

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

UNITED STATES OF AMERICA

\*

Plaintiff

\*

CRIM. NO. 00-0000

vs.

\*

DEFENDANT

\*

Defendant

\*

\* \* \* \* \*

**MOTION TO SUPPRESS TAPES UNDER U.S. vs CARBONE**

TO THE HONORABLE COURT:

COMES NOW co-defendant, through his undersigned counsel, and respectfully STATES and PRAYS:

1. As part of the discovery in this case the government provided nine (9) audio tapes of conversations between several participants in the alleged conspiracy. This recording are identified in the discovery package as items N-1, N-2, N-5, N-6, N-11, N-12, N-13, N-14, and N-16. At this time the Government has not provide transcripts of any of the tape recording.

2. Some of this recordings are telephone conversations and the rest are body recording, that is to say recordings of personal, face to face, meetings.

3. Due to the poor quality of the recordings, specifically background noise and the effect of recording through devises located under clothing or in hidden areas, the information recorded within these tapes is inaudible and incomprehensible.

4. Although most of the recordings are not very clear, mainly due to tape speed variance and some noise, tapes identified as N-2, N-6, N-13, and N-14, which apparently are the body recordings, are totally unintelligible.

5. The First Circuit, in *United States v. Luis Carbone*, 798 F. 2d 21,(1st Cir.), stated that “This circuit has long followed the generally accepted rule that where a tape recording is challenged on the grounds of audibility the question is whether “the inaudible parts are so substantial as to make the rest more misleading than helpful” and the admissibility rests within the discretion of the trial judge.” (Citations omitted)

6. Based on the above, a *Carbone* hearing is requested, in order for the Court to make an admissibility determination prior to Trial. “The preferred way of handling challenges to the accuracy and audibility of tape recordings is at a pretrial hearing.” See *Carbone*, at 25.

**WHEREFORE**, it is respectfully requested from this Honorable Court that, in view of the above, that a suppression hearing be scheduled as to the above matter.

In San Juan, Puerto Rico, this September 13, 2000.

Joseph C. Laws, Jr.

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Motion to Suppress ...  
Criminal No. 00-000  
Page 3

### Certificate of Service

I HEREBY CERTIFY: That a copy of the foregoing Motion was served to counsel for the Government U.S. Attorney Guillermo Gil (attn. **Asst. U.S. Attorney Timothy Vázquez**), Federico Degetau Federal Building, Room 452, Hato Rey, Puerto Rico 00918.