and date presents an inconvenience, the Warden or the Warden's designee should promptly inform Chambers by calling the Courtroom Deputy at (212) 805-6387, and

IT IS FURTHER ORDERED that defense counsel must: (1) send this Order to the appropriate official at the Federal Bureau of Prisons immediately, and (2) contact the facility identified above to determine the telephone number at which the Plaintiff will be reachable at the time and date of the conference.

The Court will mail Plaintiff a copy of this Order.

SO ORDERED:

THE HONORABLE WILLIAM H. PAULEY III
UNITED STATES DISTRICT JUDGE

Dated: New York, New York
January __, 2017

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

RICHARD A. CHICHAKLI,
Plaintiff,

15 Civ. 4583 (WHP)

v.

PREET BHARARA, *et al.*,
Defendants.

ORDER

WHEREAS on January 23, 2017, the Court ordered that the parties appear for a pre-motion conference on February 2, 2016, at 11:30 a.m.,

WHEREAS Plaintiff *pro se* Richard A. Chichakli is incarcerated at the Federal Medical Center Devens in Ayer, MA,

IT IS HEREBY ORDERED that the Warden or other official in charge of the Federal Medical Center Devens produce Plaintiff Richard Chichakli, No. 92036-054, on February 2, 2017, no later than 11:30 a.m., to a suitable location within the facility that is equipped with a telephone, for the purpose of participating by telephone in a conference with the Court and defense counsel,

IT IS FURTHER ORDERED that if this time and date presents an inconvenience, the Warden or the Warden's designee should promptly inform Chambers by calling the Courtroom Deputy at (212) 805-6387, and

IT IS FURTHER ORDERED that defense counsel must: (1) send this Order to the appropriate official at the Federal Bureau of Prisons immediately, and (2) contact the facility identified above to determine the telephone number at which the Plaintiff will be reachable at the time and date of the conference.

~~The Court will mail Plaintiff a copy of this Order.~~ The Government is directed to either mail a copy of this Order to Plaintiff, or to inform Plaintiff of the status conference scheduled for February 2, 2017.

SO ORDERED:



WILLIAM H. PAULEY III
U.S.D.J.

Dated: New York, New York
January 30, 2017

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
:
RICHARD A. CHICHAKLI, :
: 15cv4583
Plaintiff, :
:
-against- : ORDER
:
PREET BHARARA, *et ano.*, :
:
Defendants. :
-----X

WILLIAM H. PAULEY III, District Judge:

The parties in this civil action appeared for a status conference on February 2, 2017 to discuss the Government’s request for leave to file a motion to dismiss. But any motion in this action is moot because of the Government’s agreement to produce all documents, electronic devices, and other property seized in connection with the criminal action¹ (the “Seized Property”) that is in its possession.

Because Chichakli’s complaint in this action now seeks only one form of relief—the return of the Seized Property—the Government’s agreement to return the Seized Property effectively ends this action.

Chichakli designated Gloria Catha at 2625 Van Buren Drive, Plano, Texas 75074 as his designee to receive the Seized Property during the period of his incarceration. Accordingly, the Government is directed to return the Seized Property and an inventory of those materials to Gloria Catha in Plano, Texas as soon as practicable.

The Clerk of Court is directed to amend the caption of this action to correct the spelling of Defendant Preet Bharara, terminate all pending motions, and mark this case as closed.

¹ The criminal action is styled United States v. Chichakli, 09-cr-1002-WHP-2.

The Government is directed to provide a copy of this Order to Chichakli and to mail a copy to Gloria Catha.

Dated: February 2, 2017
New York, New York

SO ORDERED:



WILLIAM H. PAULEY III
U.S.D.J.

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 RICHARD A. CHICHAKLI, .

4 Plaintiff,

5 v.

15 Civ. 4583 (WHP)

6 PREET BHARARRA, et al.,

Telephone Conference

7 Defendants.

8 -----x
9 New York, N.Y.
10 February 2, 2017
11 11:35 a.m.

12 Before:

13 HON. WILLIAM H. PAULEY III

District Judge

14
15
16
17
18 APPEARANCES

P 11/12:16

19 RICHARD A. CHICHAKLI (tel.)
20 Plaintiff pro se

21 PREET BHARARA
22 United States Attorney for the
23 Southern District of New York
24 Attorney for Defendant

25 ANTHONY SUN
Assistant United States Attorney

1 (Case called; in the robing room)

2 THE COURT: Good morning. Before we get to the
3 purpose of this conference, Mr. Chichakli, tell me, how are you
4 doing?

5 MR. CHICHAKLI: I am doing very well. Thank you for
6 asking, your Honor.

7 THE COURT: I take it you are in Massachusetts now?

8 MR. CHICHAKLI: At this time, yes, sir, I am there. I
9 will be there for the next five days, and, God willing, after
10 that I'll be going to Texas, sir.

11 THE COURT: When are you going into a halfway house?

12 MR. CHICHAKLI: That will be the 9th, God willing,
13 sir. The 9th of February will be pretty much next Wednesday, I
14 believe. Perhaps Thursday, I'm corrected, sir.

15 THE COURT: Good.

16 MR. CHICHAKLI: Thank you, sir.

17 THE COURT: Let me begin with the government. Mr.
18 Sun, why don't you tell me where we are. I know that the
19 government submitted a letter a long time ago to me requesting
20 a conference. There were reasons why we put this off. Quite
21 frankly, I can't recall what they were. Maybe you remember.
22 Bring me up to speed.

23 GOVT. COUNSEL: Your Honor, I actually don't know why
24 it was put off. It was a decision that didn't involve
25 defendants.

1 I want to say as an initial matter, I reviewed the
2 letter we submitted last week to your Honor. There was one
3 misstatement I want to correct. Mr. Chichakli did file
4 opposition to our September 20th letter. I neglected to
5 realize that when I filed it. So I want to correct that
6 misstatement.

7 In terms of where we are, your Honor, as detailed in
8 our pre-motion letter, this is an action taken directly against
9 the U.S. Attorney and one of the Assistant United States
10 Attorneys who handled Mr. Chichakli's underlying criminal case.
11 For the reasons stated in our letter, we believe that the Court
12 doesn't have jurisdiction over the claim, the claim being a
13 claim for damages and return of property that was seized as
14 part of the underlying criminal case.

15 Putting aside the merits of Mr. Chichakli's action
16 that he has filed, as we indicated at the Court in September
17 and reaffirmed just last week, Mr. Chichakli's conviction is
18 now final, and the government is prepared to turn over the
19 seized materials to Mr. Chichakli or, because he is still
20 incarcerated, to his designee, assuming there is no reason why
21 the designee could not receive the materials.

22 MR. CHICHAKLI: Your Honor, if I may, the voice is a
23 bit lower than what I may possibly could grasp 100 percent.

24 THE COURT: Mr. Chichakli, what the government is
25 saying is that now that your conviction is final, the govern-

1 ment is prepared to deliver the materials, the originals, in
2 its possession to you or your designee. But because you are
3 incarcerated, it likely has to be your designee.

4 I understand that you have a claim for damages here as
5 well. That is going to have to be addressed through the
6 government's motion because they are seeking to dismiss the
7 case principally on the grounds of sovereign immunity. You
8 have seen their letter and you have responded to it.

9 The more immediate thing from my perspective is to
10 ensure that you have the documents that you believe you need
11 while you continue to be incarcerated, whether it's in
12 Massachusetts or at a halfway house. What would you like to do
13 in that regard?

14 MR. CHICHAKLI: If I may, sir, I would like to address
15 the government's issued points. The first one is concerning
16 the damages. As to damages, I did file, sir, timely an amend-
17 ment to the claim. I asserted in the amended claim, which has
18 been served duly on the government, that I am not requesting
19 damages through this venue. It is improper venue based on the
20 law, based on Chichakli v. Condoleezza Rice.

21 Namely, the government asserted that any claim in
22 excess of \$10,000 rightfully should be brought exclusively to
23 jurisdiction in the United States Court of Federal Claims. As
24 such, I did amend this request. The request is purely for the
25 documents, and that will include the documents which I asserted

1 had been in the possession of the government illegally, the
2 Texas records. There is no financial damages requested in this
3 petition.

4 THE COURT: All right. To the extent that the case is
5 just about the return of these documents to you, the government
6 is willing to return them at this point now that your
7 conviction is final. Do you want to designate your daughter or
8 someone to receive these materials? The government will send
9 them to you, and that could be the end of this case.

10 MR. CHICHAKLI: That is incorrect, sir. The
11 government has in its possession documents that should not be
12 in its possession, namely the 2005 documents. They did not
13 obtain this legally. I am asserting not they have the right to
14 it. I was removed from sanctions by executive order 13710 on
15 November 15. As such, all the assets that are in the
16 possession of the U.S. Attorney, the defendants in this case,
17 in Southern District of New York, all of these assets are held
18 illegally, I am asserting taken. I further declare that I am
19 in the process of filing separate claim including this
20 defendant against the United States government for illegal
21 taking.

22 What I'm asking for, sir, as per this amended --

23 THE COURT: Hold on one second. There is an
24 announcement going on behind you and it is difficult to hear.

25 MR. CHICHAKLI: I am very sorry, sir. It is beyond my

1 control.

2 THE COURT: Right. Go ahead.

3 MR. CHICHAKLI: The question is not only the
4 documents. My amended complaint stated that I am requesting
5 all the documents, including those servers, the computers, the
6 financial documents in particular, and the tax records which
7 was seized in 2005 not by this case nor on accord of this case.
8 The absence of this for the last year cost me millions of
9 dollars literally because I am unable to assert where are my
10 assets, in which banks. The refusal of that, that's caused
11 serious damage, serious financial damage. Again, as I said,
12 it's in the millions.

13 The records, they refused to give it. I do further
14 push that I do have a claim against the government for having
15 these documents, and the giving back of the documents at this
16 point does not render this case moot, sir. I do have my legal
17 reference. We will file it in the due course as this Court
18 might see fit.

19 THE COURT: I thought you told me a few moments ago
20 that your claim for damages against the government had to be in
21 the Court of Federal Claims.

22 MR. CHICHAKLI: This is the financial damages,
23 correct, sir. There are certain other damages that are not
24 financial, sir.

25 THE COURT: What would be an example of nonfinancial

1 damages?

2 MR. CHICHAKLI: An example, sir, will be missing
3 diamonds. There are certain records in the trial that relate
4 to the case of '09, which is the criminal case against the
5 plaintiff in this case. The records indicate clearly that the
6 U.S. Attorney had possession of a certain box full of diamonds
7 as stated in the court's room, own records. At this point of
8 time we are having a serious problem: a certain where is the
9 missing inventory turned missing. This is one of the
10 instances.

11 We do not know the extent, sir, of the damage because
12 we know there are certain packages that was not there. Mr.
13 Kirton, I don't know if you would recollect, sir, stated that
14 he had offered the box full of diamonds, cash, and other
15 materials. I do not have the records in front of me, but it is
16 in the records of the conference at that point. The Court did
17 not dwell on it really in any substance at that point of time.
18 That was in 1914, sir.

19 THE COURT: Let me go back to my question for a
20 minute. This particular civil action that you filed seeking
21 the return of your papers and other effects and computers that
22 the government seized, that's what this case document No. 15 CV
23 4583 is about, as I understand it. The government is now
24 saying that because your conviction is final, they are willing
25 to deliver everything that they seized and to deliver it to

1 your designee because you are in the custody of the Bureau of
2 Prisons or to you upon your release, which I think is scheduled
3 for June 11th of this year.

4 MR. CHICHAKLI: That's incorrect, sir. I am expected
5 to be in my house soon after arriving to Texas on the 9th.

6 THE COURT: Good. Do you want the government to
7 deliver all of the papers, computers, and whatnot that were
8 seized to you at home?

9 MR. CHICHAKLI: That is correct, sir. That is what
10 I'm requesting in this complaint before your Honor.

11 THE COURT: Hang on one second.

12 Mr. Sun, am I correct to understand that the
13 government is willing to do that?

14 MR. SUN: Yes, your Honor.

15 THE COURT: They are willing to do that. That would
16 moot this particular case, which seeks only the return of all
17 of the materials that were seized.

18 MR. CHICHAKLI: I do believe, sir, that mootness, by
19 election of the government's possession/illegal holding of this
20 material is illegal, as I'm asserting at this point, does not,
21 based on what I have read, sir, if I may say, render this case
22 moot. At this point of time it is three years after this
23 honorable Court has issued that order to deliver.

24 They complicated my life as much as they can. I do
25 have, as I said, other than financial damages. The financial

1 damages, I shall and I am in the process of asserting those
2 against the United States government in the United States Court
3 of Federal Claims pursuant to the Tucker Act.

4 THE COURT: We understand that and we are not arguing
5 with that. The government is prepared to deliver it. Where do
6 you want it delivered?

7 MR. CHICHAKLI: I request to have this delivered to my
8 residence, the same place where they took it, which happened to
9 the in the state of Texas. I did deliver an address to your
10 Honor, but I can state that address, if that is required, one
11 more time.

12 THE COURT: State it right here on the record.

13 MR. CHICHAKLI: Yes, sir. I requested the documents,
14 including all the computers, the materials seized in 2005, the
15 material not used in a court from Australia, and I requested
16 delivered to the state of Texas, namely, to 2625 Van Buren
17 Drive in the city of Plano, P-L-A-N-O, state of Texas. The ZIP
18 code at that location is 75074, sir.

19 THE COURT: 75074?

20 MR. CHICHAKLI: The readback is correct, sir.

21 THE COURT: Should the person to whom the government
22 sends this material at that address be named as you or someone
23 else?

24 MR. CHICHAKLI: That could be myself, sir. It depends
25 when it's going to be delivered. As I said, my scheduled

1 release from this prison to, as they call -- I don't know what.
2 They have a different name for the halfway house. There is a
3 reentry process. It's February 9th, sir, I am expected to
4 arrive there. I'm expected to remain there based on a filing
5 that this facility has placed in a court of law in relation to
6 this issue. They said shortly thereafter. I cannot really
7 determine what "shortly" means, but it is within an expected
8 week or two.

9 However, I can name a designee who is going to receive
10 the items. Thus I do request an inventory of these items, sir.

11 THE COURT: Who is the designee who presumably resides
12 at 2625 Van Buren Drive?

13 MR. CHICHAKLI: At this point in time, sir, the
14 designee is not going to be the person who resides. Who
15 resides in 2625 temporarily for now is my son David Chichakli.
16 Designee will be either my ex-spouse, Ms. Gloria --

17 THE COURT: Wait. Mr. Chichakli, before you go too
18 far, the government is willing to send the materials to your
19 designee. They can't just send something to an address without
20 any name. You've given us an address. I presume that somebody
21 in your family lives at that address. If you tell us that will
22 be the designee, then they can send this stuff to that person,
23 care of that person.

24 MR. CHICHAKLI: Your Honor, lives there is my son
25 David Chichakli. However, David may or may not be. But I will

1 name three persons who can receive this at that address, if
2 that is satisfactory to the Court.

3 THE COURT: I just need one person. Just designate
4 one person here on the record. Then the government will send
5 all of the materials to that person at 2625 Van Buren Drive,
6 Plano, Texas.

7 MR. CHICHAKLI: That designee, sir, will be Ms. Gloria
8 last name is spelled as C-A-T-H-A.

9 THE COURT: C-A-T-H-A?

10 MR. CHICHAKLI: That's correct, your Honor.

11 THE COURT: Mr. Sun, do you want to be heard?

12 MR. SUN: To clarify, I spoke with the Assistant U.S.
13 Attorney who is now in charge, as Mr. Everdell has left the
14 office. My understanding is it will take a couple of weeks to
15 get there.

16 THE COURT: It is going to take a couple of weeks.

17 MR. CHICHAKLI: That sounds favorable to everybody,
18 sir.

19 THE COURT: You have designated Gloria Catha at 2625
20 Van Buren Drive, Plano, Texas, 75074 to receive the materials.

21 MR. CHICHAKLI: That is correct, sir. If I may add a
22 phone number at that address just in case.

23 THE COURT: Why not.

24 MR. CHICHAKLI: The landline in that address is 469
25 area code, sir, 366-9176. That is the landline at that address

1 should that be required.

2 THE COURT: Fine. Now let me turn to a question that
3 I asked earlier. The relief that you are seeking in this
4 particular case is the return of all of the papers, computers,
5 and other materials that were seized in connection with the
6 government's investigation. The government has now agreed to
7 return all of those materials. What else do you want out of
8 this particular lawsuit?

9 MR. CHICHAKLI: Out of this particular lawsuit, sir,
10 what is needed is, as your Honor stated, all the materials that
11 will include the materials seized by the government in
12 connection with the so-called Summer Airline case, which is the
13 criminal case, as well as the material which I assert at this
14 time illegally obtained and searched, which is Texas records.
15 That is all the materials, the assets in 2005. I'm requesting
16 all of these.

17 THE COURT: Without agreeing with you that they were
18 illegally seized, the government is agreeing that all of the
19 material is going to be returned and delivered to Gloria Catha.
20 What else is left in this lawsuit?

21 MR. CHICHAKLI: In this lawsuit, sir, that's all
22 required. I do reserve the rights as required to for me to
23 state to pursue the damages claim.

24 THE COURT: Right. But that will be --

25 MR. CHICHAKLI: In a different court.

1 THE COURT: That will be in the court of claims.

2 MR. CHICHAKLI: That is correct, sir.

3 THE COURT: Here now, at the end of the day, it's
4 taken us a while to get to it I think, but there is no need for
5 the government to be filing a motion to dismiss this case for
6 lack of subject matter jurisdiction or for you to be opposing
7 the motion. I can enter an order that simply recites the facts
8 that we have just discussed on the record -- namely, that the
9 government has agreed to return all the materials, that you
10 have designated Gloria Catha -- and accordingly I can close
11 this case.

12 MR. CHICHAKLI: I think that fits if your Honor sees
13 that equitable the way it is, sir.

14 THE COURT: I think that does it. I know that I still
15 have other matters with you. Now I'm just talking to you
16 generally because I think we have disposed of this action.
17 Have you started to make arrangements and plans for what you
18 are going to do when you are released?

19 MR. CHICHAKLI: In what regard, sir?

20 THE COURT: In terms of a job and that sort of thing.

21 MR. CHICHAKLI: No, sir. It's very difficult to
22 obtain this phase because of the fact that employers use the
23 Internet substantially at this time and stage, and there is no
24 favorable information in there, sir. Of course, I'm not going
25 to cease trying. However, God's willing, there will be some

1 success, God's willing.

2 THE COURT: I certainly hope so. As I told you when I
3 sentenced you, you have a lot of talents that you can bring to
4 bear. Like the talents that you used with your prior military
5 service, there is much that you can do to help the country that
6 has adopted you. I hope that you will devote yourself to that.

7 MR. CHICHAKLI: I shall never spare any moment or
8 effort that I can put toward doing such honorable things, sir.

9 THE COURT: I wish you good luck upon your release,
10 Mr. Chichakli.

11 MR. CHICHAKLI: Thank you very much, your Honor. And
12 I thank Mr. Sun for bearing with me through this successful
13 effort by them.

14 THE COURT: Hold on one second. Mr. Sun has just
15 signaled that he would like to be heard. Go ahead.

16 MR. SUN: Yes, your Honor. I want to make one thing
17 clear which we said in our September 20th letter. The govern-
18 ment does not possess originals of some of the documents Mr.
19 Chichakli requested. We possess copies. Just so the scope of
20 the order is clear. Anything that our office is in possession
21 of, I understand it includes computers and other confinement
22 seized, we will turn those over. But to the extent that we
23 don't have them, we can't turn it over.

24 THE COURT: You can't produce what you don't have.

25 MR. SUN: Right, your Honor.

1 THE COURT: All right. Very well. Good luck, Mr.
2 Chichakli.

3 MR. CHICHAKLI: Thank you, your Honor. I'm grateful
4 for all of your help, sir.

5 THE COURT: Be well.

6 (Adjourned)

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*United States Attorney
Southern District of New York*

*86 Chambers Street
New York, New York 10007*

February 28, 2017

BY ECF

The Honorable William H. Pauley III
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1920
New York, NY 10007

Re: *Chichakli v. Bharara, et al.*, No. 15 Civ. 4583 (WHP)

Dear Judge Pauley:

This Office represents the defendants, United States Attorney Preet Bharara and former Assistant United States Attorney Christian Everdell (collectively, "Defendants"), in the above-referenced action brought by Richard Chichakli ("Plaintiff"), who is proceeding *pro se*. I write respectfully to provide a status update to the Court.

Following the Court conference on February 2, 2017, the Court entered an order (the "Order") closing the case in light of the Government's agreement to produce all documents, electronic devices, and other property seized in connection with the criminal action, *United States v. Chichakli*, 09-cr-1002-WHP-2, that are in the Government's possession (the "Seized Property"). The Order directed the Government "to return the Seized Property and an inventory of those materials to Gloria Catha [Plaintiff's designee] in Plano, Texas as soon as practicable."

This morning, DEA Special Agent Paul Larsen and Assistant United States Attorney Ian McGinley spoke with Plaintiff by phone. Plaintiff answered the phone number provided for Ms. Catha. During this call, Plaintiff requested that the materials be delivered to him, and not Ms. Catha, at the same 2625 Van Buren Drive address in Plano, TX listed in the Order. The Government informed Plaintiff that it would deliver the Seized Property to him in Texas no later than the end of March.

The Government has been making necessary preparations to return the Seized Property, and to that end, Special Agent Larsen is preparing an inventory in accordance with the Order. He will personally deliver the items to Plaintiff to ensure that all inventoried items are delivered and acknowledged as received.

The Honorable William H. Pauley III
Page 2

We thank the Court for its consideration of this letter.

Respectfully submitted,

PREET BHARARA
United States Attorney for the
Southern District of New York

By: s/ Anthony J. Sun
ANTHONY J. SUN
Assistant United States Attorney
86 Chambers St., 3rd Floor
New York, New York 10007
(212) 637-2810

cc: (via First Class Mail)
Richard Chichakli
Plaintiff Pro Se
Reg. No. 92036-054
800 W. Wintergreen Road
Hutchins, TX 75141

- and -

2625 Van Buren Drive
Plano, TX 75074



*United States Attorney
Southern District of New York*

*86 Chambers Street
New York, New York 10007*

March 22, 2017

BY ECF

The Honorable William H. Pauley III
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1920
New York, NY 10007

Re: *Chichakli v. Bharara, et al.*, No. 15 Civ. 4583 (WHP)

Dear Judge Pauley:

This Office represents the defendants, former United States Attorney Preet Bharara and former Assistant United States Attorney Christian Everdell (collectively, "Defendants"), in the above-referenced action, now closed, brought by Richard Chichakli ("Plaintiff"), who is proceeding *pro se*. I write respectfully to provide a further status update to the Court.

In Defendants' February 28, 2017, letter to the Court, we indicated that we expected DEA Special Agent Paul Larsen to personally deliver the Seized Property (as that term is defined in the Court's February 2, 2017, Order) to Plaintiff at his Plano, TX residence no later than the end of March. We anticipate meeting that deadline, but the method of delivery has changed.

This Office, along with Special Agent Larsen, have gathered the materials in the Office's possession and have prepared them to be delivered to Plaintiff. However, because of the volume of the materials, which include over 30 boxes of materials and several bulky pieces of computer equipment, Special Agent Larsen is unable to deliver them to Plaintiff personally. Instead, this Office must send the bulk of the materials to Plaintiff via Federal Express secure delivery, one pallet at a time. The first shipment is expected to go out today, with approximately three more shipments expected in the coming days, and all are expected to arrive before month's end. A small number of items that in the possession of the DEA, and not this Office, will be personally delivered by Special Agent Larsen to Plaintiff before the end of the month.

The Honorable William H. Pauley III

Page 2

We thank the Court for its consideration of this letter.

Respectfully submitted,

JOON H. KIM

Acting United States Attorney for the
Southern District of New York

By: s/ Anthony J. Sun

ANTHONY J. SUN

Assistant United States Attorney

86 Chambers St., 3rd Floor

New York, New York 10007

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cc: (via First Class Mail)
Richard Chichakli
2625 Van Buren Drive
Plano, TX 75074
Plaintiff Pro Se



*United States Attorney
Southern District of New York*

*86 Chambers Street
New York, New York 10007*

April 7, 2017

BY ECF

The Honorable William H. Pauley III
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1920
New York, NY 10007

Re: *Chichakli v. Bharara, et al.*, No. 15 Civ. 4583 (WHP)

Dear Judge Pauley:

This Office represents the defendants, former United States Attorney Preet Bharara and former Assistant United States Attorney Christian Everdell (collectively, "Defendants"), in the above-referenced action, now closed, brought by Richard Chichakli ("Plaintiff"), who is proceeding *pro se*. I write respectfully to respond to Plaintiff's letter to the Court dated March 31, 2017.

As indicated in our recent correspondence with the Court, this Office gathered and shipped all of the materials in its possession for delivery to Plaintiff at his Plano, TX residence. The shipments (collectively, the "March Shipments") consisted of several hundred pounds of computer equipment as well as over 30 boxes of materials, which included paper files. Federal Express confirmed delivery of all packages to Plaintiff, who signed proofs of delivery. See Exhibits A-E. In addition, DEA Special Agent Paul Larsen personally delivered the small number of items that were in the possession of the DEA to Plaintiff on March 30, 2017.¹

Plaintiff now alleges that this Office released only "destroyed servers and computers, while deliberately [with]holding . . . [his] Military Records, Naturalization Certificate, AND identification documents." Plaintiff is incorrect. This Office provided all of the materials in its possession to Plaintiff in the March Shipments. As previously stated in our pre-motion letter dated September 20, 2016 (Docket No. 20), this Office generally did not possess originals of the requested documents. To the extent this Office did possess any originals, they would have been included in the March shipments. Thus, Plaintiff is not entitled to any relief and this matter should remain closed. In any event, for the reasons stated in our pre-motion letter, Plaintiff's suit is jurisdictionally barred.

¹ The DEA did not deliver foreign identity documents that were under false names, such as Jihad Almustafa.

The Honorable William H. Pauley III
Page 2

We thank the Court for its consideration of this letter.

Respectfully submitted,

JOON H. KIM
Acting United States Attorney for the
Southern District of New York

By: s/ Anthony J. Sun
ANTHONY J. SUN
Assistant United States Attorney
86 Chambers St., 3rd Floor
New York, New York 10007
(212) 637-2810

cc: (via First Class Mail)
Richard Chichakli
2625 Van Buren Drive
Plano, TX 75074
Plaintiff Pro Se

Exhibit A



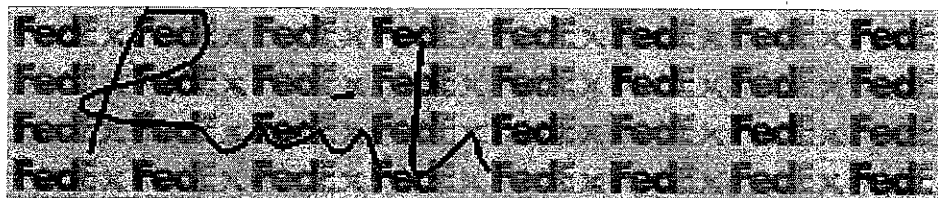
March 28, 2017

Dear Customer:

The following is the proof-of-delivery for tracking number **778714426345**.

Delivery Information:

Status:	Delivered	Delivered to:	Shipping/Receiving
Signed for by:	R.CHICHAKLI	Delivery location:	2625 VAN BUREN DRIVE PLANO, TX 75074
Service type:	FedEx 2Day Freight	Delivery date:	Mar 24, 2017 09:20
Special Handling:	Deliver Weekday Inside Pickup Residential Delivery Additional Handling Surcharge - Non-stackable		



Shipping Information:

Tracking number:	778714426345	Ship date:	Mar 22, 2017
		Weight:	562.0 lbs/254.9 kg

Recipient:
 Richard Chichakli
 C/O
 2625 Van Buren Drive
 PLANO, TX 75074 US

Shipper:
 Records Department
 DEPT OF JUSTICE/EOUSA
 One St. Andrews Plaza
 New York, NY 10007 US
 09 CR 1002 #1
 USA/SS/NYS1/NEWY

Reference
Purchase order number:

Thank you for choosing FedEx.

Exhibit B



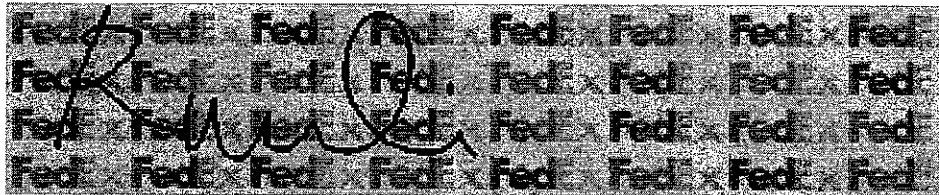
March 28, 2017

Dear Customer:

The following is the proof-of-delivery for tracking number **778734034425**.

Delivery Information:

Status:	Delivered	Delivered to:	Residence
Signed for by:	R.CHICKLALI	Delivery location:	2625 VAN BUREN DRIVE PLANO, TX 75074
Service type:	FedEx 2Day Freight	Delivery date:	Mar 28, 2017 09:30
Special Handling:	Deliver Weekday Residential Delivery Inside Pickup Residential Delivery		



Shipping Information:

Tracking number:	778734034425	Ship date:	Mar 24, 2017
		Weight:	390.0 lbs/176.9 kg

Recipient:
 Richard Chichakli
 C/O
 2625 Van Buren Drive
 PLANO, TX 75074 US

Shipper:
 Records Department
 DEPT OF JUSTICEEUSA
 One St. Andrews Plaza
 New York, NY 10007 US

Reference
Purchase order number:
Invoice number

09 CR 1002 #2
 USA/SS/NYS1/NEWY
 USA/SS/NYS1/NEWY

Thank you for choosing FedEx.

Exhibit C



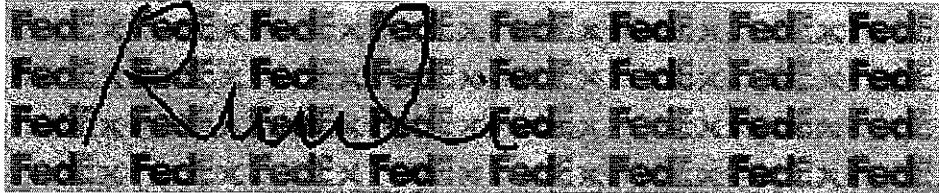
March 29, 2017

Dear Customer:

The following is the proof-of-delivery for tracking number **778746079273**.

Delivery Information:

Status:	Delivered	Delivered to:	Shipping/Receiving
Signed for by:	R.CHICHLIAN	Delivery location:	2625 VAN BUREN DRIVE PLANO, TX 75074
Service type:	FedEx 2Day Freight	Delivery date:	Mar 29, 2017 09:38
Special Handling:	Deliver Weekday Inside Pickup Residential Delivery Additional Handling Surcharge - Non-stackable		



Shipping Information:

Tracking number:	778746079273	Ship date:	Mar 27, 2017
		Weight:	407.0 lbs/184.6 kg

Recipient:
 Richard Chichakli
 C/O
 2625 Van Buren Drive
 PLANO, TX 75074 US

Shipper:
 Records Department
 DEPT OF JUSTICEEOUSA
 One St. Andrews Plaza
 New York, NY 10007 US

Reference
Purchase order number:
Invoice number

09 CR 1002 #3
 USA/SS/NYS1/NEWY
 USA/SS/NYS1/NEWY

Thank you for choosing FedEx.

Exhibit D



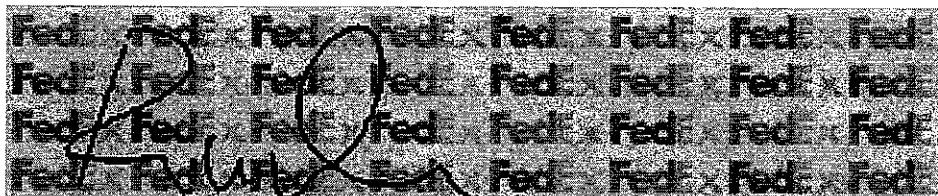
April 3, 2017

Dear Customer:

The following is the proof-of-delivery for tracking number **778750529231**.

Delivery Information:

Status:	Delivered	Delivered to:	Residence
Signed for by:	R.SHISHANKLE	Delivery location:	2625 VAN BUREN DR PLANO, TX 75074
Service type:	FedEx Standard Overnight	Delivery date:	Apr 3, 2017 12:45
Special Handling:	Deliver Weekday Residential Delivery Direct Signature Required Additional Handling Surcharge		



Shipping Information:

Tracking number:	778750529231	Ship date:	Mar 28, 2017
		Weight:	13.0 lbs/5.9 kg

Recipient:
Richard Chichakli
C/O
2625 Van Buren Drive
PLANO, TX 75074 US

Shipper:
Records Department
DEPT OF JUSTICEEOUSA
One St. Andrews Plaza
New York, NY 10007 US
09 CR 1002 #4
USA/SS/NYS1/NEWY
USA/SS/NYS1/NEWY

Reference
Purchase order number:
Invoice number

Thank you for choosing FedEx.

Exhibit E



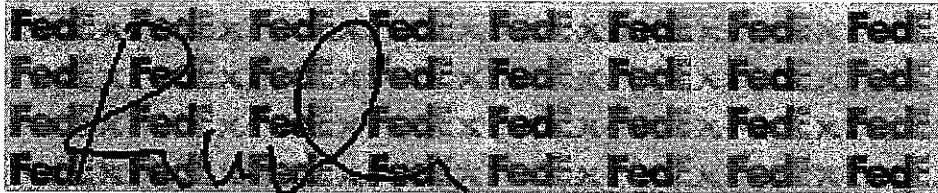
April 3, 2017

Dear Customer:

The following is the proof-of-delivery for tracking number **778750529378**.

Delivery Information:

Status:	Delivered	Delivered to:	Residence
Signed for by:	R.SHISHANKLE	Delivery location:	2625 VAN BUREN DR PLANO, TX 75074
Service type:	FedEx Standard Overnight	Delivery date:	Apr 3, 2017 12:45
Special Handling:	Deliver Weekday Residential Delivery Direct Signature Required		



Shipping Information:

Tracking number:	778750529378	Ship date:	Mar 28, 2017
		Weight:	21.0 lbs/9.5 kg

Recipient:
 Richard Chichakli
 C/O
 2625 Van Buren Drive
 PLANO, TX 75074 US

Shipper:
 Records Department
 DEPT OF JUSTICEEUSA
 One St. Andrews Plaza
 New York, NY 10007 US
 09 CR 1002 #4
 USA/SS/NYS1/NEWY
 USA/SS/NYS1/NEWY

Reference
Purchase order number:
Invoice number

Thank you for choosing FedEx.

**Honorable William Pauley, III
United States District Judge - SDNY
500 Pear Street
New York, NY 10007**

Subject: Defendant's letter dated April 7, 2017 and
Government Exhibit 601 at trial in US v. Chichakli

Reference: Chichakli v. US Attorney - SDNY 15-CV-4583 WHP

Honorable Judge Pauley;

This is in regards to the above referenced defendant's letter to the Court. Particularly, to the FALSE ASSERTIONS contained therein; namely, the LIE that the DEFENDANTS do not have the originals of Richard Chichakli Naturalization Certificate, and ORIGINAL MILITARY RECORDS.

At trial of Richard Chichakli, BEFORE YOUR HONOR PERSONALLY - Chris Everdell **PRESENTED THE ORIGINAL** Naturalization Certificate; being **Gov-Exh 601** - as reflected in the trial record - to Government Witness W. Hoffman, and he was asked to READ THE BACK of the ORIGINAL CERTIFICATE. It is THE ORIGINAL that was in the hand of the witness - NOT a copy, *in fact the back of the certificate is NOT in the included in the Government Presentation*, and there is no polite way to call what Anthony Sun stated OTHER THAN BLATANT MISERABLE LIE as he stated "the prosecutor office in the SDNY did not have original". LIE, nothing else.

THUS; If this Court decides to accept the LIES of the defendants; hence, elects to discredit what has been witnessed by Your Honor during Chichakli trial, and disregards the ABSOLUTE AND IRREFUTABLE records of the trial held before this very Court; This Plaintiff argues that this issue should be re-assigned to different Court to decide.

A replacement Certificate of citizenship cannot be produced in less than SIX (6) month at a fee in-excess of \$500; Plaintiff cannot obtain an ID card or driver license without the original used by the defendants as "Government Exhibit 601); as such the defendant has violated Plaintiff's Guaranteed right under the Fourteenth Amendment of the United states Constitution, by restricting Plaintiff's in a sphere intended to be free.

Plaintiff contends that this Court should issue a mandamus for the defendant to produce Exhibit 601 which was used in-original at trial, and order these defendants to pay the \$555 replacement fee which has been paid by Plaintiff.

Plaintiff, respectfully, request and moves this Honorable Court to issue instructions to Defendants to IMMEDIATELY release and deliver to Plaintiff via express mail his certificate of naturalization (Gov. Exh 601), and Chichakli's military records in order to stop the violation of his constitutional right, namely under the Fourteenth Amendment.

Plaintiff reserves all legal rights

Dated: April 12, 2017
Plano, TX

Respectfully Submitted

Richard Chichakli
Plaintiff (Pro Se)



*United States Attorney
Southern District of New York*

*86 Chambers Street
New York, New York 10007*

April 19, 2017

BY ECF

The Honorable William H. Pauley III
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1920
New York, NY 10007

Re: *Chichakli v. Bharara, et al.*, No. 15 Civ. 4583 (WHP)

Dear Judge Pauley:

This Office represents the defendants, former United States Attorney Preet Bharara and former Assistant United States Attorney Christian Everdell (collectively, "Defendants"), in the above-referenced action, now closed, brought by Richard Chichakli ("Plaintiff"), who is proceeding *pro se*. I write respectfully to respond to Plaintiff's letter to the Court dated April 12, 2017.

Plaintiff alleges that this Office possesses his original naturalization certificate, which he claims was marked as Government's Exhibit 601 at his criminal trial. Plaintiff is incorrect. This Office has retrieved the original trial exhibits and confirmed that Government's Exhibit 601 was a two-page color printout of the front and back of the naturalization certificate. The Government received a color copy of the certificate — front and back — in a PDF document via email from the Department of Homeland Security. The PDF document was then digitally marked "Government's Exhibit 601" and printed in color for use at trial. If the Court so orders, this Office will furnish the original trial exhibit to the Court.

Plaintiff also incorrectly alleges that this Office has retained his original military records. To the extent this Office did possess any originals, they would have been included in the March shipments to Plaintiff. If they were not in the materials sent to Plaintiff in March, then this Office did not possess the originals.

As we have maintained throughout this case, Plaintiff's suit is jurisdictionally barred. Plaintiff is not entitled to any relief, and this matter should remain closed.

The Honorable William H. Pauley III

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We thank the Court for its consideration of this letter.

Respectfully submitted,

JOON H. KIM

Acting United States Attorney for the
Southern District of New York

By: s/ Anthony J. Sun

ANTHONY J. SUN

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