

1 KEVIN V. RYAN (CSBN 118321)
United States Attorney
2
3 MARK L. KROTOSKI (CSBN 138549)
Chief, Criminal Division
4 JEFFREY R. FINIGAN (CSBN 168285)
Assistant United States Attorney
5

6 450 Golden Gate Avenue
San Francisco, California 94102
7 Telephone: (415) 436-7232
Facsimile: (415) 436-7234
8 Email: jeffrey.finigan@usdoj.gov

9 Attorneys for Plaintiff

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION
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14 In re GRAND JURY SUBPOENA, dated)
15 June 8, 2006,)

No. CR 06-90064 WHA

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Case 8:06-cr-90064-WHA Document 12 Filed 07/11/07 Page 1 of 1

Subpoenaed Party.

**DECLARATION OF JEFFREY
FINIGAN IN SUPPORT OF UNITED
STATES' OPPOSITION TO MOTION
FOR RELEASE AND OTHER
REQUESTS**

22 I, Jeffrey R. Finigan, state and declare as follows:

- 23 1. I am employed as an Assistant United State Attorney and am assigned to litigate
24 the above-captioned case.
25 2. Since Mr. Wolf has been confined pursuant to this Court's civil contempt order, I
26 have received phone calls from one of Mr. Wolf's numerous attorneys, Martin
27 Garbus. I do not recall the specific dates of the calls, but in several of them Mr.
28 Garbus has proposed various compromises in exchange for the government

1 agreeing to Mr. Wolf's release from prison. For example:

- 2 a. Mr. Garbus has asked whether the government would agree to have the
3 Court review Mr. Wolf's evidence to determine whether it contains any
4 information useful to the government's investigation. In response to this
5 request I advised Mr. Garbus that that request was already made at the
6 contempt hearing and that it was still unacceptable.
- 7 b. Mr. Garbus has also inquired whether the government would accept Mr.
8 Wolf's video evidence but refrain from asking him any questions before
9 the grand jury.
- 10 c. On or about October 25, 2006, Mr. Garbus proposed having Mr. Wolf
11 produce evidence pursuant to the subpoena and answer only questions
12 related to authentication of the evidence. *See* Exhibit A – Mr. Garbus'
13 October 25, 2006, letter suggesting such.
- 14 d. Most recently, on or about January 18, 2007, Mr. Garbus called me and
15 asked whether the government would agree to accept evidence from Mr.
16 Wolf but refrain from asking him to identify anyone depicted in any video
17 ~~Case 3:06-xr-90064-WHA Document 121 Filed 01/29/2007~~ ~~Page 2 of 3~~
- 18 e. In response to each of the overtures a-d above, I advised Mr. Garbus that
19 the government would not agree to release Mr. Wolf from his obligation to
20 fully comply with the subpoena.

- 21 3. I spoke with San Francisco Deputy District Attorney Jim Thompson on or about
22 January 18, 2007, regarding the Gabriel Meyers case. I also spoke with Mr.
23 Thompson after receiving Mr. Garbus' declaration in support of Movant's motion
24 for release and sending a copy of it to Mr. Thompson for his review. Contrary to
25 what Mr. Garbus' Declaration implies at ¶ 3, Mr. Thompson advised me that he
26 did not dismiss the Meyers case because he found any defense proffered evidence
27 to be credible. Rather, Mr. Thompson told me that he dismissed the case because
28 Meyers' defense counsel planned to call two attorneys from the National Lawyers'

1 Guild as witnesses who were going to contradict the police officers' accounts of
2 what happened and that, although he believes the officers involved, since there
3 was no non-testimonial corroborating evidence of any of the potential trial
4 testimony, that his office determined that it was not likely that a jury in San
5 Francisco Superior Court would return a guilty verdict based on the evidence. Mr.
6 Thompson advised me that he did not tell Mr. Garbus that he believed any police
7 car sped into protestors at the demonstration on July 8, 2005. I did not agree to
8 Mr. Garbus' interpretation of Mr. Thompson's reasons as set forth in Mr. Garbus'
9 declaration at ¶¶ 3 and 5. Mr. Thompson also told me that his office can re-file
10 the felony charges against Mr. Meyers if the state of the evidence changes.

- 11 4. Attached as Exhibit B is a true and correct copy of an Associate Press article that I
12 believe appeared in the San Francisco Chronicle on or about November 20, 2006,
13 based on the information associated with the article, which can be found at
14 [http://www.google.com/search?q=%22Blogger+seeks+release+as+imprisonment+](http://www.google.com/search?q=%22Blogger+seeks+release+as+imprisonment+enters+third+month+%22&hl=en&lr=&start=0&sa=N&filter=0)
15 [enters+third+month+%22&hl=en&lr=&start=0&sa=N&filter=0](http://www.google.com/search?q=%22Blogger+seeks+release+as+imprisonment+enters+third+month+%22&hl=en&lr=&start=0&sa=N&filter=0).

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17 **Case 3:06-xr-90064-WHA Document 121 Filed 01/29/2007 Page 3 of 3**

18 I declare under penalty of perjury the foregoing is true and correct to the best of my
19 knowledge. Executed on January 29, 2007, in San Francisco, California.

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23 JEFFREY R. FINIGAN
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