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U.S. Department of Justice

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Eastern District of New York

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September 22, 1998

TO BE FILED UNDER SEAL

The Honorable Carol B. Amon  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, N.Y. 11201

Re: United States v. Daood Gilani  
Criminal Docket No. 97-214 (CBA)

Dear Judge Amon:

The defendant Daood Gilani is scheduled to be sentenced by this Court on September 25, 1998. The government respectfully submits this letter pursuant to 18 U.S.C. § 3553(e) and Sentencing Guidelines Manual § 5K1.1 to permit this Court, in its discretion, to impose a sentence below the applicable Sentencing Guidelines range of 87 to 108 months.

Mr. Gilani was arrested on February 6, 1997, in connection with his role in a conspiracy to import heroin from Pakistan and distribute it in the United States. On May 6, 1997, pursuant to a cooperation agreement, Mr. Gilani pleaded guilty to conspiracy to import and distribute heroin, in violation of Title 21, United States Code, Sections 846 and 963.

Under the terms of his agreement, Mr. Gilani provided substantial assistance to the government in the investigations and prosecutions detailed below. First, Mr. Gilani provided complete information about his own role in the offense of conviction as well as his other criminal actions. He further provided information about his co-defendant [REDACTED] and about the other individuals involved in the conspiracy, specifically the suppliers of the heroin in Pakistan. He was extensively debriefed at the United States Attorney's Office about his involvement in this and other narcotics related offenses. Second, Mr. Gilani engaged in extensive proactive investigation with the DEA, which involved numerous recorded conversations with

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various subjects and the seizure of approximately 2.5 kilograms of heroin from four individuals and the convictions of three individuals for narcotics trafficking offenses.

A. Background and Overview of Mr. Gilani's Cooperation

In late January 1997, the Drug Enforcement Administration (the "DEA") in Pakistan became aware that a confidential informant in Pakistan had been contacted to bring heroin from Pakistan to the United States to deliver to Mr. Gilani. Under the direction of the DEA, the informant contacted Mr. Gilani in New York and arranged to transfer the supposed heroin to Mr. Gilani and Mr. Gilani's associate [REDACTED] in New York. The DEA arrested [REDACTED] and Mr. Gilani after they had paid the informant \$3,000 and taken possession of the suitcase which was supposed to contain a kilogram heroin.<sup>1</sup>

Within days of his arrest, Mr. Gilani indicated that he wished to cooperate with the government. In proffer sessions with the government, Mr. Gilani admitted to and explained his involvement in the plan to import and distribute the heroin. The information Gilani gave about the instant offense was consistent with the information observed by the DEA agents and relayed by the confidential informant. The information Mr. Gilani gave about the suppliers of the heroin was largely corroborated by investigation by the DEA. Mr. Gilani also detailed the role of his co-defendant [REDACTED] and further discussed prior heroin deals that he and [REDACTED] had together engaged in, including one importation that the government was able to corroborate through the debriefing of another defendant in a separate heroin importation case.

In addition to providing information about the offense, Mr. Gilani described his own prior unlawful conduct and his suppliers and accomplices. Mr. Gilani informed the government that he had distributed approximately 15 kilograms of heroin during his career as a narcotics dealer.

Beginning in April 1997, the DEA directed Gilani to make consensually monitored phone calls to individuals with whom Gilani had previously engaged in drug transactions in an effort to purchase heroin from them. The DEA specifically instructed Mr. Gilani that each phone call was to be monitored by the DEA. On several occasions, despite the DEA's specific instructions, Mr. Gilani placed calls to targets without direction from or prior contact with the DEA. Those calls were not recorded by the

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<sup>1</sup> Mr. Gilani was previously arrested for heroin importation in 1988. In that case, he cooperated with DEA agents and received a substantial reduction in his sentence after receiving a 5K1.1 letter from the United States Attorney's Office for the Eastern District of Pennsylvania.

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DEA. Mr. Gilani informed the DEA of the substance of the conversations soon after he placed the calls.

In August 1997, Mr. Gilani was released from custody to facilitate his work with the DEA. He has remained in daily contact with the DEA since his release and has been extremely cooperative and reliable and has helped the DEA to infiltrate the very close knit Pakistani narcotics dealing community in New York. He has met with the DEA agents whenever they have requested that he do so.

In February 1998, Mr. Gilani traveled to Pakistan at the direction of the DEA, to develop intelligence on Pakistani heroin traffickers who send heroin to the United States and to allay the concerns of certain Pakistani traffickers who were becoming suspicious about Mr. Gilani's connections to several people who had been arrested in the United States and his absence from Pakistan. Although no arrests or seizures took place after Mr. Gilani's return to the United States, the trip allowed the agents to open investigations on several new targets.

#### B. Fruits of Mr. Gilani's Cooperation

Mr. Gilani's cooperation assisted in the conviction of [REDACTED], led to the arrest of 4 individuals on narcotics trafficking charges, the conviction of 3 of these individuals, and the seizure of approximately 2.5 kilograms (net) of heroin. Throughout his cooperation, Mr. Gilani was extremely cooperative with the DEA. He met with the agent of the DEA whenever he was asked to do so and engaged in a total of approximately 100 monitored calls.

1. [REDACTED]

During the course of his debriefings with the government, Mr. Gilani fully explained his role and that of his co-defendant [REDACTED] in the heroin importation conspiracy referenced above. He also provided the government with details about [REDACTED] and prior drug transactions which the government was able to corroborate and intended to introduce at trial. [REDACTED] was made aware of the fact that Mr. Gilani was prepared to testify at his trial. The government believes that knowledge encouraged a disposition of the case prior to trial. [REDACTED] was sentenced by this Court to 120 months in prison.

2. [REDACTED] and [REDACTED]

Between early June and mid-July of 1997, while incarcerated, Mr. Gilani made a series of telephone calls to an individual named [REDACTED] with whom Mr. Gilani had become friendly while he and [REDACTED] were in jail together in 1995. During these conversations, [REDACTED] told Mr. Gilani that he had

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access to heroin and [REDACTED] agreed to sell Mr. Gilani two kilograms of heroin at \$85,000 per kilogram. [REDACTED] arranged for a sample of heroin to be delivered to an undercover DEA agent posing as Mr. Gilani's business partner. Later, [REDACTED] arranged for his nephew, [REDACTED] to deliver a kilogram of heroin to Mr. Gilani and this same undercover DEA agent.

After the kilogram of heroin was delivered, both [REDACTED] and his nephew [REDACTED] were arrested and indicted on narcotics distribution charges. United States v. [REDACTED]. [REDACTED] pleaded guilty and faces a Sentencing Guidelines range of 70 to 87 months in prison at his upcoming sentencing before Judge Dearie. [REDACTED] raised entrapment as a defense and was acquitted after trial in July of this year.

Mr. Gilani was the government's primary witness in the trial against [REDACTED]. During trial preparation Mr. Gilani was highly cooperative. He met with the government on numerous occasions for stretches of several hours at a time. He provided useful suggestions about how to respond to [REDACTED] entrapment defense. Mr. Gilani also devoted many hours to listening to and revising the transcriptions of the Punjabi language telephone conversations between himself and [REDACTED]. Mr. Gilani worked harmoniously with Ms. [REDACTED], the government's translator and again provided valuable input as she prepared the final transcripts. The government believes that Mr. Gilani's testimony was truthful.

Mr. Gilani testified for several hours in the government's case-in-chief and rebuttal case. Mr. Gilani testified about his own prior criminal conduct, his relationship with [REDACTED] and the negotiation of the sale by [REDACTED] to Mr. Gilani of kilogram quantities of heroin.

2. [REDACTED] and [REDACTED]

Mr. Gilani was also involved in the investigation and successful prosecutions of [REDACTED] and [REDACTED] in late 1997 and early 1998. The apprehension of [REDACTED] followed a series of telephone calls that Mr. Gilani made to a source of heroin in Pakistan. The Pakistani source informed Mr. Gilani that he could provide a half-kilogram of heroin from a supply of heroin already in the United States. The source put Mr. Gilani in touch with [REDACTED], who later delivered approximately a half-kilogram of heroin to a confidential informant posing as Mr. Gilani's cousin. [REDACTED] was arrested by DEA agents and then indicted on heroin distribution charges. United States v. [REDACTED]. [REDACTED] pleaded guilty and faces a Sentencing Guidelines range of 46 to 57 months in prison.

The apprehension of [REDACTED] grew out of a series of telephone calls during which Mr. Gilani learned that an

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individual in Pakistan had approximately one and one-half kilograms of heroin at a hotel in New Jersey. Acting under the direction of DEA agents, Mr. Gilani arranged for another confidential informant to pick up the heroin. When that informant arrived at the hotel in New Jersey, [REDACTED] was present and provided a sample of the heroin. [REDACTED] was then arrested by DEA agents, who seized over a kilogram of heroin. [REDACTED] was indicted on narcotics distribution charges, pleaded guilty, and was sentenced to 41 months imprisonment by Judge Seybert. United States v. [REDACTED]

CONCLUSION

Based on the information, assistance and testimony Mr. Gilani provided, he has provided substantial assistance to the government in the investigation and prosecution of others. The agents and supervisor who worked with Mr. Gilani found him to be reliable and forthcoming. The arrests and seizure of 2.5 kilograms of heroin would not have taken place without Mr. Gilani's assistance. On this basis, the United States respectfully moves the Court to depart downward in sentencing him.

Because some of the targets identified with the assistance of Mr. Gilani are still under investigation, the government respectfully requests this letter be filed under seal.

Respectfully submitted,

ZACHARY W. CARTER  
United States Attorney  
Eastern District of New York

By: [REDACTED]  
[REDACTED]

cc: Clerk of the Court (CBA)  
Eastern District of New York

Howard R. Leader, Esq.  
(via telecopier)

RLC/BGK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

APPLICATION TO UNSEAL  
AND RELEASE

- against -

97-CR-214 (CBA)

DAOOD GILANI,

Defendant.

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Brendan G. King, an Assistant United States Attorney for the Eastern District of New York, hereby applies to the Court for Orders: unsealing the government's sentencing letter filed pursuant to Section 5K1.1 of the United States Sentencing Guidelines ("5K1.1 Sentencing Letter") in the above-referenced matter, subject to the government's proposed redactions set forth in Attachment "A"; unsealing and permitting the release to the United States Attorneys Offices for the Eastern District of New York (the "EDNY") and to the Northern District of Illinois (the "NDIL") of an undated letter, from Drug Enforcement Administration Special Agent Jiminez to Chris J. Stanton, Chief Probation Officer for the Southern District of New York (the "DEA Letter") and the related Court Order dated January 27, 2011; and permitting the release of the defendant's 1988 Presentencing Investigation Report ("PSR") from the Eastern District of Pennsylvania (the "EDPA") contained in the Probation Department's files to the EDNY and NDIL. We make these requests for the

limited purpose of reviewing these documents the criminal matter in the Northern District of Illinois, and handling the documents consistent with the government's obligations enumerated in Brady v. Maryland, 373 U.S. 83 (1963) and Giglio v. United States, 405 U.S. 150 (1972).

In support of this application I state the following:

1. I am an Assistant United States Attorney in the Office of Loretta E. Lynch, United States Attorney for the Eastern District of New York and am familiar with the facts in this case.

**Background**

2. The defendant was arrested on February 6, 1997 for conspiracy to import heroin from Pakistan to the United States. On May 6, 1997, the defendant pleaded guilty, pursuant to a cooperation agreement, to conspiracy to import and distribute heroin, in violation of Title 21, United States Code, Sections 846 and 963. On September 25, 1998, pursuant to the government's 5K1.1 Sentencing Letter, dated September 22, 1998, the Court sentenced the defendant to 15 months' imprisonment to be followed by a term of 5 years of supervised release.

3. On November 16, 2001, this Court granted a joint motion by the defendant and the government (including the Department of Probation) for early termination of the defendant's 5 year term of Supervised Release, pursuant to Title 18, United States Code, Section 3583(e)(1).

4. On October 3, 2009, the defendant was arrested by the Federal Bureau of Investigation for conspiracy to murder and maim in a foreign country and providing material support to terrorists.<sup>1</sup> This investigation was conducted by the NDIL. On December 7, 2009, an Information was filed in the United States District Court, Northern District of Illinois, charging him with conspiracy to bomb places of public use in India, conspiracy to commit murder and maiming in India, murder, material support of a terrorist act in India, conspiracy to commit murder and maiming in Denmark, material support of a terrorist act in Denmark and material support of a designated foreign terrorist organization. See United States v. David Coleman Headley, also known as "Daood Gilani", Criminal Docket No. 09-CR-930. On January 14, 2010, a Superseding Indictment was filed, adding additional defendants. On March 18, 2010, the defendant pleaded guilty and subsequently agreed to cooperate with the government. A trial of a remaining defendant, Tahawwur Rana ("Rana"), is scheduled to commence on May 16, 2011.

**Redacted 5K1.1 Sentencing Letter**

5. The government is obligated to disclose as potential Brady/Giglio information, any benefit that a government witness has received from the government. This includes, among

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<sup>1</sup>The defendant changed his name from "Daood Saleem Gilani" to "David Coleman Headley" in or about 2006.



other things, a cooperation agreement and 5K1.1 sentencing letter.

6. As discussed above, on September 22, 1998, the government filed with this Court a 5K1.1 Sentencing Letter to advise the Court of the substantial assistance that was provided by the defendant in that criminal matter. This letter was placed under seal by the Court. In a trial commencing May 16, 2011, the defendant is scheduled to testify as a government witness. As a result, the government will disclose to the trial defendant, Rana, the defendant's 5K1.1 Sentencing Letter, a redacted copy of which is attached hereto as Attachment "A". The government notes that the proposed redactions relate to the names of the defendant's co-conspirators and the former Assistant United States Attorneys that prosecuted the defendant and his co-conspirators in that criminal matter. The government seeks these redactions for the limited purpose of protecting those parties' identities. The government believes that these proposed redactions will achieve that goal, while not diminishing the government's Brady and Giglio obligations. Therefore, the government respectfully requests an order from the Court unsealing a redacted version of the government's 5K1.1 Sentencing Letter.

**DEA Letter**

7. On November 16, 2001, a hearing was held before this Court, at which time a joint motion was made for the early

termination of the defendant's term of Supervised Release, pursuant to Title 18, United States Code, Section 3583(e)(1). In support of the motion, counsel for the defendant provided the Court with a document that appeared to highlight the proactive efforts at cooperation that the defendant had engaged in while on Supervised Release. (See Dkt. #73 at 3, Transcript of Criminal Cause For Conference, November 16, 2001). We believe that the DEA Letter is attached to the Court's Order dated January 27, 2011. In light of the government's Brady and Giglio obligations, the government seeks access to the DEA Letter and the related Court Order dated January 27, 2011, so that the government may inspect that letter and make all appropriate disclosure determinations.

**1988 EDPA Presentencing Investigation Report**

8. In the trial scheduled to commence on May 16, 2011, Rana has moved the court in the Northern District of Illinois for an in camera inspection of two PSRs related to the defendant arising from his two prior convictions, in particular, his convictions in United States v. Gilani, 97 CR 214 (E.D.N.Y.) (hereafter, the "EDNY PSR") and United States v. Gilani, 88 CR 286 (E.D. Pa.) (hereafter, the "EDPA PSR"). It was argued that the PSRs from these two cases may contain impeachment materials which the government is obligated to disclose to the defense pursuant to its Brady and Giglio obligations. The government had no objection to an in camera inspection of the PSRs by the court.

Accordingly, the government provided the court with the EDNY PSR. The court subsequently ruled that a portion of that EDNY PSR be disclosed.

9. With respect to the EDPA case, the government explained to the court in the Northern District of Illinois that it did not have a copy of the EDPA PSR in its possession. To date, the government has been unsuccessful in locating that EDPA PSR. The government has recently learned, however, that the Probation Department in the EDNY has a copy of the EDPA PSR case in its files. Therefore, the government respectfully requests an order allowing the release to the NDIL of a copy of the defendant's 1988 EDPA PSR for the purpose of submitting the 1988 EDPA PSR to the court for in camera inspection in that criminal matter.

#### **Conclusion**

10. For the foregoing reasons, the government respectfully requests orders: unsealing the government's sentencing letter filed pursuant to Section 5K1.1 Sentencing Letter, subject to the government's proposed redactions set forth in Attachment "A"; unsealing and permitting the release to the United States Attorneys Offices for the EDNY and NDIL the DEA Letter and the related Court Order dated January 27, 2011; and permitting the release of the defendant's 1988 PSR from the EDPA

contained in the Probation Department's files to the EDNY and NDIL.

Dated: Brooklyn, New York  
March 1, 2011

\_\_\_\_\_/s/\_\_\_\_\_  
Robert L. Capers  
Brendan G. King  
Assistant U.S. Attorneys  
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**Attachment "A"**