

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 04-60001-CR-COOKE/Brown (s)(s)(s)(s)(s)

UNITED STATES OF AMERICA

vs.

**JOSE PADILLA,
a/k/a "Ibrahim,"
a/k/a "Abu Abdullah the Puerto Rican,"
a/k/a "Abu Abdullah Al Mujahir,"**

Defendant.

**GOVERNMENT'S RESPONSE IN OPPOSITION TO PADILLA'S MOTION FOR
RECONSIDERATION OF ORDER DENYING MOTION TO SUPPRESS PHYSICAL
EVIDENCE AND ISSUE WRITS AD TESTIFICANDUM**

The United States of America, through undersigned counsel, hereby responds in opposition to Padilla's Motion for Reconsideration of Order Denying Motion to Suppress Evidence and Issue Writs Ad Testificandum (DE 809).

This Motion for Reconsideration should be denied summarily. First, it raises no additional relevant facts or arguments that were not available to the Court when it issued its Order (DE 797) denying Padilla's motion to suppress physical evidence.¹ Second, there is no basis for reconsideration, as the Court's ruling was entirely correct, for the reasons stated in our response to Padilla's objections to Magistrate Judge Brown's R&R (DE 587) and our earlier memoranda opposing the motion.

¹Padilla's new citation to *LaFrance v. Bohlinger* 499 F.2d 29 (1st Cir. 1994) is irrelevant to the resolution of a *Franks v. Delaware* claim; that case dealt only with whether a judicial hearing was necessary to determine the voluntariness of a witness statement prior to the government's use of the alleged involuntary statement to impeach a testifying witness.

Accordingly, the Court should deny Padilla's motion for reconsideration.

Respectfully submitted,

R. ALEXANDER ACOSTA
United States Attorney

s/ Stephanie K. Pell

RUSSELL R. KILLINGER

Fla. Bar No. 0312851

BRIAN K. FRAZIER

Court No. A5500476

JOHN C. SHIPLEY

Fla. Bar No. 069670

Assistant United States Attorneys

STEPHANIE K. PELL

Court No. A5500301

Trial Attorney, United States Department of Justice

National Security Division

99 N.E. 4th Street, 8th Floor

Miami, Florida 33132

Tel: (305) 961-9000

Fax: (305) 530-4675

Russell.Killinger@usdoj.gov

Brian.Frazier@usdoj.gov

John.Shipley@usdoj.gov

Stephanie.Pell@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on February 20, 2007, the undersigned electronically filed the foregoing document, Government's Response In Opposition To Padilla's Motion For Reconsideration Of Order Denying Motion To Suppress Physical Evidence And Issue Writs Ad Testificandum, with the Clerk of the Court using CM/ECF.

s/ Stephanie K. Pell

Stephanie K. Pell
Trial Attorney