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7 Attorney for

8
9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 Defendant.

Case No. CR-

APPLICATION AND
DECLARATION OF MARY
McNAMARA IN SUPPORT OF
'S SECOND
REQUEST FOR AUTHORIZATION
OF COSTS FOR NECESSARY
DEFENSE EXPENDITURES,
18 U.S.C. § 3006A

FILED IN CJA CONFIDENTIAL
FILE

18 Pursuant to the Criminal Justice Act, hereby applies for
19 authorization of costs for necessary defense expenditures, specifically for the services of a
20 Forensic Toxicologist. In support of this application, Mr. submits the declaration
21 of his counsel, Mary McNamara, which is attached hereto and incorporated herewith.

22 I, MARY McNAMARA, make the following declaration under penalty of perjury:

23 1. I am an attorney at law duly admitted to practice in the State of California
24 and admitted to the bar of this Court. By appointment under the Criminal Justice Act, I
25 represent defendant in the above-captioned matter. Unless otherwise
26 noted, I make this declaration of my own personal knowledge, and if called as a witness, I
27 could and would testify competently to the contents hereof.

28 EX PARTE APP AND DEC IN SUPP OF
ORDER FOR EXPERT COSTS

--CR-

1 2. At present, is charged with possession with intent to distribute
2 approximately 40 grams of methamphetamine in violation of Title 21, U.S.C. § 841(a)(1)
3 and currently is exposed to a five-year mandatory minimum sentence. The discovery
4 discloses, however, that is suspected of having received an additional 675.3
5 grams of methamphetamine, which amount, if proved, increases his mandatory minimum
6 sentence to 10 years.

7 3. The additional 675.3 grams of methamphetamine that is
8 suspected of possessing was seized from one (“
9 drugs”), whom police reported to have arrived at residence during the
10 execution of a search warrant at the residence. The discovery contains two conflicting
11 official measurements of the amount of the drugs. According to the San
12 Mateo County Sheriff’s Office, the drugs comprise two different plastic
13 ziplock bags, one weighing 988 grams and the other weighing 488 grams.
14 The DEA Chemical Analysis Report states that the same drugs together weigh 675.3
15 grams.

16 4. Undersigned counsel advises the Court that the government has provided an
17 explanation of the discrepancy which is that the San Mateo County measurement was not a
18 metric measurement as it states, but rather, was an imperial measurement. So viewed, the
19 amounts reported are roughly the same. Nonetheless, undersigned counsel believes that it
20 would constitute ineffective assistance of counsel to fail to get an independent opinion as
21 to the true weight of the drugs in question and the amount of actual drug present in the
22 total substance – a calculation relevant to the applicable guideline analysis.

23 5. With the approval of this Court, undersigned counsel seeks to retain the
24 services of ., to conduct the measurement. is a Forensic
25 Toxicologist licensed by the State of California Department of Health Services. Attached
26 as Exhibit A hereto is a true and correct copy of curriculum vitae indicating
27 his qualifications and his address.

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,

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Case No. CR-

**[PROPOSED] SECOND ORDER
AUTHORIZING COSTS FOR
NECESSARY DEFENSE
EXPENDITURES FOR
, 18 U.S.C. § 3006A**

**FILED IN CJA CONFIDENTIAL
FILE**

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17 GOOD CAUSE APPEARING THEREFOR,

18 IT IS HEREBY ORDERED that _____, is authorized to incur up to
19 \$3,000.00, at the rate of \$200 per hour, in the above-entitled matter pursuant to 18 U.S.C. §
20 3006A in order to perform expert drug analysis on behalf of _____;

21 IT IS FURTHER ORDERED that the clerk file under seal of court this Second Order
22 Authorizing Costs for Necessary Defense Expenditures for _____, 18 U.S.C.
23 §3006a and the Ex Parte Application and Declaration of Mary McNamara in Support of
24 Second Request for Authorization of Costs for Necessary Defense
25 Expenditures, 18 U.S.C. § 3006a.

26 Dated: _____

27 United States District Judge
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ORDER FOR INVESTIGATOR

--CR--