

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**FILED**

04 OCT -4 PM 4:39

U.S. DISTRICT COURT  
N.D. OF ALABAMA

**UNITED STATES OF AMERICA** )  
)  
**vs.** )  
)  
**ERIC ROBERT RUDOLPH** )  
)  
)

**Case No. CR-00-S-422-S**

*dc*  
**ENTERED**  
OCT 4 2004

**ORDER**

Defendant's "Application for Review and Appeal of Magistrate Judge's Order of July 9, 2004 Denying the Defendant's Motion for Preservation and *In Camera* Inspection and/or Discovery of Rough Interview Notes" (doc. no. 276) is GRANTED IN PART. In accordance with the memorandum opinion entered contemporaneously herewith, the order of the magistrate judge on July 9, 2004 (doc. no. 260) is AFFIRMED IN PART AND REVERSED IN PART.

The government is ordered to produce the rough notes that accompany the FBI-302s that have previously been produced to defendant and identified on pages 15-34 of defendant's reply brief.<sup>1</sup> The *in camera* submission will be accompanied by a log prepared by the government, listing each FBI-302 identified in defendant's reply brief,<sup>2</sup> the agent/agency preparing the FBI-302, and whether rough notes were

<sup>1</sup> See Defendant's Reply Brief at 15-34 (doc. no. 257)

<sup>2</sup> *Id.*

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retained. An illustration of the log is below:

Δ's Illustration of materiality	Bates number of FBI-302	Agent/Agency	Rough Notes Retained?
a	(left blank)	(left blank)	(left blank)
b	BH-302-008155	D. Abrams-FBI	yes
	BH-302-000665	V. Baynes- BPD	yes
	BH-AM-003550	V. Baynes- BPD	yes
	BH-AM-005016	S. Zellers-	yes
	BH-AM-005752	V. Baynes-FBI	yes
	BH-RS-000738	V. Baynes-FBI	yes
	BH-RS-001171	M. Martin-ATF	yes

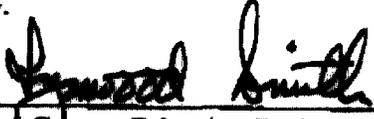
The *in camera* submission will then be organized according to the listing contained in the log.

The submission will be bound on the left with fifteen tabs marked "a-o" for each illustration of materiality presented by defendant in his reply brief before the magistrate judge. Each tab will consist of a copy of the FBI-302, followed by copies of the corresponding rough notes placed directly behind the FBI-302. For those instances when rough notes were not retained, the government will place a piece of paper that states "Rough Notes Not Retained" behind the corresponding FBI-302.

The government shall produce the rough notes for *in camera* review at this court's chambers in Huntsville on or before the close of business on Friday, October

15, 2004.<sup>3</sup> The government is directed to file a copy of the *in camera* submission under seal with the clerk of court, as well as provide a separate (“work”) copy for the court’s review in chambers.

DONE this 4<sup>th</sup> day of October, 2004.

  
\_\_\_\_\_  
United States District Judge

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<sup>3</sup> The court is unaware how many rough notes have been retained in light of footnote 2 in the government’s response to defendant’s application for review and appeal (doc. no. 288).