

Hon. Robert S. Lasnik

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

RODNEY LEE ROLLNESS, et al.,

Defendant.

NO. CR06-041 RSL

DEFENDANTS' NOTICE RE: ISSUES  
TO BE RAISED DURING JUNE 28,  
2006 STATUS CONFERENCE

**I. INTRODUCTION**

This Court has scheduled a status conference for June 28, 2006. Defendants Rollness, Binder, Fabel and Jenks, through their respective counsel, hereby notify the Court of several issues to be raised during the upcoming conference.

**II. NOTICE OF ISSUES**

**A. DISCOVERY ISSUES**

The discovery process is continuing at a slow pace. The Government has provided the defense with several CDs containing documents and photographs relating to the investigation. Defense counsel have previously requested specific discovery information from the Government. See Appendix A (letter of

1 counsel dated May 1, 2006). The Government has yet to respond  
2 to most of these requests. In fact, the Government has yet to  
3 provide substantive information (e.g., identifying information,  
4 statements, reports, transcripts, *Brady* information) relating to  
5 their informants and the numerous lay witnesses who will testify  
6 at trial. The Government's attorneys have indicated that the  
7 Government intends to provide some of this information in the  
8 near future.<sup>1</sup>

10 Defendants Rollness and Binder, in particular, need to  
11 obtain *Brady* information at the earliest possible date as this  
12 information is relevant to their July 31, 2006 submission to the  
13 Department of Justice. Counsel for defendants Binder and  
14 Rollness would like to discuss the death penalty-related *Brady*  
15 issue at the status conference.

17 The discovery materials in this case are voluminous and it  
18 is anticipated that this volume will grow exponentially once the  
19 Government completes the process of scanning and organizing the  
20 documents relating to this case - and after the government  
21 supersedes the Indictment to add other allegations, particularly  
22 claims relating to the events that occurred in Laughlin, Nevada  
23 during 2002. To help facilitate the discovery process, the

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26 <sup>1</sup> Today, the Government produced additional discovery documents that  
may include some of the requested information. Defense counsel are  
currently in the process of reviewing those discovery materials.

1 defense asks this Court to appoint attorney Russel Aoki to  
2 provide services as outlined in his letter of May 17, 2006.

3 **B. DNA TESTING**

4 Consistent with this Court's Order of June 5, 2006, the  
5 defendants are prepared to present argument relating to Motion  
6 for the Court to Oversee Scientific Tests (Docket No. 107).  
7

8 **C. ILLEGAL INTERCEPTION OF TELEPHONE CONVERSATIONS**

9 On September 29, 2005, Magistrate Judge Theiler granted  
10 the Government's application to obtain a pen register and trap  
11 and trace device(s) on the home telephone of defendant Rodney  
12 Rollness. Somehow, during the implementation of this pen  
13 register, the Government's agents listened to telephone  
14 conversations involving defendant Rollness. The Government has  
15 assigned AUSA Robert Westinghouse as a "taint" attorney to  
16 handle matters relating to this illegal interception.<sup>2</sup>  
17

18 The defense is intending to raise issues regarding these  
19 interceptions at the upcoming conference. At the request of  
20 defense counsel, AUSA Westinghouse has agreed to attend the  
21 conference.  
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26 <sup>2</sup> On May 23, 2006, AUSA Westinghouse supplied counsel with one FBI  
report and handwritten notes that sets forth substantive information  
regarding one of these telephone conversations.



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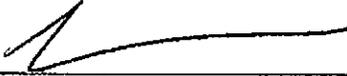
Terrence Kellog per e-mail attached  
TERRENCE KELLOG  
Attorney for Defendant Binder

Barry Flegenheimer per telephone attached  
BARRY FLEGENHEIMER  
Attorney for Defendant Jenks

Peter Camiel per telephone attached  
PETER CAMIEL  
Attorney for Defendant Fabel

CERTIFICATE OF SERVICE

1  
2 I hereby certify that on June 26, 2006, I electronically  
3 filed the foregoing with the Clerk of the Court using the  
4 CM/ECF system which will send notification of such filing to  
5 the following: Michael Lang, Assistant United States  
6 Attorney, Tessa Gorman, Assistant United States Attorney, and  
7 Bruce Miyake, Assistant United States Attorney. Also, I  
8 faxed a copy of this same document to Robert Westinghouse,  
9 Assistant United States Attorney.  
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