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8 Attorneys for Defendant Jose Luis Nazario, Jr.

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10 **UNITED STATES DISTRICT COURT**
CENTRAL DISTRICT OF CALIFORNIA – EASTERN DIVISION

11
12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 JOSE LUIS NAZARIO, JR.,

16 Defendant.
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Case No. ED CR 07-127 SGL

**DECLARATION OF LTCOL.
MATTHEW CORD IN SUPPORT OF
DEFENDANT'S MOTION FOR
DISCOVERY; ATTACHMENTS**
[Federal Rules of Criminal Procedure,
Rule 16]

Judge Stephen G. Larson

Date: 12/17/2007

Time: 2:00 p.m.

Dept.: 1

Action Filed: August 6, 2007

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22 **DECLARATION OF MATTHEW CORD**

23 I, MATTHEW CORD, do hereby make the following sworn declaration. All
24 matters contained herein are of my own personal knowledge unless stated as based
25 upon information and belief.

26 1. I am a Judge Advocate in the United States Marine Corps and hold the
27 rank of Lieutenant Colonel. Since August 2006, my sole billet has been as a
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1 criminal defense counsel. I have been a practicing attorney since 1994 and am a
2 member in good standing of the California and Oregon bars. I have been asked by
3 counsel for former U.S.M.C. Sgt. Jose Nazario to providing this declaration relating
4 to materials available from the Government through discovery efforts by
5 government counsel. I have been informed, and am generally aware, that the nature
6 of the charges against Nazario arises from his role as a squad leader during the
7 battle of Fallujah in November 2004.

8 2. I am currently or have been defense counsel for military defendants in the
9 investigations surrounding allegations of the unlawful killing and/or abuse of
10 civilians at the hands of Marines in the cities of Haditha, Iraq and Hamdania, Iraq.
11 During the course of my representation, I have actively engaged in seeking and
12 obtaining discovery from the United States, which in these cases was specifically
13 Department of Defense, Department of the Navy and the United States Marine
14 Corps.

15 3. As a result of my involvement in seeking and obtaining discovery, I have
16 come to learn that the following relevant materials, which were possessed by the
17 government and turned over to the defense in the aforementioned cases, are likely
18 to exist in the present case:

19 a. U.S. Marine Corps and First Marine Expeditionary Force [IMEF]
20 database(s) containing numerous electronic and hardcopy records of photos, video,
21 voice messages and text messages from relevant units and individual service
22 members;

23 b. Judge Advocate General [JAG] Manual investigations and/or Preliminary
24 Inquiries concerning possible "Rules of Engagement" [ROE] violations and
25 "Escalation of Force" [EOF] incidents, issues and policies;

26 c. ROE and EOF training materials (both electronic and hard copy)
27 presented to units and individuals before and during deployments to Iraq;

28 d. Relevant reports generated by, and evidence collected by, agents of the

1 Naval Criminal Investigative Service [NCIS] including, but not limited to:
2 Recorded or summarized interviews of military personnel, Iraqi witnesses and
3 civilian contractors and employees of the U.S. Government; Videos, photographs
4 and diagrams either created by NCIS agents, persons interrogated/interviewed by
5 NCIS agents, or seized by NCIS agents during the course of their investigation;
6 Interrogation and interview logs and agent notes made during interrogations and
7 interviews of military, civilian and Iraqi personnel; Forensic evidence, reports and
8 reconstructions and; Records related to NCIS attempts to identify and locate Iraqi
9 alleged victims and witnesses.

10 e. Autopsies, death certificates and burial records regarding alleged Iraqi
11 victims prepared or conducted by U.S. or Iraqi medical and/or government
12 personnel.

13 f. Relevant records generated by Marine Corps Civil Affairs Group [CAG]
14 personnel regarding their efforts, actions and contacts with relevant Iraqi civilian
15 personnel and organizations;

16 g. Relevant records regarding payments made or offered by the U.S.
17 Government (“Solatia payments”) to Iraqi citizens as a result of damage, death or
18 injury alleged to have been caused by Marine Corps or Navy personnel;

19 h. Armory records indicating what type of weapon(s) were assigned to which
20 specific members of a particular unit at any given time;

21 i. Complete medical and service records of all relevant Marine Corps and
22 Navy personnel and;

23 j. Various relevant classified documents and materials.

24 4. It should be stressed that all the items set forth above not only existed in
25 the aforementioned cases, they were turned over by the government to the defense
26 either *sua sponte*, or after a request was made. There were never any motions or
27 litigation required in order for the defense to obtain such materials from the
28 government.

1 5. The records and materials described in Paragraph 3 above are reasonably
2 calculated to lead to the discovery of admissible evidence including but not limited
3 to witnesses with testimony relevant to the time and place of the allegations against
4 Defendant Jose Nazario.

5 I, Matthew Cord, do hereby swear under penalty of perjury under the laws of
6 the State of California that the foregoing is true and correct.

7 Executed this 20th day of November 2007 in Oceanside, California.

8 /S Matthew Cord
9 MATTHEW CORD
10 LtCol USMC

