

1.
2. Kaushal Niroula
3. Defendant In Pro Per
4. Booking # 200910575
5. Indio Jail
6. P.O. Box 1748
7. INDIO, CA 92201

8. **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9. **COUNTY OF RIVERSIDE**
10. **(INDIO BRANCH)**

11. **PEOPLE OF THE STATE OF CALIFORNIA,)**
12. **PLAINTIFF)**
13. **v.)**
14. **KAUSHAL NIROULA, ET AL)**
15. **DEFENDANT)**
16. **CASE NO: INF 064492**
17. **NOTICE OF MOTION, AND**
18. **MOTION FOR COURT ORDER,**
19. **AUTHORIZING MOVER'S**
20. **USE OF "BABBLE" TAPE**
21. **DURING ATTORNEY/**
22. **PRIVILEGED VISITS**
23. **Date: 2-24-12 Time: 8:30 am**
24. **Dept. 1B**

25. **TO: HONORABLE DAVID B DOWNING JUDGE PRESIDING/PAMELA J WALLS,**
26. **COUNSEL FOR THE COUNTY OF RIVERSIDE ON BEHALF OF THE SHERIFF OF**
27. **THE COUNTY OF RIVERSIDE STANLEY J SNIFF JR.\ADDITIONAL NOTICE TO:**
28. **PEOPLE OF THE STATE OF CALIFORNIA BY THEIR DISTRICT ATTORNEY OF**
29. **THE COUNTY OF RIVERSIDE, PAUL E ZELLERBACH AND OR HIS**
30. **REPRESENTATIVE.**

31. **NOTICE IS HEREBY GIVEN** that on the 24 day of February in the year 2012 at 8:30 am, or
32. as soon thereafter that the matter may be heard at Dept. 1B of the aforementioned court. The
33. defendant, Kaushal Niroula, *A Propria Persona* will move and hereby moves this court for an
34. order of this court compelling Stanley Sniff Sheriff of the County of Riverside and his
35. subordinates and all incarceration facilities operated within his jurisdiction through his
36. designates to allow the use of the "Babble file" on his computer and a USB speaker during his
37. visits either with Court appointed assets or Investigators or attorneys while incarcerated in the
38. Riverside County Jail in Indio or anywhere else.

39. Mr. Niroula's Motion will be based upon this notice of Motion, and motion/ attached exhibits,
40. any further supplemental evidence filed before the date of the hearing and further any evidentiary
41. testimony offered at the hearing and any and all documents filed on this case and on this matter.

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2. **MAY IT PLEASE THIS HONORABLE COURT.** Defendant, **KAUSHAL NIROULA,**
3. (hereinafter referred to as “Mr. Niroula”) respectfully requests this Honorable Court receive
4. this Motion for authorization to use a “babble tape” during visits he has with his Court
5. appointed assets and Attorneys which, in addition to allowing the use of the “babble tape”
6. authorizes the use of a single speaker system capable to connection to Mover’s Court
7. authorized Apple MacBook Laptop Computer during his visits with his Court appointed
8. assets and attorneys.

9.
10. **1. In Support** of this Motion, Mover attaches hereto his Declaration, and the Declaration of
11. Demi Tolbert Esq., and Martha Dixon, Mover’s Court appointed Legal Runner, and S. Stephen
12. Spring, II, Esq., and James M. Atkinson *in globo* attached and annexed hereto as EXHIBIT “A”.

13. **2. Mover** relates that as reflected in the records of this Court proceeding, there is
14. undisputed evidence that privileged telephone calls between Mover and various attorneys were
15. recorded by third parties unknown and without the consent of this Mover or his attorneys. In
16. addition, there exists evidence which suggests that there is present in the Indio Jail facility, a
17. recording system which monitors, intercepts, and records for possible dissemination oral
18. communications between Mover, his Court appointed assets, and attorneys who, from time to
19. time, have visited your Mover and are providing legal advice and services for various other
20. matters such as your Mover’s Immigration status with the United States, *inter alia*.

21. **3.** The required protocol mandated by the Riverside County Sheriff’s Office requires
22. attorney visit personnel to check in at the front desk, provide identification, and then enter into
23. one of two attorney booths. These booths are separated from Mover by a cement wall and clear
24. glass panel. A pre existing slit in which documents could be passed has been closed and locked
25. with a custom metal plate. As a result of this structure, the acoustical makeup of the structure, to
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1.
2. prevent eavesdropping of privileged oral communications, requires the deployment of what is
3. commonly called a “babble” tape coupled with the use of a speaker system.

4. **4.** This request has been predicated upon at least one occasion during which it became clear
5. that the Riverside Sheriff’s office has or had installed an eavesdropping system. As reflected in
6. the Declaration of Martha Dixon, Court appointed Legal Runner to this Mover, prior to entering
7. the attorney booth, she was asked how long she anticipated she would be visiting with Mr.
8. Niroula. After relating that she anticipated being in interview for approximately at least an hour.
9. Immediately after relating the answer, Ms. Dixon heard one deputy tell ostensibly another
10. deputy, “Get two CD’s”. In addition, as reflected in the Declaration of Demi Tolbert, Esq., a
11. member of the California Bar in good standing, the Sheriff’s Department explicitly maintains an
12. unconstitutional policy of intercepting all oral communications between attorneys and their
13. clients at every jail facility in Riverside County, as related to her by Deputy Clark on Friday,
14. February 3, 2012.

15.
16. **5.** Premised upon this factual basis giving rise for concern, and after consultation with S.
17. Stephen Spring, II, Esq., an attorney with a background in both technical intelligence and
18. technical surveillance countermeasures, Mr. Spring, whose firm represents one of the most
19. knowledgeable TSCM’s assets in the world, requested the engineering, composing, and
20. production of a “babble tape”. In order to prevent acquisition of oral communications, acoustic
21. noise maskers and babble tapes are commonly utilized by intelligence agencies, military
22. services, and the military.

23.
24. **6.** In this particular case, the babble tape was produced in accordance with the specifications
25. requested for attorney visits between and among Mr. Niroula, his Court appointed assets and his
26. attorney(s) for other matters including Stephen Spring. The babble tape consists of a digital
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2. computer file. The proper technical name for this file is that of a “Babble Tape” or “Masking
3. File” created to assist in acoustic privacy against hidden microphones and eavesdropping devices
4. capable of intercepting oral communications.

5. **7.** Within the created file are not less than thirty-two (32) people speaking at a time in
6. English, plus eight (8) people speaking in foreign languages all stabilized at the same volume
7. and range. Each speakers audio track is then compressed in time and frequency to create an
8. additional four to five “voices” for each speaker, and to fill the frequency spectrum with suitable
9. ranges of vocal ranges and frequencies. These various tracks or voices are then re-inserted
10. slightly below that of the voices from which they originated. Slightly below the peaks of these
11. numerous tracks or random mechanical oriented sounds that are outside of normal human vocal
12. capability, but which are within the range of hearing, and within the range of any eavesdropping
13. device or hidden microphone. Also contained in the files is a reoccurring supersonic burst at
14. random intervals, which can not be heard by an adult person, but which may be heard by
15. children and by sophisticated eavesdropping system. These supersonic bursts, engineered to
16. interfere with the automatic gain control circuits in any eavesdropping device may be heard as a
17. rhythmic ticking sound through the file.
18.

19. **8.** The specifically constructed babble tape file for Mr. Niroula contains the voices of Mr.
20. Niroula, Martha Dixon, and Stephen Spring, including other Court appointed assets’ voices.
21. Thus, an eavesdropper may hear a particular person’s voice in fragments and any attempt to
22. follow that voice will be frustrated. One listening to the babble tape file will note that
23. periodically one of the speaker’s voices raises in volume above the rest for a few seconds. This
24. technique is designed to strain the resources of any eavesdropping. The specific babble tape file
25. produced for Mr. Niroula’s use is specifically engineered to defeat adaptive audio filtering,
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2. including the use of multiple microphones, phase filters, or related higher performance filtering
3. methods. Also included are wide dynamic vocal ranges, reversals and phase shifts to further
4. frustrate any intelligent reconstruction of any intercepted audio. After very careful tuning and
5. editing of this specific Niroula babble tape, the results are well in excess of 144 tracks which was
6. duplicated and shifted by 180 degrees of phase offset, such that the resulting 288 files were
7. reversed and inserted in 50% volume levels to ensure that all gaps in frequency or time were
8. filled in with additional sound. Thus, the babble tape created has a total of over 576 voices or
9. sound tracks. These tracks were then mixed down into the dual track audio file being the Niroula
10. final babble tape.
11.

12. **9.** Mr. Niroula has been provided by Court order with an Apple Laptop computer. As a
13. result it is imperative that a separate audio speaker system be provided to him for use in
14. deploying the babble tape. The file SHOULD NOT BE PLAYED through Mr. Niroula's
15. computer since the babble tape file will with a high degree of probability damage the computer's
16. speakers after prolonged usage as the continued use over the computer's speaker membranes
17. does not allow them time to rebound. This results not from volume, but from frequency of
18. coverage and sound durations.
19.

20. **11.** As a result, on Monday, January 23, 2012, Martha Dixon, Stephen Spring, James Butts,
21. F B I Special Agent retired, and William Picard drove to the Staples Office Supply Store located
22. in La Quinta, California. As reflected in their Declarations and a copy of the sales receipt, one
23. (1) Cyber Acoustics Portable USB Powered Speaker, Model No. CA-2880, for use by Mr.
24. Niroula's laptop computer on the prisoner side of the attorney visit booth for the East Wing of
25. the Indio Jail where he is presently incarcerated. Since the purchase of this speaker which was
26. NOT removed from its original packaging, it has been under the exclusive care, custody and
27.

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2. control of Martha Dixon, Mr. Niroula's court appointed Legal Runner with the specific purpose
3. of presenting same to the designated officer(s) of the Riverside County Sheriff's Office in open
4. Court before the Honorable David B. Downing. In addition, as reflected in the Declarations
5. above, two (2) SanDisk Cruzer Blade 4GB USB Flash Drives were purchased with the express
6. purpose of providing a copy of the babble tape file to both this Honorable Court and the
7. Riverside County Sheriff's Office.

8. 12. Finally, it is submitted that with the playing of the babble tape on both Mr. Niroula's
9. side of the attorney visit booth and the attorney side of the attorney visit booth, should any
10. hidden microphone system or eavesdropping device designed to intercept oral communications
11. be present, the privileged nature and contents of Mr. Niroula's oral communications with his
12. Court appointed assets and individual attorneys who are entitled to legal privilege will be
13. preserved in spite of any eavesdropping devices.

14. **WHEREFORE**, Mover, Mr. Kaushal Niroula, requests that this Honorable Court order
15. the Sheriff of Riverside County to be the custodian of the Cyber Acoustics Portable USB
16. Powered Speaker, Model No. CA-2880 provided to this Honorable Court and provide same to
17. Mr. Niroula during his attorney visits with either his Court appointed assets, private
18. investigators, or attorneys providing legal advice and/or legal services on his behalf. Also, to
19. permit the audio file to be played at a level sufficient in volume while in the booth to provide
20. proper masking so that not only do will covert microphones be subverted, but a person
21. attempting to eavesdrop with the unaided ear will also not be able to understand the conversation
22. taking place in the booth.

23. February 24th has been chosen since Deputy D.A. Lisa DiMaria is busy with two other murder
24. cases as related to this Court on Friday, January 27, 2012.

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Dated this February 9th, 2012, Riverside County, Ca. 92210.

Respectfully Submitted,

Kaushal Niroula

Electronically Signed

Kaushal Niroula

In Propia Persona

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3. **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
4. **COUNTY OF RIVERSIDE**
5. **(INDIO BRANCH)**

6. PEOPLE OF THE STATE OF CALIFORNIA,)
7. **PLAINTIFF**)

8. **v.**)

9. KAUSHAL NIROULA, ET AL)
10. **DEFENDANT**)

CASE NO: INF 064492

11. **PROPOSED ORDER**
12. **AUTHORIZING MOVER'S**
13. **USE OF "BABBLE" TAPE**
14. **DURING ATTORNEY**
15. **VISITS**

16. **ORDER**

17. **THE COURT**, after reviewing the pleadings, declarations, evidence, and being
18. otherwise fully aware in the premises pursuant to Defendant, KAUSHAL NIROULA's, Motion
19. for Order ordering that the Sheriff of Riverside County at Indio, California, take custody of one
20. (1) Cyber Acoustics Portable USB Powered Speaker, Model No. CA-2880, to be provided to
21. Kaushal Niroula for purposes of playing a babble tape to prevent the interception of his
22. privileged oral communications with his Court appointed assets, private investigators, and
23. attorneys to be used with his Apple Laptop now housed in the Indio Jail for Mr. Niroula's use,
24. and being otherwise fully advised in the premises,

25. **IT IS ORDERED ADJUDGED AND DECREED** that the Sheriff of Riverside County
26. and the Office of the District Attorney show cause, if any they can, on February 24, 2012, at 9am
27. PST why the relief requested by Mr. Niroula should not be granted; said relief consisting of the
28. provision to either the Sheriff of Riverside County or his designate to receive one (1) Cyber
Acoustics Portable USB Powered Speaker, Model CA-2880 who shall be the custodian of said

1.
2. speaker and provide same to Kaushal Niroula, upon Mr. Niroula's request, for his use to play the
3. babble tape file made specifically for Mr. Niroula to prevent the interception of Mr. Niroula's
4. privileged conversations with his Court appointed assets, private investigators, and attorneys
5. present to provide either legal advice or legal services to Mr. Niroula, and that this speaker shall
6. be housed with the Apple Laptop computer assigned to Mr. Niroula for his use, Pro Per, in his
7. defense of the charges against him in the above named and numbered matter.
8.

9. **ORDERED** this ____day of February, 2012, at Indio, Riverside County, California.
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13. **Honorable David B. Downing**
14. **Superior Court Judge- Indio**
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2.
3. SUPERIOR COURT OF THE STATE OF CALIFORNIA
4. COUNTY OF RIVERSIDE
(INDIO BRANCH)

5. PEOPLE OF THE STATE OF CALIFORNIA,)
6. PLAINTIFF)

CASE NO: INF 064492

7. v.)

NOTICE AND MOTION
FOR COURT ORDER
AUTHORIZING MOVER'S
USE OF "BABBLE" TAPE
DURING ATTORNEY
VISITS

8.)
9.)
10. KAUSHAL NIROULA, ET AL)
DEFENDANT)
11.)
_____)

12. **DECLARATION OF KAUSHAL NIROULA IN SUPPORT OF HIS MOTION FOR USE**
13. **OF A SPEAKER AND BABBLE TAPE DURING HIS PRIVILEGED VISITS WHILE IN**
14. **THE INDIO JAIL**

15. I, KAUSHAL NIROULA, declare:

16. 1. I am requesting that the Court order Martha Dixon, my Court appointed
17. Legal Runner, to present to the Riverside County Sheriff's Office a USB
18. speaker, more particularly described in my Motion, so that I can play the
19. babble tape file specifically created for me by James M. Atkinson of
20. Granite Island Group of Rockport, Massachusetts, during my privileged
21. visits without damaging the Apple Laptop computer.
22. 2. I require the use of a babble tape because I have grave concerns that my
23. oral communications are being monitored during my visits with my
24. Court appointed assets, private investigators, and attorneys.
25. 3. I submit the following reasons for this request:
26. 4. I am appearing Pro Per (a propria persona) in this matter which includes
27. a charge of premeditated murder for hire;
28. 5. This matter is set for trial on the merits commencing at 9am PST on May
25, 2012.
6. The deployment and use of the babble tape file with the USB speaker on
my side of the attorney booth should prevent the monitoring or
interception of my privileged conversations as I understand it from
Stephen Spring, Esq., LBN 12347, who is my attorney in other matters.
7. I declare under penalty of perjury under the laws of the State of
California that the foregoing is true and correct.

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Executed this 6th day of February, 2012.

Respectfully submitted,

Kaushal Niroula
Electronically Signed
Kaushal Niroula in Pro Per

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3. SUPERIOR COURT OF THE STATE OF CALIFORNIA
4. COUNTY OF RIVERSIDE
(INDIO BRANCH)

5. PEOPLE OF THE STATE OF CALIFORNIA,)
6. PLAINTIFF)

CASE NO: INF 064492

7. v.)

NOTICE AND MOTION
FOR COURT ORDER
AUTHORIZING MOVER'S
USE OF "BABBLE" TAPE
DURING ATTORNEY
VISITS

8.)
9.)
10. KAUSHAL NIROULA, ET AL)
11. DEFENDANT)
12. _____)

13. **DECLARATION OF WILLIAM PICARD IN SUPPORT OF MOTION FOR USE OF A**
14. **SPEAKER AND BABBLE TAPE DURING HIS PRIVILEGED VISITS WHILE IN THE**
15. **INDIO JAIL**

16. I, William Picard, declare:

17. 1. I am Kaushal Niroula's court appointed Paralegal and witnessed Martha Dixon
18. receive and maintain the speaker in Mr. Niroula's Babble Motion in order for her
19. to maintain the chain of custody of this brand new, still in the package speaker
20. purchased at Staples in La Quinta, California, on January 23, 2012, in its original
21. packaging to be provided to the Sheriff's designate for Riverside County, Indio,
22. California, to be used by Kaushal Niroula during his privileged visits with myself,
23. Martha Dixon, James Butts, Stephen Spring, private investigators, and attorneys.
24. 2. I declare under penalty of perjury under the laws of the State of California and
25. Louisiana that the foregoing is true and correct. I have affixed my electronic
26. signature to this Declaration in Louisiana.

27. Executed this 5th day of February, 2012, at Lafayette, Louisiana.

28. Respectfully submitted,

William Picard

William Picard

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2.
3. **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
4. **COUNTY OF RIVERSIDE**
5. **(INDIO BRANCH)**

6. **PEOPLE OF THE STATE OF CALIFORNIA,)** **CASE NO: INF 064492**
7. **PLAINTIFF)**
8. **v.)**
9. **KAUSHAL NIROULA, ET AL)** **NOTICE AND MOTION**
10. **DEFENDANT)** **FOR COURT ORDER**
11. **)** **AUTHORIZING MOVER'S**
12. **)** **USE OF "BABBLE" TAPE**
13. **)** **DURING ATTORNEY**
14. **)** **VISITS**
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18. **DECLARATION OF MARTHA DIXON IN SUPPORT OF MOTION FOR USE OF A**
19. **SPEAKER AND BABBLE TAPE DURING HIS PRIVILEGED VISITS WHILE IN THE**
20. **INDIO JAIL**

21. **I, Martha Dixon, declare:**

22. 1. I am Kaushal Niroula's court appointed Legal Runner. I was present during the purchase of the USB Speaker at Staples in La Quinta, California, on January 23, 2012, in its original packaging to be provided to the Sheriff's designate for Riverside County, Indio, California, to be used by Kaushal Niroula during his privileged visits with myself, William Picard, James Butts, Stephen Spring, private investigators, and attorneys.
23. 2. I have had singular possession, care, custody and control of the speaker since then preserving a chain of custody for purposes of Mr. Niroula's babble tape motion and will maintain same until presented in Open Court to Judge Downing.
24. 3. I have read the content of the Motion relating to the incident where I was present, in the Indio Jail Lobby, waiting to see Mr. Niroula, when I was asked by one of the jail Deputies, how long I would be in the Attorney booth, I explained over an hour, then I heard the Indio jail deputy, comment to another Indio Jail Deputy, "get two CD's.
25. 4. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

26. Executed this 5th day of February, 2012.

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Respectfully Submitted,

Martha Dixon

Martha Dixon

1.
2. **SUPERIOR COURT OF CALIFORNIA**
3. **COUNTY OF RIVERSIDE**
4. **(INDIO BRANCH)**

4. **PEOPLE OF THE STATE OF CALIFORNIA,)** **CASE NO: INF 064492**
5. **PLAINTIFF)**
6. **v.)** **NOTICE AND MOTION**
7. **)** **FOR COURT ORDER**
8. **)** **AUTHORIZING MOVER'S**
9. **KAUSHAL NIROULA, ET AL)** **USE OF "BABBLE" TAPE**
10. **DEFENDANT)** **DURING ATTORNEY**
11. **)** **VISITS**
12. **)**

11. **DECLARATION OF STEPHEN SPRING IN SUPPORT OF MOTION FOR USE OF A**
12. **SPEAKER AND BABBLE TAPE DURING HIS PRIVILEGED VISITS WHILE IN THE**
13. **INDIO JAIL**

13. **I, Stephen Spring, declare:**

- 14.
15. 1. I represent Kaushal Niroula as his attorney in various other matters. I am a member of
16. the Louisiana State Bar Association, LBN: 12347, in good standing, and was present
17. during the purchase of the USB Speaker at Staples in La Quinta, California, on
18. January 23, 2012, in its original packaging to be provided to the Sheriff's designate
19. for Riverside County, Indio, California, to be used by Kaushal Niroula during his
20. privileged visits with myself, William Picard, Enrique Tira, Martha Dixon, James
21. Butts, private investigators, and attorneys.
22. 2. I have been present with William Picard and Martha Dixon since the purchase of the
23. USB speaker which has remained in Martha Dixon's exclusive care, custody and
24. control.
25. 3. At Mr. Niroula's request, I engaged the services of James M. Atkinson of Granite
26. Island Group, located in Rockport, Massachusetts, to provide Mr. Niroula with a
27. babble tape to prevent the interception or monitoring of Mr. Niroula's privileged
28. visits. Mr. Atkinson is a world renowned expert in the field of TSCM (Technical
- Surveillance Countermeasures) in both hardware and software applications which
- involve the use of various technical equipment. Mr. Atkinson normally charges a
- minimum of \$2,500.00 for the production of any babble tape which is, in my opinion,
- far superior to acoustic noise generators available in the countermeasure market. I
- received the babble tape file and coordinated the provision of elements of the
- specifically constructed babble tape file for Mr. Niroula. Mr. James M. Atkinson is a
- client of the firm of Spring & Spring, LLC, and I have Mr. James Atkinson's express
- permission to disclose that he is a firm client. I will state that when Mr. Atkinson
- learned of the policy and procedures of the Riverside County Sheriff's Office

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invading the Attorney Client Privilege he volunteered to forego his normal fee and volunteered to produce the “babble” file gratis as a result of his abhorrence of such a policy imposed by the Sheriff of Riverside as the ultimate repository of policy, custom and conventional usages which he considers unconstitutional and a deprivation and infringement of a pretrial detainee’s civil rights (i.e. Mr. Niroula) and his Court appointed assets and attorneys.

4. I declare under penalty of perjury under the laws of the State of California and Louisiana that the foregoing is true and correct. This declaration is signed electronically in Louisiana having the same effect as my own original signature

Executed this 6th day of February, 2012, at Baton Rouge, Louisiana.

Respectfully Submitted,

Stephen Spring

Stephen Spring

1.
2. **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
3. **COUNTY OF RIVERSIDE**
4. **(INDIO BRANCH)**

4. **PEOPLE OF THE STATE OF CALIFORNIA,)** **CASE NO: INF 064492**
5. **PLAINTIFF)**
6. **v.)** **MOTION**
7. **)** **FOR COURT ORDER**
8. **)** **AUTHORIZING MOVER'S**
9. **KAUSHAL NIROULA, ET AL)** **USE OF "BABBLE" TAPE**
10. **DEFENDANT)** **DURING ATTORNEY**
11. **)** **VISITS**
12. **)**

11. **DECLARATION OF JAMES M. ATKINSON IN SUPPORT OF MR. NIROULA'S**
12. **MOTION FOR USE OF A SPEAKER AND BABBLE TAPE DURING HIS PRIVILEGED**
13. **VISITS WHILE IN THE INDIO JAIL**

13. **I, James M. Atkinson, declare:**

14. 1. I am domiciled and reside in Rockport, Essex County, Massachusetts.
15. 2. I have never been convicted of any crime in any jurisdiction.
16. 3. I am an internationally recognized expert in electronic countermeasures
17. and TSCM (Technical Surveillance Countermeasures) having, in the
18. past, testified as an expert for the United States Congress in the
19. Deepwater matter which involved the use by contractors of substandard
20. "TEMPEST" cables and classified electronics that were being paid for by
21. U.S. taxpayers and exposing classified military intelligence and data to
22. interception. I have also testified in other matters to Congress, and other
23. government agencies on related matters, and worked as a contractor to
24. numerous U.S. Intelligence agencies on this and related matters.
25. 4. My clients have included the Central Intelligence Agency, Federal
26. Bureau of Investigations, U.S. Department of State, U.S. Marshalls, and
27. numerous other federal and state agencies.
28. 5. I have attached hereto my curriculum vitae.
6. At the request of Spring & Spring, LLC, Attorneys at Law, located
primarily in Baton Rouge, Louisiana, and on behalf of Kaushal Niroula
residing in the Indio Jail, I put together a "babble" tape.
7. The firm of Spring & Spring, LLC consists of a retired member of the
Federal Bureau of Investigation and a younger member who is one of the
most familiar attorneys in the United States with technical
counterintelligence and technical surveillance countermeasures.

8. Mr. Niroula's trial on the merits is set to commence at 9am PST on May 25, 2012.
9. It is, in my opinion, essential that he be able to communicate with his Court ordered assets without interception, monitoring, or illegal eavesdropping.
10. To that end, I engineered, composed, and constructed the custom "babble tape" which has been described in the Motion to which this Declaration is to be attached.
11. The use of the babble tape by Mr. Niroula will in no way negatively impact any security measure in the jail where he resides. It will, however, insure that in the event that there are any hidden microphones or listening devices being used, they will be nullified.
12. This file will be played by way of a computer through a small speaker, when confidential discussions will be held between Mr. Niroula and members of his legal team in order to mask the conversations in an effective manner, so long as the audio is played at a high enough volume to "fill the room" and to create reflections within the room of the audio, though the use of two small portable speakers into the client side of the room. Then a similar system being used on the attorney side of the glass to protect the other side of the conversation.
13. With this babble tape or audio file being played through Mr. Niroula's Apple MacBook attached to a set of USB speaker and a similar audio file being played on the attorney side of the attorney or member of his legal team visiting booth in Indio jail, a moderate level of proper oral privacy security and attorney-client confidentiality can be achieved.
14. When I learned the conduct of the Riverside Sherriff's Office regarding attorney booths and visits, I volunteered to produce the "babble" file gratis as a result of my personal abhorrence of such a policy imposed by the Sheriff of Riverside as the ultimate repository of policy, custom and conventional useages which I consider unconstitutional and a deprivation and infringement of a pretrial detainee's civil rights (i.e. Mr. Niroula, Mr. Garcia, and others) and their Court appointed assets and attorneys.
15. I declare under penalty of perjury under the laws of the State of California and Massachusetts that the foregoing is true and correct although this is being executed in Massachusetts. This declaration is signed electronically in Massachusetts having the same effect as my own original signature

Executed this 5th day of February, 2012, at Rockport, Essex County, Massachusetts..

Respectfully submitted,

James M. Atkinson

James M. Atkinson

1.
2. **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
3. **COUNTY OF RIVERSIDE**
4. **(INDIO BRANCH)**

4. **PEOPLE OF THE STATE OF CALIFORNIA,**) **CASE NO: INF 064492**
5. **PLAINTIFF**)
6. **v.**) **MOTION**
7.) **FOR COURT ORDER**
8.) **AUTHORIZING MOVER'S**
9. **KAUSHAL NIROULA, ET AL**) **USE OF "BABBLE" TAPE**
10. **DEFENDANT**) **DURING ATTORNEY**
11.) **VISITS**
12.)
13.)
14.)

11. **DECLARATION OF DEMITRA HAIDOS TOLBERT, ESQ. IN SUPPORT OF MR.**
12. **NIROULA'S MOTION FOR USE OF A SPEAKER AND BABBLE TAPE DURING HIS**
13. **PRIVILEGED VISITS WHILE IN THE INDIO JAIL**

13. **I, Demi Tolbert, declare:**

14.
15. 1. I previously represented Kaushal Niroula as his attorney in the above-entitled action.
16. I am a member of the California Bar Association, CBN: 224981, in good standing,
17. and practice law in California.
18. 2. On the morning of Friday, February 3, 2012, I appeared in Dept 302 at the Southwest
19. Justice Center on a death penalty case. My client is housed at Southwest also. I was
20. telling him that I would walk over to the jail after Court so we could talk, when
21. Deputy Clark of the Riverside County Sheriff's Office interjected and said that we
22. could talk right there. I replied that Deputy Clark's presence did not make my
23. conversation with my client private since my client was seated inches from the
24. deputy.
25. 3. Deputy Clark informed me that my conversations with my client were privileged but
26. never private because my client was in custody. He also told me that ALL
27. conversations with in-custodies are "monitored" throughout Riverside County: either
28. by recording or putting a deputy in the room to listen. Deputy Clark of the Riverside
County Sheriff's Office expressly told me that all conversations between persons
housed in the Riverside County jails with their attorneys or anyone else in the
attorney booths are monitored.
4. Deputy Clark further stated that depending on the security risk the Sheriff's office
unilaterally assigns to persons incarcerated (including pretrial detainees) the Sheriff's
Office might routinely record their conversations with their attorneys.
5. Deputy Clark stated the deputies are not allowed to testify as to the conversations, but
they are instructed and able to listen based to these privileged conversations based on
some sort of security need.

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- 6. I tried to visit my client at the jail after Court, but he had been placed in isolation by the Sheriff's Department. I was told there was no one to walk him to the attorney booths since visiting going on
- 7. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. This declaration is signed electronically in California having the same effect as my own original signature

Executed this 5th day of February, 2012, at Cathedral City, Riverside County, California.

Respectfully submitted,

Demitra Haidos Tolbert

Demitra Haidos Tolbert

1.
2. **PROOF OF SERVICE**

3. **People vs. Niroula**

4. **I HEREBY DECLARE** that I am over the age of 18 and not a party to the above
5. entitled action. My Business address is: 74923 U S Hwy 111, # 155, Indian Wells, Ca 92210.

6. On February 10, 2012, I served a true copy of :

7. **NOTICE OF MOTION, MOTION FOR COURT ORDER AND MEMORANDUM OF**
8. **POINTS AND AUTHORITIES AUTHORIZING USE OF BABBLE TAPE DURING**
9. **ATTORNEY PRIVILEGED VISITS**

10. as Follows by causing electronic service via email pursuant to the order of the Superior Court of
11. California to the following parties:

12. 1, **Lisa DiMaria, Esq.,**
13. 82-675 Highway 111,
14. 4th Floor
15. Indio, California 92201; and
16. 2. **Pamela J. Walls, Esq., and Anna W. Wang, Esq.,**
17. County and Deputy Counsels for The County of Riverside & Sheriff's
18. Department
19. 3960 Orange St 5th Fl,
20. Riverside, California 92501; and
21. 3. **Daniel Carlos Garcia in Pro Per via email to Investigator Jeff Reed**
22. **BK# 200911640**
23. P.O. Box 1748
24. Riverside County Indio Jail,
25. Indio, California, 92202

26. additionally via Indio Jail legal mail for courtesy copy delivery to Mr. Daniel Carlos Garcia in
27. Pro Per.

28. Dated this 10th day of February, 2012, at Indio, California.

29. *Martha Dixon*

30. _____
31. Martha Dixon, Legal Runner for Kaushal Niroula
32. Electronically Signed