

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA	§	
	§	
	§	
v.	§	CRIMINAL NO. C-06-563-S
	§	
	§	
CITGO PETROLEUM CORPORATION,	§	
CITGO REFINING AND CHEMICALS	§	
COMPANY, L.P., and	§	
PHILIP D. VRAZEL,	§	
	§	
Defendants	§	

**MOTION OF THE UNITED STATES TO LIMIT THE SCOPE
OF THE DEPOSITION OF SUZIE CANALES**

COMES NOW, the United States of America and files this Motion to Limit the Scope of the Deposition of Suzie Canales and in support thereof avers the following:

The defendants CITGO Petroleum Corporation and CITGO Refining and Chemicals Company, L.P., (hereinafter collectively CITGO) have moved, and the court has granted its motion, to take the deposition of Suzie Canales. Docket # 499 and 520. CITGO’s motion was based on the grounds that a website blog written by Ms. Canales establishes that she either listened-in on or otherwise observed jury deliberations. See Docket #s 496 and 499. In its order the court noted that “Canales’ blog entries, which appear to incorporate fantasy, do not credibly support a likelihood of jury tampering. However, the Court believes that further investigation is justified.” Docket # 520 at p. 3.

The court also noted that a “full-blown evidentiary hearing” involving the questioning of jurors is not necessary every time an allegation of jury tampering is raised . *See Footnote 5 of United States v. Sylvester, 143 F.3d 923, 932 (5th Cir. 1998)*. Speculative claims

of exposure to extrinsic influence do not require investigation. *United States v. Smith*, 354 F.3d 390, 394 (5th Cir. 2003)(citing *United States v. Kelley*, 140 F.3d 596, 608 (5th Cir. 1998)). In the instant case, the Court found that a “full-blown evidentiary hearing” is not presently warranted. Therefore, the United States believes CITGO’s deposition should be restricted to whether or not Ms. Canales had any impermissible access to the jury during the trial or deliberations. Without first establishing an impermissible or illegal contact Ms. Canales might have had, CITGO should not be permitted to inquire about the name of any juror or jurors with whom Ms. Canales might have had contact nor about the extent or nature of the contact. CITGO’s inquiry should not expand into any lawful and otherwise legitimate contacts Ms. Canales might have had with any juror after the jury was dismissed. In other words, if CITGO cannot establish any impermissible contact, the inquiry should end.

The United States believes CITGO is trying to intimidate Ms. Canales because of her environmental activism against the Corpus Christi refinery. The government does not know if Ms. Canales is represented by counsel, but her interests are at odds with CITGO and different from the government’s. Since Ms Canales does not appear to be represented by counsel, the court should prevent such intimidation and maintain an appropriate decorum in the taking of the deposition. The government believes the deposition should be taken in open court before the judge or an assigned magistrate judge and taken only as to the limited inquiry outlined above. To ensure the deposition stays within the limits prescribed, CITGO should be required to submit each and every question it intends to ask Ms. Canales to the government for prior review and to the court for prior approval. The scripted questions should develop the factual basis to establish an inappropriate contact. If an inappropriate contact is established, the submitted questions

should show precisely where the inquiry would go. CITGO will not be prejudiced by this procedure and the court can maintain control over the limited inquiry it has authorized.

WHEREFORE, and for the reasons stated above, the United States requests that the district court enter an order restricting the scope of the deposition of Suzie Canales, scheduling the deposition or assigning a magistrate judge to preside over the deposition in open court, and requiring CITGO to submit for the prior review by the government and approval by the court each and every question CITGO intends to ask Ms. Canales.

Respectfully submitted,

/s/ Howard P. Stewart

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion of the United States to Limit the Scope of the Deposition of Suzie Canales was served on counsel for the defendants as identified below via the ECF System.

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DATED: November 20 , 2007

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