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 UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 VALLMOE SHQAIRE,
 17 aka "Mohamad Shqaire,"
 aka "Mahmad Hadr Mahmad
 18 Shakir,"

19 Defendant.

No. CR 18-656-JFW

GOVERNMENT'S RESPONSE IN
 OPPOSITION TO DEFENDANT'S MOTION
 TO SUPPRESS STATEMENTS

Hearing Date: December 17, 2018
 Hearing Time: 8:30 a.m.
 Location: Courtroom of the
 Hon. John F. Walter

20
 21 Plaintiff United States of America, by and through its counsel
 22 of record, the United States Attorney for the Central District of
 23 California and Assistant United States Attorneys Annamartine Salick
 24 and Robyn K. Bacon, hereby files its Response in Opposition to
 25 Defendant's Motion to Suppress Statements (CR 36) (the "Response").

26 ///

27 ///

1 This Response is based upon the attached memorandum of points
2 and authorities, the files and records in this case, and such further
3 evidence and argument as the Court may permit.

4 Dated: December 10, 2018

Respectfully submitted,

5 NICOLA T. HANNA
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6 PATRICK R. FITZGERALD
7 Assistant United States Attorney
8 Chief, National Security Division

9 /s/

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

At trial, the jury must decide whether defendant, VALLMOE SHQAIRE ("defendant"), made false statements to a United States Citizenship and Immigration Services ("USCIS") Officer on October 7, 2008 in connection with his application to become a United States Citizen. (CR 1). The government agrees, as it has represented to this Court and to defense counsel on multiple occasions, that defendant's inculpatory statements made to Israeli officials (the "Israeli Confessions") are immaterial to the present case and the government will not introduce them at trial. The government also hereby gives notice that it will not seek to impeach defendant with the Israeli Confessions. The government is aware of no evidence to support defendant's new allegations of mistreatment (Defendant Declaration "Dft. Decl." at CR 36-1) and such allegations are not supported by the certified court records Israel provided. Regardless, the government elects not to consume the jury's or the Court's time at trial by undertake the burden to prove that defendant's confessions were voluntarily and therefore admissible because they are not relevant to the charged offense.

Just as the Israeli Confessions are irrelevant and inadmissible so too is any evidence, argument, or testimony regarding defendant's treatment in Israeli custody in the 1980s and 1990s. The indicted charge is narrow and does not to rely on defendant's Israeli Confessions. Yet, defendant now appears interested in plumbing the depths of history by attacking on irrelevant issues related to his custody over 20 years ago. Defendant does not appear to dispute the fact that he suffered a conviction or incarceration. As such, even

1 if his unsupported allegations were true, they are not a defense to
2 lying to USCIS to obtain immigration status in the United States.
3 Rather, they would serve only to inflame and mislead the jury, elicit
4 sympathy, and induce nullification.¹

5 Lastly, although defendant only makes a passing, one-paragraph
6 reference to suppressing the statement defendant made to Los Angeles
7 County Sheriff Department Officers ("LASD") in 2010 (the "2010
8 Confession"), and filed without the accompanying declaration required
9 by the Local Rules, the government responds here and respectfully
10 requests that the Court not allow defendant to engage in any further
11 stalling tactics by "reserve[ing]" his full argument.

12 **II. FACTUAL BACKGROUND**

13 **A. DEFENDANT BECOMES A UNITED STATES CITIZEN BY REPEATEDLY** 14 **MAKING FALSE STATEMENTS UNDER OATH**

15 Defendant entered the U.S. on a B-2 visitor's visa on September
16 24, 1999. Later that year, defendant married a U.S. citizen, who in
17 2001 filed an I-130 Petition for Alien Relative with USCIS on his
18 behalf - the first step an alien must take to obtain status in the
19 U.S.² The application was denied because defendant and the U.S.
20 citizen had divorced while the application was pending. That same
21 year, defendant married a second U.S. citizen, who also filed an I-

22
23
24 ¹ Per the Court's Standing Trial Order (CR 20), on November 2,
25 2018, the government notified counsel for defendant of its intent to
26 file several Motions *in Limine*, including one to preclude any
testimony, evidence, or argument regarding defendant's treatment in
Israel. The government intends to file this motion on or before the
applicable deadline.

27 ² During a March 24, 2016 interview with HSI, the U.S. citizen
28 admitted that her marriage to defendant was fraudulent, and that she
was paid \$500 to marry defendant, whom she met for the first time at
the marriage ceremony on November 11, 1999.

1 130 on defendant's behalf. UCSIS granted that petition on November
2 5, 2004.

3 On June 5, 2002, defendant filed an application to become a
4 Lawful Permanent Resident ("LPR") via an I-485 Form. As part of the
5 application, defendant declared under penalty of perjury that the
6 application and evidence submitted is "all true and correct."

7 Defendant made the following statements that were later determined to
8 be false:

9 Question: List your present and past membership in or
10 affiliation with every political organization, association,
11 fund, foundation, party, club, society or similar group in
12 the United States or in other places since your 16th
13 birthday.

14 Answer: None

15 Question: Have you ever, in or outside the U.S. been
16 arrested, cited, charged, indicted, fined or imprisoned for
17 breaking or violating any law or ordinance, excluding
18 traffic violations?

19 Answer: No.

20 Question 4: Have you ever engaged in, conspired to engage
21 in, or do you intend to engage in, or have you ever
22 solicited membership or funds for, or have you through any
23 means ever assisted or provided any time of material
24 support to any person or organization that has ever engaged
25 or conspired to engage in sabotage, kidnapping, political
26 assassination, hijacking or any other form of terrorist
27 activity?

28 Answer: No.

On November 5, 2004, USCIS Officer Peter Palinay reviewed
defendant's I-485 Form, interviewed defendant, and approved his
application. During the interview, while under oath defendant
repeated to Officer Palinay statements appearing his I-485, several
of which were false.

On August 8, 2007, defendant submitted an N-400, Application for
Naturalization and certified the application "under penalty of

1 perjury under the laws of the United States of America, that this
2 application, and all the evidence submitted with it, are all true and
3 correct." In the written application, defendant made the statements
4 that were later determined to be false:

5 Question: Have you ever³ been a member of or associated with
6 any organization, association, fund, foundation, party,
7 club, society or similar group in the United States or any
8 other place?

9 Answer: No.

10 Question: Have you ever been a member of or in any way
11 associated (either directly or indirectly) with: A
12 terrorist organization.

13 Answer: No

14 Question: Have you ever advocated (either directly or
15 indirectly) the overthrow of any government by force or
16 violence?

17 Answer: No.

18 Question: Have you ever persecuted (either directly or
19 indirectly any person because of race, religion, national
20 origin, membership in a particular social group or
21 political opinion.

22 Answer: No.

23 Question: Have you ever been arrested, cited or detained by
24 any law enforcement officer . . . for any reason?

25 Answer: No.

26 Question: Have you ever been charged with committing any
27 crime or offense?

28 Answer: No.

Question: Have you ever been convicted of a crime or
offense?

Answer: No

Question: Have you ever been in jail or prison?

Answer: No

Question: Have you ever given false or misleading
information to any U.S. government official while applying

³ Emphasis in original

1 for any immigration benefit or to prevent deportation,
2 exclusion or removal?

3 Answer: No

4 Question: Have you ever lied to any U.S. government
5 official to gain entry or admission into the United States?

6 Answer: No

7 On October 7, 2008, USCIS Officer Sharise Jackson interviewed
8 defendant in connection with his N-400 Application. Defendant was
9 placed under oath and swore or affirmed under "penalty of perjury"
10 that contents of the application, any documents submitted with the
11 application, and any additional answers "are true and correct to the
12 best of my knowledge and belief." Officer Jackson questioned
13 defendant regarding his N-400 Application and asked 12 additional
14 questions. In response, defendant made the following statements
15 later determined to be false:

16 Question "9": Have you ever been a member of or associated
17 with any organization, association, fund, foundation,
18 party, club, society or similar group in the United States
19 or in any other place?

20 Answer: "States no."

21 Question "11," which appears to be a combination of the
22 preceding subsections (have you ever been arrested,
23 charged, convicted, or served in jail or prison),

24 Answer: "States no arrests or court."

25 Question "12,": "have you ever lied to any U.S. government
26 official to gain entry or admission into the United States"

27 Answer" "States no"

28 Defendant's application to become a naturalized U.S. citizen was
approved and on November 6, 2008, defendant took an oath and was
awarded a certificate of naturalized citizenship.

1 **B. COURT RECORDS FROM ISRAEL SHOW THAT DEFENDANT MADE MATERIAL**
2 **FALSE STATEMENTS UNDER OATH**

3 Beginning in 2013, the U.S. Attorney's Office for the Central
4 District of California (the "USAO"), in coordination with the
5 Department of Justice, Office of International Affairs sent three
6 Mutual Legal Assistant Treaty ("MLAT") requests to Israel, requesting
7 all official records relating to defendant's criminal conduct. Over
8 the course of three productions, in 2013, 2015, and 2017, Israel
9 provided the following documents: (1) a 1990 Indictment (the
10 "Israeli Indictment"); (2) defendant's custodial interviews (the
11 "Israeli Confessions"); (3) witness statements corroborating
12 defendant's admissions; (4) a fingerprint card from defendant's 1990
13 arrest (the "Fingerprint Card"); (5) defendant's sentencing
14 memorandum; and (6) a 1992 appellate order affirming defendant's
15 conviction and reducing his sentence from ten years to seven years'
16 imprisonment.

17 According to the certified Israeli Indictment, "Mahmad Hadr
18 Mahmad Shakir," was charged in a five-count indictment for his role
19 in a December 19, 1988 incident in which the defendant, acting on the
20 direction of the Palestinian Liberation Organization's ("PLO")⁴

22 ⁴ Founded in 1964, the PLO is a political entity dedicated to
23 the "liberation of Palestine" through violent, armed struggle. The
24 PLO has operated as a government in exile within the disputed
25 territories of the West Bank and Gaza, currently held by Israel. The
26 PLO is an umbrella group that includes a wide-range of secular and
27 religious factions and ideologies. Fatah is the PLO's largest
28 faction and is similarly dedicated to the establishment a Palestinian
29 state in the disputed territories currently held by Israel.

30 Prior to the signing of the Oslo Peace Accords in 1993, the PLO
31 was committed to an armed struggle against Israel and was recognized
32 as a terrorist organization by the United States and other countries.

1 "Shabeba cell,"⁵ and another man constructed an improvised explosive
2 device ("IED") and placed it on a bus used by Israelis. Although the
3 bomb was activated, the IED did not explode and no one was injured.

4 Specifically, the Israeli Indictment charged defendant with:
5 (1) membership in an unlawful organization, to wit, the "Shabeba"
6 cell of the PLO; (2) activity directed against public order;
7 (3) incitement and hostile propaganda; (4) placing a bomb (IED) on an
8 Israeli bus with the intent to cause death or harm; and (5) activity
9 against public order, specifically assaulting persons suspected of
10 cooperating with the Israelis.

11 Following his arrest in 1990, defendant confessed to the crimes
12 charged over during three custodial interviews -- the Israeli
13 Confessions. Defendant made the following admissions:

- 14 • In 1988, defendant was arrested and pleaded guilty to being a
15 member of and recruiting for "Islamic Jihad" as well as
receiving training in weapons and bomb-making.
- 16 • Defendant joined the PLO in 1985 after traveling to Jordan to
17 study. He learned of the PLO's objectives to liberate Palestine
18 and establish a Palestinian state. He believed he was being
prepared, emotionally and ideologically, to carry out activities
19 once he returned home. In 1985, he returned to the West Bank
and he couriered messages on behalf of the PLO.
- 20 • In 1988, defendant became a member of the PLO's "Shabeba cell"
and participated in protests and throwing stones at Israeli
21 military patrols.
- 22 • In December 1988, he was instructed to deploy an IED against an
23 Israeli bus. He and another man constructed two IEDs. He
served as a lookout while the other man placed the IEDs and then
24 told the other man to activate the IED when a bus from Jerusalem
was coming. The IED exploded but it did not cause any damage or
injuries and the two men escaped.

25
26
27 ⁵ The "Shabeba Cell" is a reference to Fatah's "al-Shabiba youth
28 movement" - a loose organization of mostly students located in
Palestine and founded in the early 1980s that worked in coordination
with Fatah's exiled leadership in Tunis to continue Fatah's struggle
against Israel.

- In 1988, defendant joined other men in assaulting individuals suspected of collaborating with the Israelis and damaging property.

Israel also provided a fingerprint card from defendant's 1990 arrest. The HSI Forensic Laboratory compared defendant's Israeli fingerprint card with fingerprints obtained from defendant during his 2010 arrest and determined that they belong to the same individual.

C. DEFENDANT IS ARRESTED AND ADMITS TO BEING ARRESTED AND SERVING A PRISON SENTENCE AND TO BEING A MEMBER OF FATAH

On September 15, 2010, LASD deputies arrested defendant on felony grand theft, in violation of California Penal Code § 487(a), and executed a search warrant at his residence in Los Angeles, California. Following his arrest, LASD Detective Chad Watters and Deputy Mike Yong interviewed defendant at the West Hollywood Sherriff's station for approximately 20 minutes. Defendant was not restrained or handcuffed. Defendant was advised of his Miranda rights, waived them, and agreed to speak with the officers. Defendant admitted that he was a member of Fatah, a faction of the PLO, and that he had been arrested on two occasions in Israel in the late 1980s. He explained that while he was in college in Palestine he became active in anti-Israeli demonstrations and was arrested for participating in demonstrations. He stated that after being released from custody the first time, he was arrested again for using a megaphone during a demonstration and sentenced to eight years of incarceration.⁶

⁶ This appears to be a falsified reference to defendant's attempted bombing case discussed above.

1 He explained that he was released early during a prisoner
2 exchange. During the 2010 Confession, defendant expressed regret and
3 stated that he would have never participated in the events if he knew
4 the consequences. He claimed that he did not remember if he
5 disclosed the arrests or his involvement with Fatah in his U.S.
6 immigration application.

7 The County of Los Angeles charged defendant with six counts of
8 felony grand theft, in violation of California Penal Code § 487(a).
9 Following guilty pleas to three counts on June 29, 2011, defendant
10 was sentenced to a suspended, five-year sentence, 120 days'
11 incarceration, and a five-year term of probation.

12 **III. ARGUMENT**

13 **A. ANY STATEMENT DEFENDANT MADE IN ISRAELI CUSTODY IS**
14 **IRRELEVANT AND, AS THE GOVERNMENT HAS REPEATEDLY AFFIRMED,**
WILL NOT BE INTRODUCED AT TRIAL

15 The central question to resolve in this case is whether the
16 defendant made false statements under oath to a USCIS Officer on
17 October 7, 2008, in connection with his application to become a U.S.
18 citizen. Any evidence or argument regarding statements defendant
19 made in Israeli custody almost 30 years ago and any
20 evidence or argument regarding mistreatment he now alleges he
21 suffered, are irrelevant to the current prosecution and should be
22 excluded.

23 As the government stated repeatedly on the record before this
24 Court and to separately to defense counsel on multiple instances, the
25 government has elected not to introduce any of the defendant's
26 Israeli Confessions in which he admitted to constructing and placing
27 an IED on an Israeli bus, being a member of the PLO's "Shabeba cell,"
28 and assaulting persons suspected of collaborating with Israel. The

1 government also hereby affirms its decision not to use the Israeli
2 Confessions to impeach defendant at trial should he testify.

3 As an initial matter, the government has no evidence or reason
4 to believe that defendant's Israeli Confessions were obtained through
5 coercion. However, given the practical realities of obtaining
6 records from foreign government regarding a case concluded almost 30
7 years ago and the difficulty locating Israeli officers present for
8 defendant's interrogations, the government declines to undertake the
9 burden of proving that defendant's Israeli Confessions were
10 voluntarily and thus admissible.

11 **B. DEFENDANT'S MOTION TO SUPPRESS HIS 2010 CONFESSION IS**
12 **DEFECTIVE AND WITHOUT MERIT AND SHOULD BE DENIED**

13 1. Defendant's Motion to Suppress the 2010 Confession is
Unsupported by Fact or Declaration

14 Defendant's single-paragraph allusion (CR 36 at 4) to a
15 forthcoming motion to suppress the 2010 Confession is defective in
16 both form and substance. Defendant's motion does not contain, as
17 required by the Local Rules, a "declaration on behalf of the
18 defendant, setting forth all facts then known upon which it is
19 contended the motion should be granted." L.Cr.R. 12-1.1.
20 Defendant's declaration address only his alleged mistreatment in
21 Israeli custody and makes no mention whatsoever of his 2010 arrest,
22 the 2010 Confession, or any facts to support suppression. (See Dft.
23 Decl. CR 36-1). In addition, defendant's entire legal basis is a
24 reference to Oregon v. Elstad and the contention that the 2010
25 Confession "may be excludable" under a "fruit of the poisonous tree"
26 doctrine. (CR 36 at 4).

27 Even assuming, *arguendo*, that defendant complied with the Local
28 Rules, his motion should nevertheless be denied because any alleged

1 coercion defendant suffered in the custody of a foreign government
2 did not continue to "overbear" defendant's will such that his
3 Mirandized statement to LASD Officers more than 16 years after his
4 release from Israeli custody, in a precinct more than 7,000 miles
5 from the location of his alleged mistreatment, should be precluded.

6 2. Defendant's 2010 Confession is Admissible

7 The government does not concede that defendant experienced
8 mistreatment while in Israeli custody 30 years ago. But even if he
9 did, "[t]he use of torture or coercion to procure information does
10 not automatically render subsequent confessions inadmissible."
11 United States v. Bayer, 331 U.S. 532, 540-41 (1947). The effects of
12 the earlier coercion may dissipate such that a subsequent confession
13 can be considered voluntary. Id.; Oregon v. Elstad, 470 U.S. 298,
14 311-12 (1985). To determine whether the effects of earlier coercion
15 have dissipated, courts examine the "totality of the circumstances"
16 to determine whether there has been a sufficient "break in the stream
17 of events" to sufficiently "insulate the [subsequent] statement from
18 the effects of all that went before." Clewis v. State of Texas, 386
19 U.S. 707, 710 (1967).

20 The Supreme Court instructs courts to consider the following
21 factors to determine whether the coercive "taint" of a first
22 confession has sufficiently "dissipated" to render the subsequent
23 confession admissible: "the time that passes between confessions, the
24 change in place of interrogations, and the change in identity of the
25 interrogators." Elstad, 470 U.S. at 310; see also United States v.
26 Shi, 525 F.3d 709, 730 (9th Cir. 2008). All of those factors weigh
27 heavily against defendant here.

28

1 Subsequent courts have added a voluntariness inquiry to the
2 Elstad factors to determine if a confession made following a coerced
3 confession is admissible. To evaluate whether a defendant's
4 confession was voluntary, courts look the "totality of the
5 circumstances" taking into account "the characteristics of the
6 accused, and the detail of the interrogation." Schneckloth v.
7 Bustamonte, 412 U.S. 218, 226 (1973); Doody v. Ryan, 649 F.3d 986,
8 1015-16 (9th Cir. 2011). With respect to the characteristics of the
9 defendant, these factors include: age, education level,
10 sophistication, and intelligence. Schneckloth, 412 U.S. at 226;
11 United States v. Preston, 751 F.3d 1008, 1020 (9th Cir. 2014); Abu
12 Ali, 528 F.3d at 222. With respect to the interrogation, the factors
13 include: the length of detention, repeated or prolonged questioning,
14 the use of physical force, threats of violence against the defendant
15 and/or defendant's family and associates, and the advice of
16 constitutional rights. Schneckloth, 412 U.S. at 226; United States
17 v. Haswood, 350 F.3d 1024, 1027 (9th Cir. 2003); Abu Ali, 528 F.3d at
18 222.

19 Applying Elstad factors and the test for voluntariness, it is
20 clear defendant has no grounds to suppress the 2010 Confession.
21 First, Defendant's 2010 Confession occurred more than 20 years after
22 his Israeli Confessions and 16 years after his was released from
23 Israeli custody. In addressing the temporal factor, Courts have
24 found that coercion may taint a confession up to two years later,
25 where a defendant remains in continuous custody, but the government
26 is unaware of any precedent finding a 20-year time gap, during which
27 the defendant was released, to be insufficiently attenuation. See
28 United States v. Jenkins, 938 F.2d 934, 940-42 (9th Cir. 1991)

1 (finding that a five hour pause between confessions to different law
2 enforcement personnel was insufficient to cure the taint of the
3 initial coercive interrogation); Al-Hajj v. Obama, 800 F.Supp.2d 19,
4 23-28 (D.D.C. 2011) (finding insufficient attention between
5 defendant's coercive confessions in foreign custody four to five
6 months prior to admissions made to U.S. military personal where
7 detention was continuous); Al Rabiah v. United States, 658 F.Supp.2d
8 11, 36-37 (D.D.C. 2009) (finding that the effects of torture could
9 taint a confession made nine months later where detention was
10 continuous); Mohammed v. Obama, 689 F.Supp.2d 38, 62-66 (finding that
11 a two-month temporal break between a two-year period of coercive
12 detention in foreign countries and a subsequent confession to U.S.
13 authorities was insufficient to "insulate" the subsequent statement,
14 given the length and severity of the abuse); but see, Shi, 525 F.3d
15 at 726-27 (finding a subsequent confession to be admissible following
16 a full day break between an un-Mirandized confession and a properly
17 warned confession).

18 Moreover, "it is not the length of time between previously
19 coerced confession and the present confession [that matters], it is
20 the length of time between the removal of the coercive circumstances
21 and the present confession." United States v. Karake, 443 F.Supp.2d
22 8, 89 (D.D.C. 2006). Here, defendant was released from Israeli
23 custody in 1994. The LASD arrested him 16 years later and 11 years
24 after defendant immigrated to the U.S., free from any threat or fear
25 of retaliation by the Israelis.

26 The second and third Elstad factors - a change in the location
27 of the interrogation and the identity of the interrogators - also
28 weigh against suppression. According to the Israeli Court records

1 and defendant's declaration, the Israeli Confessions were elicited in
2 military custody in Ramallah -- a distance of over 7,000 miles from
3 the LASD West Hollywood Station. Similarly, according to the Israeli
4 court records and defendant's declaration, Israeli military officials
5 interrogated defendant in 1988 and 1990. In 2010, LASD deputies
6 interviewed defendant. Not only were the LASD deputies agents of
7 another country, they were also civilian law enforcement, not
8 military personal.

9 Courts finding insufficient attention based on the second and
10 third Elstad factors have cited a defendant's continuous custody at
11 the direction of one country or the continuous presence or
12 participation of the same individuals. See Mohammed, 689 F. Supp.
13 2d at 65 (finding that the "taint" of a coercive interview was not
14 sufficiently dissipated based, in part, on the fact that while
15 defendant was moved from the custody of one foreign country to the
16 another "there is no question that throughout his ordeal [the
17 defendant] was being held at the behest of the United States.").

18 Defendant does not, nor can he, allege the same personal
19 interrogated him in Israel and in West Hollywood, or that the LASD
20 deputies directed the Israeli interrogation, or that he was held in
21 continuous custody at the direction of the LASD.

22 A voluntariness analysis yields the same result: there is no
23 merit to defendant's motion to suppress his 2010 Confession. As the
24 Supreme Court instructs, the Court must first examine the
25 characteristics of the defendant at the time of the interrogation.
26 Schneckloth, 412 U.S. at 226-7; Abu Ali, 528 F.3d at 222. In 2010,
27 Shqaire was a 42-year old, college- educated man with a firm command
28 of English. At the time, Shqaire had lived in the U.S. for more than

1 11 years, maintained gainful employment and supported himself and
2 family members abroad. With respect to the LASD interview: defendant
3 was advised of his Miranda rights beforehand, which he knowingly
4 waived; he was not restrained or handcuffed; the interview lasted
5 only 20 minutes; and defendant was not subjected to repeated or
6 prolonged questioning, physical force, or threats of violence.

7 Accordingly, the "totality of the circumstance" surrounding
8 defendant's Israeli Confessions and the 2010 Confession clearly show
9 that any alleged "taint" of mistreatment at the hands of the Israelis
10 was sufficiently attenuated by a 20-year time lapse, a distance of
11 over 7,000 miles, and a change in interrogators, such that his 2010
12 Confession was sufficiently "insulated" from any alleged mistreatment
13 and is therefore admissible.

14 3. Defendant's "Motion" to Suppress the 2010 Confession
15 Should be Denied at this Time

16 Defendant should not be allowed to stall proceedings further by
17 "reserving" argument on the 2010 Confession. Defendant contends that
18 he has "insufficient information" to proceed with his motion yet
19 "respectively reserves the right to bring a later motion to exclude
20 the LASD statements after requested discovery has been produced." (CR
21 36 at 4).

22 As detailed in the government's response to Defendant's Motion
23 for Discovery, defendant is presently in possession of all
24 discoverable materials necessary to challenge the 2010 Confession.
25 The government has made numerous requests to the FBI and LASD
26 regarding the existence of any notes and recordings and has been told
27 that no such records exist. The government has made an additional
28 request for the LASD case file, but as the government informed

1 defense counsel, the file appears to have been lost or destroyed.
2 The government has also asked the FBI for any additional information
3 regarding the 2010 Confession and will produce such information, if
4 it exists, promptly.

5 Defendant's "motion" to suppress the 2010 Confession should be
6 denied at this time and his request to "reserve" argument on the
7 matter should be denied as baseless.

8 **IV. CONCLUSION**

9 For the foregoing reasons, the government respectfully requests
10 that this Court deny defendant's Motion to Suppress Statements and
11 reject defendant's request to "reserve" argument regarding the 2010
12 Confession.

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