

ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :

- v. - :

APPLICATION

JAVION CAMACHO, :

13 Cr. 58 (KBF)

a/k/a "Jay," :

a/k/a "King Kong," :

JULIO CAMACHO, :

a/k/a "King Honesty," :

JANCEY VALLE, :

a/k/a "Chauncey," :

ALEX CESPEDES, :

GARY SANCHEZ, :

MANUEL PIMENTEO, :

DOMINGO VASQUEZ, :

BENJAMIN JIMENEZ, :

RAFAEL HUERTA, :

OSCAR NORIEGA, :

VICTOR JOSE GOMEZ, :

JOSHUA ROMAN, :

VICTOR E. MORAL, :

RAMON JIMENEZ, :

ALI A. HUSAIN, :

LOUIS BORRERO, and :

OLIVER F. FLORES, :

Defendants. :

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USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: _____

1. The United States of America, by and through Preet Bharara, United States Attorney, and Rahul Mukhi, Assistant United States Attorney, hereby moves this Court under the All Writs Act, 28 U.S.C. § 1651, for an order requiring Apple, Inc. to assist in the execution of a federal search warrant by bypassing the lock screen of an iOS device, specifically, an Apple iPhone in possession of Benjamin Jimenez on or about

January 9, 2013 with the following characteristics: Model No: A1332, EMC No: 3808, FCC ID: BCG-E2380B, IC: 579C-E2380B, serial # 88022X4KA4T; and IMEI # 012337009353741 (the "Phone").

2. The Drug Enforcement Administration currently has in its possession the Phone, which was the subject of a search warrant issued by the Honorable Debra Freeman on or about February 3, 2013. Initial inspection of the Phone reveals that it is locked. Because the Phone is locked, law enforcement agents are not able to examine the Phone as commanded by the search warrant.

4. Apple, Inc., the creator of the iOS operating system and producer of the Phone, may have the capability of bypassing the iOS device's lock. This Application seeks an order requiring Apple to use any such capability, so as to assist agents in complying with the search warrant.

5. The All Writs Act provides that "[t]he Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a). As the Supreme Court explained, "[t]he All Writs Act is a residual source of authority to issue writs that are not otherwise covered by statute." *Pennsylvania Bureau of Correction v. United States Marshals Service*, 474 U.S. 34, 43 (1985). "The power conferred by the Act extends, under appropriate

circumstances, to persons who, though not parties to the original action or engaged in wrongdoing, are in a position to frustrate the implementation of a court order or the proper administration of justice... and encompasses even those who have not taken any affirmative action to hinder justice." *United States v. New York Tel. Co.*, 434 U.S. 159, 174 (1977). Specifically, in *United States v. New York Tel. Co.*, the Supreme Court held that the All Writs Act permitted district courts to order a telephone company to effectuate a search warrant by installing a pen register. Consequently, this Court has the authority to order Apple, Inc., to use any capabilities it may have to unlock the Phones. The government is aware, and can represent, that in other cases, courts have ordered the unlocking of an iPhone under this authority. Additionally, Apple has routinely complied with such orders, and has suggested specific language for such orders. This Court should issue the order because doing so would enable agents to comply with this Court's warrant commanding that the Phones be examined for evidence identified by the warrant. Examining the Phones without Apple's assistance, if it is possible at all, would require significant resources and may harm the Phones. Moreover, the order is not likely to place any unreasonable burden on Apple.

6. The Government sought and obtained the same relief

sought herein by Orders dated February 6, 2013 and March 18, 2013. However, Apple subsequently informed law enforcement that the serial number on the Phone was not accurate and asked the Government to obtain a new order containing this information. The instant application contains the requisite information.

Dated: New York, New York
May 30, 2013



Rahul Mukhi
Assistant United States Attorney
Southern District of New York
(212) 637-1581

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JIMENEZ

- - - - - X

UNITED STATES OF AMERICA, :

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ORDER

JAVION CAMACHO, :

13 Cr. 58 (KBF)

a/k/a "Jay," :

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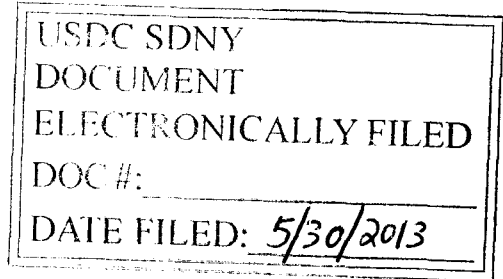
ALI A. HUSAIN, :

LOUIS BORRERO, and :

OLIVER F. FLORES, :

Defendants. :

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Before the Court is the Government's motion for an order requiring Apple, Inc. to assist law enforcement agents in the search of an Apple iOS device. Upon consideration of the motion, and for the reasons stated therein, it is hereby

ORDERED that Apple Inc. assist law enforcement agents in the examination of an Apple iPhone in possession of Benjamin Jimenez on or about January 9, 2013 with the following characteristics:

Model No: A1332, EMC No: 3808, FCC ID: BCG-E2380B, IC: 579C-E2380B, serial # 88022X4KA4T; and IMEI # 012337009353741 (the "Phone"), acting in support of a search warrant issued separately by this Court;

FURTHER ORDERED that Apple shall provide reasonable technical assistance to enable law enforcement agents to obtain access to unencrypted data ("Data") on the Phone.

FURTHER ORDERED that, to the extent that data on the Phone is encrypted, Apple may provide a copy of the encrypted data to law enforcement, but Apple is not required to attempt to decrypt, or otherwise enable law enforcement's attempts to access any encrypted data;

FURTHER ORDERED that Apple's reasonable technical assistance may include, but is not limited to, bypassing the Phone's users' passcode so that the agents may search the Phone, extracting data from the Phone and copying the data onto an external hard drive or other storage medium that law enforcement agents may search, or otherwise circumventing the Phone's security systems to allow law enforcement access to Data and to provide law enforcement with a copy of encrypted data stored on the Phone;

FURTHER ORDERED that although Apple shall make reasonable efforts to maintain the integrity of data on the Phone, Apple shall not be required to maintain copies of any user data as a result of the assistance ordered herein; all evidence

preservation shall remain the responsibility of law enforcement agents.

Dated: New York, New York
May 30, 2013



UNITED STATES MAGISTRATE JUDGE

RONALD L. ELLIS
United States Magistrate Judge
Southern District of New York