

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,

v.

Case No.: 8:19-cr-605-WFJ-CPT

MICHAEL J. DACORTA

**Request for Evidentiary Hearing on
Michael Dacorta's Motion to Suppress**

Pursuant to Local Rule 3.01(h), Defense requests an evidentiary hearing on Mr. Dacorta's Motion to Suppress filed April 27, 2021. As grounds, Defense states the following:

A criminal defendant has a constitutional right "to object to the use of his confession and to have a fair hearing and a reliable determination on the issue of voluntariness, a determination uninfluenced by the truth or falsity of the confession." *Jackson v. Denno*, 378 U.S. 368, 377 (1964) (citing *Rogers v. Richmond*, 365 U.S. 534 (1961)). In *United States v. Davidson*, 768 F.2d 1266, 1269–70 (11th Cir. 1985), the Court made clear that "a Defendant has a constitutional right to a fair hearing and an independent and reliable determination of the voluntariness of a confession before the confession is allowed to be heard by the guilt determining jury."

Mr. Dacorta respectfully submits that an evidentiary hearing is required, as more than sufficient facts have been alleged to provide a basis

for relief. *See*, Title 18, U.S. Code § 3501(a); *United States v. Richardson*, 764 F.2d 1514, 1527 (11th Cir. 1985).

The issues at bar in the suppression motion concern facts related to whether Mr. Dacorta was or was not in custody when he was questioned by agents. There is no audio or video recording of the interview. As a result, a determination of custody status will hinge on factual testimony by the agents and defense witnesses who were present during the search of Mr. Dacorta's home.

Defense believes that a suppression hearing will likely take at least half of a day for the Court to conduct.

WHEREFORE, Defense requests an evidentiary hearing on the Motion to Suppress filed April 27, 2021.

DATED this 27th day of April 2021.

Respectfully submitted,

JAMES T. SKUTHAN
ACTING FEDERAL DEFENDER

/s/ Jessica Casciola

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of April 2021, a true and correct copy of the foregoing was furnished by using the CM/ECF system with the Clerk of the Court, which will send notice of the electronic filing to the following:

Rachelle Bedke, AUSA

David WA Chee, AUSA

Francis D Murray, AUSA

Suzanne C Nebesky, AUSA

/s/ Jessica Casciola

Jessica Casciola
Assistant Federal Defender