

General Counsel
91-04223

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA : CIVIL B-90-090 (TFGD)
: CRIM. B-86-59 (TFGD)
: :
VS. : :
: :
ARIF DURRANI : AUGUST 6, 1991

AMENDED MOTION TO VACATE AND SET ASIDE
SENTENCE AND JUDGMENT OF CONVICTION

1. This is a motion pursuant to 28 U.S.C. § 2255, to vacate and set aside the sentence and judgment of conviction in United States v. Arif Durrani, Crim. No. B-86-59 (TFGD).

2. Movant was convicted of three counts of violation of the Arms Export Control Act and was sentenced to an effective term of incarceration of ten years.

3. One material aspect of the defense at trial was movant's contention that the export of parts for the HAWK missile system with which he was charged came within the "official use" exception to the Arms Export Control Act or that he believed that the United States government had authorized the charged transactions.

4. Movant's conviction and sentence should be set aside on the grounds that the government violated his federal constitution right to due process in one or more of the following respects:

a. Agents or employees of the United States government knew at the time of movant's trial that the United

States government did not rely solely on stocks of HAWK parts and other weapons within the custody of the United States Army and within the United States for shipments to Iran before and during 1986, including but not limited to NATO stocks in Europe, in contradiction to the testimony of Charles Moyer at trial. The failure to disclose that evidence, which was in the control of agents or employees of the United States, regardless of whether it was in the control of the United States Attorney for the District of Connecticut, violated movant's due process right to disclosure of exculpatory evidence.

b. Agents or employees of the United States government knew at the time of trial that private persons, directly or indirectly including Manuel Pires, among others, were involved in the procurement of weapons including HAWK parts at the behest of the United States government or its agents and with their direction and encouragement, as part of an effort to free American hostages in Iran and for other reasons. The failure to disclose that evidence, which was in the control of agents or employees of the United States, regardless of whether it was in the control of the United States Attorney for the District of Connecticut, violated movant's due process

right to disclosure of exculpatory evidence.

c. Agents or employees of the United States government knew at the time of trial that Lt. Col. Oliver North and others met with private persons, other than employees of the Central Intelligence Agency or the United States military, in an effort to obtain HAWK spare parts and other weapons, and that one of those meetings took place in London in late September 1986. The failure to disclose that evidence, which was in the control of agents or employees of the United States, regardless of whether it was in control of the United States Attorney for the District of Connecticut, violated movant's due process right to disclosure of exculpatory evidence.

5. Based upon the foregoing, and upon such other evidence is disclosed during the discovery process or at a hearing on this motion, movant requests that his sentence and judgment be vacated.

THE MOVANT,
ARIF A. DURRANI

By _____

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His Attorney

CERTIFICATION

I hereby certify that a copy of the Amended Motion to Vacate and Set Aside Sentence and Judgment of Conviction was mailed first class, postage prepaid to:

Holly Fitzsimmons
Assistant United States Attorney
915 Lafayette Blvd.
Bridgeport, CT 06604

this day of August, 1991.

William M. Bloss