UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

IN THE MATTER OF:

POLICY REGARDING ELECTRONIC DEVICES.

Misc. No. 06-103 (JAF)

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2006 MAY 10 PM 3:31
CLERK'S OFFICE
U.S. DISTRICT COURT
SAN JUAN, P.R.

POLICY REGARDING ELECTRONIC DEVICES

Since March 20, 2003, this court has addressed on at least two occasions the matter of cellular telephones in the courthouse. On both occasions, two different chief judges addressed the issue under contemporary standards and entered orders in two miscellaneous proceedings, Misc. No. 03-20 (HL) and Misc. No. 04-142 (JAF).

Today, and following the standard practice in the John Joseph Moakley U.S. Courthouse in Boston, Massachusetts, which houses the First Circuit Court of Appeals and the U.S. District Court for the District of Massachusetts, as well as the practice in the Districts of Maine, New Hampshire, and Rhode Island, we supplement and up-date the rules regarding cellular telephones and other electronic equipment as follows:

The general public is prohibited from bringing cameras, beepers, cellular telephones, personal data systems (PDAs), laptop computers, recorders, and other similar electronic devices into any of the courthouses of the U.S. District Court for the District of Puerto Rico, with locations in Hato Rey, Old San Juan, and Ponce, Puerto Rico. The general public is advised that the U.S. Marshals Service cannot practically store and safely keep large numbers of these

electronic devices at the checkpoint facilities of the different courthouses in the District. Therefore, the general public is discouraged from bringing these devices and, if brought into court property, they must be checked at the security screening stations before gaining access to the buildings. In addition, the general public is advised that checking them will be at their own risk and, if checked, the devices will not be available to them until they are checked out at the end of the courthouse visit.

Attorneys and law-enforcement agents who present a valid federal law-enforcement identification or valid, current bar identification card issued by the Clerk of the U.S. District Court for the District of Puerto Rico are permitted to bring PDAs, laptop computers, and cellular telephones into a courthouse strictly for business purposes. Attorneys and law-enforcement officers carrying these items will be required to submit them for x-ray and such other examination deemed appropriate by court security personnel. Laptop computers with silent keyboards may be used in the courtroom with the permission of the presiding judge. Cellular telephones and PDAs must be turned off while in the courtroom. Cellular telephones may be used in the public areas of the courthouse no less than twenty (20) feet from the entrance to any courtroom. Attorneys and law-enforcement agents are reminded that the recording of court proceedings by electronic or photographic means is strictly forbidden. Violation of the privilege granted by this policy will result in severe sanctions, monetary or

otherwise, including confiscation of the infracting equipment without recourse.

San Juan, Puerto Rico, this 10th day of May, 2006.

JOSE ANTONIO FUSTE
Chief U. S. District Judge

Attachments:
(1) Superseded Order in Misc. No. 03-020 (HL);
(2) Superseded Order in Misc. No. 04-142 (JAF);
(3) FBA Letter dated December 22, 2005;
(4) PRACDL Letter dated December 8, 2005;
(5) MVM, Inc.'s Letter dated May 9, 2006.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

IN THE MATTER OF:	*	
	*	MISC. NO. 06-103(JAF)
POLICY REGARDING ELECTRONIC DEVICES	*	
	*	
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U.S. DISTRICT COURT
SAN JUAN, P.R.

AMENDMENT TO
POLICY REGARDING ELECTRONIC DEVICES

The above Policy, issued by the undersigned on May 10, 2006, is hereby amended at page 2, line 21, to read as follows:

> "Attorneys and law-enforcement agents are reminded that the recording and/or broadcasting of court proceedings by electronic or photographic means is strictly forbidden."

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 7th day of June, 2006.

JOSE ANTONIO FUSTE
Chief U.S. District Judge

(2)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

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CLERK'S OFFICE
U.S. DISTRICT COURT
SAN JUAN, P.R.

In the matter of
Cellular telephones in the Courthouse

03-MS-020 (HL)

ORDER

By order of this Court, only authorized Court personnel may bring cellular telephones into the Courthouse. All other individuals must leave their telephones with the U.S. Marshals at the checkpoint. Assistant United States Attorneys on official business by virtue of their 18 USC 115 (c)(1) status as federal law enforcement officers and their demonstrated need to have their government issued telephones in the courtroom are considered, for purposes of this order, authorized court personnel.

IT IS SO ORDERED.

San Juan, Puerto Rico, March 20, 2003.

HECTOR M. LAFFITTE
Chief U.S. District Judge

(2)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

In the matter of Cellular telephones in the Courthouse	04-Misc-142(JAF)

ORDER

For purposes of Local Civil Rule 83.6(c)(1), Federal Public Defenders are "authorized court personnel" and are therefore allowed to bring cellular phones or pagers into the Courthouse. However, failure to abide by L.Cv.R. 83.6(c)(1), particularly the "silent mode" provision, may result in the immediate withdrawal of such authorization.

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 12th day of November, 2004.

JOSE A. FUSTE
Chief U.S. District Judge

Federal Bar Association
PUERTO RICO CHAPTER

President
Eric Perez-Ochoa
Fernandez & Perez-Ochoa, LLP
221 Plaza Building, Suite 403
221 Ponce de Leon Ave.
Hato Rey, PR 00918
(787) 474-0004, (787) 474-0005
epo@fpo-law.com

RECEIVED
DEC 27 2005
CHAMBERS OF
JOSE ANTONIO FUSTE
U.S. DISTRICT JUDGE

December 22, 2005

BY MESSENGER

Honorable Jose A. Fuste
Chief Judge
United States District Court for the
District of Puerto Rico
Clemente Ruiz Nazario Federal Bldg.
Hato Rey, Puerto Rico 00918

Re: **Use of Mobile Phones by Attorneys**

Honorable Chief Judge Fuste:

In response to a plea from our members, the Federal Bar Association, Puerto Rico Chapter (the "Chapter"), respectfully requests that Rule 83.6(c) of the Local Rules of the U.S. District Court for the District of Puerto Rico, which bars the use and possession of mobile phones by all persons and attorneys except Court Personnel, the U.S. and Assistant U.S. District Attorneys, and Public Defenders, be amended in order to permit, with certain restrictions and limitations recommended below, the use of mobile or cellular phones by attorneys in the Federal Courthouses and Facilities located in Hato Rey, Old San Juan and Ponce.

In light of the importance of mobile or cellular phones as the most commonly used device for modern day communications, the restrictions imposed by the current language of Rule 83.6(c) seem, respectfully, both unfair and unpractical. This prohibition impairs counsel's ability to discharge his or her duties effectively while representing clients in matters before the United States District Court for the District of

Puerto Rico ("USDC-PR") because it hinders counsel's ability to quickly communicate with the client or the office while transacting his/her business or performing legal services for these clients.

More fundamentally, however, there are other legitimate reasons and precedents that support the instant petition: (1) All of the District Courts within the First Circuit, as wella s the Court of Appeals for the First Circuit, allow attorneys to have mobile phones in the Corthouse facilities; (2) The District Courts of Massachusetts and Maine even permit the possession of mobile phones inside the Courtrooms, as long as said device is turned off or put in vibrate mode; (3) Many attorneys that practice at the USDC-PR are solo practitioners that need to use their cell phones and maintain constant communication with their offices to be able to perform most of the tasks that need to be done in their offices while they await for their hearing to be called and held at the Courtroom, like coordinate meetings, instruct their law clerks or paralegals to perform legal research or fact investigations, among others; (4) Also, most attorneys receive phone calls from new prospective clients at their cell phones, if the attorney does not answer those calls, he risks loosing new prospective clients which in turn, could be economically harmful to his or her practice.

There is also a practical and human aspect to this request. Cellular or mobile phones are the most effective and rapid way to handle emergencies or special or unexpected day to day situations., Members of the bar who practice before the USDC-PR need cellular or mobile phones to keep in constant and uninterrupted communication with their families in case of an emergency or a special situation. Many of us are also parents of children, some of whom may have particular needs or medical conditions, and require an adult to take care of them due to their young age. Other attorneys who practice before the USDC-PR are also entrusted with the care and custody of family member and the cellular phone allows for the responsible handling of some of the necessities of these elder or needy relatives.

However, the Chapter recognizes that the use of these devices must necessarily be limited and restricted. As a result, the Chapter believes that the implementation of the following guidelines for use and restrictions strike the required balance between the needs of the members to use and have access to their cellular phones and the safety and other related policies of the Courthouse that are necessary for the efficient and orderly administration of justice: (1) That all attorneys without exception, may possess their cell phones in the Courthouse premises and use such devices only in the lobby of

the Courthouses or in public areas of the Courthouses, no less than fifteen feet from the entrance to any courtroom; (2) That all attorneys without exception are allowed to bring their cellular phones inside the Courtrooms, as long as said device is turned off or placed in silent or vibrator mode; and (3) providing that any attorney who fails to adhere to these provisions may be subject to severe sanctions.

In sum, the Chapter understands that there are reasonable grounds for this Honorable Court to consider favorably and ultimately grant the instant request, to allow members of the bar and attorneys to use their cellular or mobiles phones in the Federal Courthouses and Facilities. In making this request, the members of the Chapter recognize and acknowledge that the granting of an amendment to Local Rule 83.6(c) constitutes a privilege, and that they will comply with any condition set forth by this Honorable Court in order to permit the use and access of cellular phones at the Courthouses and Facilities, and the possession of said devices inside the Courtrooms.

Your Honor, please let us know if we can provide you with any additional information or assistance that may be helpful in the evaluation and consideration the instant request.

Respectfully,

Eric Pérez-Ochoa
Chapter President

C: Board of Officers and Directors
of the PR Chapter of the FBA

PUERTO RICO ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

OFFICERS
THOMAS R. LINCOLN
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"STRENGTH IN NUMBERS"

PO BOX 191559
SAN JUAN, PR 00919-1559

(787) 292-1099

HTTP://PRACDL.TYPEPAD.COM/PRACDL/
PRACDL@GMAIL.COM

OTHER BOARD MEMBERS
FRANCISCO M. DOLZ-SÁNCHEZ
HÉCTOR A. DELIZ
FRANK D. INSERNI MILAM
JOSEPH C. LAWS, JR.
FEDERAL PUBLIC DEFENDER*
JUAN F. MATOS DE JUAN
*PERMANENT BOARD MEMBER

December 8, 2005

RECEIVED
DEC 08 2005
CHAMBERS OF
JOSE ANTONIO FUSTE
U.S. DISTRICT JUDGE

Honorable José A. Fusté, Chief Judge
U.S. District Court
for the District of Puerto Rico
Clemente Ruiz Nazario
U.S. Courthouse
150 Chardón Avenue
Hato Rey, Puerto Rico 00918

Re: Use of cellular phones in courtroom by attorneys

Dear Chief Judge Fusté:

The undersigned are members of the newly elected Board of the Puerto Rico Association of Criminal Defense Lawyers (PRACDL). On various occasions the issue of the Local Rule 83.6(c), which bans the use of cellular phones by attorneys in the courthouse has been raised by this organization. We understand that this Court should consider lifting the ban and permitting all lawyers to use their cellular phones in the courthouse.

Pursuant to Local Rule 83.6(c), the only lawyers permitted to use their cell phone inside the courthouse are the federal prosecutors. When Local Rule 83.6(c) was first enacted, it may have been viewed as a good idea to permit the use of cellular phones only to federal prosecutors. However, the truth is that this has resulted in an undue advantage against the defense bar. We understand that it was not the Court's intention to benefit one group of attorneys over another.

We submit that most members of this organization, as well as CJA Panel attorneys, are solo practitioners. We usually have only one employee working for us, namely a secretary, and perform most of the work done in cases ourselves. Because of this, attorneys must maintain frequent communication with their law offices when they are outside their office or they are in court. We use cellular phones to: (1) confirm or take appointments; (2) answer telephone calls received from

clients, opponents and the courts; (3) coordinate the setting of pre-trial proceedings and trials in criminal and civil cases; (4) negotiate pleas and settlement agreements. Furthermore, there is the need to deal with family matters, including emergencies. Parents of small kids and youngsters are often required to confirm that their spouses or babysitters are available to care for their children when court proceedings are long or delayed. In short, the use of one's cellular phone is crucial for the smooth operation of one's law practice.

It is worth noting that, except for our District Court, all the other District Courts within the First Circuit have established policies allowing lawyers to bring into the courthouse their cellular phones. (See copy of enclosed policies from Districts of Maine, Massachusetts, New Hampshire and Rhode Island.) The First Circuit Court of Appeals also allows lawyers to use cellular phones in the courthouse. In our District, the Bankruptcy Court allows lawyers to bring their cellular phones into court.

On behalf of the PRACDL members, we most respectfully request to be given equal access to the use of cellular phones in the courthouse. We believe that our request is a reasonable one and are confident that if this privilege is granted, all attorneys will be respectful of the same. The defense bar in general, and certainly the PRACDL members, will be very grateful for the Court's implementation of this privilege.

Sincerely,

Thomas R. Lincoln
President

Mariángela Tirado-Vales
Vice-President

Enclosures

MVM, Inc.
1st Circuit USMS Puerto Rico
U.S. District Court & Federal Building
150 Chardon Avenue
Hato Rey, Puerto Rico

Service, Support and Success **Security and Staffing Services**

DATE: May 9, 2006

TO: Honorable Jose A. Fuste
Chief Judge
1st Judicial Circuit of Puerto Rico

CC: Manny Varela, SDUSM
COTR, 1st Circuit Puerto Rico

Luis A. Comas, Site Supervisor
1stCircuit, USMS PR
MVM, Inc

FROM: Carlos M. Borges, Lead CSO
1st Circuit USMS PR
MVM, Inc.

SUBJECT: Cellular Telephones in the U.S. Courthouse

Honorable Chief Judge Fuste:

This letter is to request a change in the present policy at the US Courthouse of allowing any person that has business here to bring in their cellular telephones, and check said telephones at the main entrance of the courthouse with the Court Security Officers.

As your Honor is well aware, this procedure has created havoc in that every time there is an activity at the courthouse, long lines form because of checking in cellular telephones. Not only the long lines detract from security at the main entry point, but also there are times where at least 250-300 cellular phones have been taken in by Court Security Officers at the checkpoint. To add to the potential risk in security, persons are constantly coming out to check on their messages, and tax the personnel at the checkpoint that have to attend to returning the cellular phones and then retake it when the person is finished checking messages. Furthermore, when lunch breaks and other types of recesses are given, the majority of the persons make a line to get their cellular telephones back.

In sum, the Court Security Officers usually handle the same cellular telephone at least three times per person that checks one in. In light of the above stated, I pray that the Court will consider changing the policy regarding cellular telephones as to not allow the cellular telephones to be brought in when persons are attending official court proceedings.

The policy of allowing Court Officers, US Attorneys, Public Defenders, and Court Staff is manageable, and has not caused any trouble. The Court should consider whether or not the attorneys that practice in the Court should be allowed to check in their telephones at the checkpoint or leave them in their vehicles. In fact the main concern here is the public, family members, witnesses, and other visitors, that when they bring cellular telephones into the Main Checkpoint it does create potential risks, that the Court is well aware off. I am convinced that the Court will embrace the policy change suggested in this letter.

I have attached a copy of a subpoena received by me from the US District Court for the Middle District of Florida on July 18, 2005. In said document there is a copy of a letter instructing witnesses "*please be aware that cellular telephones, laptop computers, recording devices, knives, mace or any other weapons are not allowed in the Federal Courthouse. The Court personnel cannot store any of these items for you, and therefore you should not bring them with you to Court*".

I firmly believe that the issue regarding cellular telephones have been clearly stated, and again pray for the Court's prompt decision regarding this delicate issue.

B9 (Rev. 11/91) Subpoena in a Criminal Case

United States District Court

2002R0255117/cld MIDDLE DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

V.

KABIL ANTON DJENASEVIC

SUBPOENA IN A CRIMINAL CASE

CASE NUMBER: 8:02-cr-424-T-17MAP

Detective Carlos Borges
Tampa Police Department
Tampa, Florida

787
765-7278

YOU ARE COMMANDED to appear in the United States District Court at the place, date and time specified below to ify in the above case.

E	COURTROOM
United States District Court 801 North Florida Avenue Tampa, Florida 33602	Honorable Elizabeth A. Kovachevich U.S. District Judge, Courtroom 17
	DATE AND TIME August 1, 2005 at 10:00 A.M.

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):

-TESTIMONY ONLY -

NOTE: PLEASE SEE THE ATTACHED LETTER REGARDING TRIAL APPEARANCE.

Upon receipt of this Subpoena, please contact Special Agent Frank Caira, Drug Enforcement Administration, at (813) 287-6468, and leave your day and evening phone numbers so that we can contact you when your testimony is needed.

IAGISTRATE JUDGE OR CLERK OF COURT	DATE
SHERYL L. LOESCH	July 18, 2005
EPUTY CLERK Vicki L. Downing	

NEY'S NAME, ADDRESS AND PHONE NUMBER

Kathy J.M. Peluso, AUSA, United States Attorney's Office
400 North Tampa Street, Suite 3200, Tampa, Florida 33602
Phone: (813) 274-6341

Main Office
400 North Tampa Street, Suite 3200
Tampa, Florida 33602
813/274-6000
813/274-6200 (Fax)

2110 First Street, Suite 3-137
Fort Myers, Florida 33901
239/461-2200
239/461-2219 (Fax)

U.S. Department of Justice
United States Attorney
Middle District of Florida

300 North Hogan Street, Suite 700
Jacksonville, Florida 32202-4270
904/301-6300
904/301-6310 (Fax)

501 West Church Street, Suite 300
Orlando, Florida 32805
407/648-7500
407/648-7643 (Fax)

Reply to: Tampa

July 18, 2005

Dear Witness:

Re: United States v. Kabil Anton Djenasevic
Case No. 8:02-cr-424-T-17MAP

The case for which you are a witness is presently set for trial on August 1, 2005 at 10:00 a.m. Because the trial may not begin exactly when shown in the subpoena, and it is not possible for all witnesses to appear on the first day of trial, it is likely that you will not be called upon to testify at the precise time specified on your subpoena.

In order to minimize the amount of time which you will spend waiting to testify, and as a convenience to you, please call two business days prior to the date on your subpoena Special Agent Frank Caira, DEA-Tampa, at telephone number (813) 287-6468. You will then be given appropriate instructions concerning your appearance. In the event that we need to reach you before your "call-in" date, please fill out and return the enclosed form so that we will have your address and home and work telephone numbers.

Please be aware that cellular telephones, laptop computers, recording devices, knives, mace or any other weapons are not allowed in the Federal Courthouse. The Court personnel cannot store any of these items for you, and therefore you should not bring them with you to Court.

TRANSPORTATION:

Ms. Joyce Fisher, Victim/Witness Coordinator for our office, stands ready to assist you with all your travel and lodging arrangements. The United States Attorney's Office utilizes a Government Travel Service Account which allows airfare and lodging costs to be paid for by the government and is a service offered to all witnesses. We strongly encourage you to take advantage of this service. Please feel free to give Ms. Fisher a call at (813) 274-6091.