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10 Attorneys for Plaintiff  
 UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA, ) CR No. 08-59(B)-GW  
 14 )  
 Plaintiff, ) GOVERNMENT'S NOTICE OF FILING OF  
 15 ) SUPPLEMENTAL SENTENCING EVIDENCE;  
 v. ) SECOND SUPPLEMENTAL DECLARATION OF  
 16 ) CARLOS DEVEZA; EXHIBIT  
 GERALD GREEN and )  
 17 PATRICIA GREEN, ) Sent. Date: April 29, 2010  
 ) Sent. Time: 9:30 a.m.  
 18 Defendants. )  
 19 )  
 20 )

21 Plaintiff United States of America, through its counsel of  
 22 record, the United States Attorney's Office for the Central  
 23 District of California, and the Fraud Section, United States  
 24 Department of Justice, Criminal Division, hereby gives notice of  
 25 the filing of the attached two items of sentencing evidence,  
 26 namely: (1) the Second Supplemental Declaration of Carlos Deveza  
 27 ("Second Supp. Deveza Decl."); and (2) a letter to this Court  
 28 dated April 12, 2010 by Professor Mehdi Krongkaew, who is

1 Commissioner of the National Anti-Corruption Commission ("NACC")  
2 of the Kingdom of Thailand and who is also the chairman of the  
3 subcommittee inquiring into the bribery allegations at issue in  
4 this case. Commissioner Krongkaew's letter is attached to a  
5 formal diplomatic note from the Royal Thai Consulate General in  
6 Los Angeles, California.

7 The Second Supp. Deveza Decl. responds to defendants'  
8 evidence regarding medical treatment issues submitted in  
9 Defendants GERALD GREEN and PATRICIA GREEN's Further Sentencing  
10 Arguments and Response to Government's Sur-Reply Memorandum,  
11 filed earlier this week on April 19, 2010.

12 This latest letter of Professor Mehdi responds to colloquy  
13 that he heard while present in court during the last sentencing  
14 hearing in this case on April 1, 2010.

15 The government reserves until the upcoming sentencing  
16 hearing this week further argument on these issues and the other  
17 issues discussed in defendants' latest filing.

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1                   **SECOND SUPPLEMENTAL DECLARATION OF CARLOS DEVEZA**

2 I, CARLOS DEVEZA, declare:

3           1. I am employed by the United States Department of  
4 Justice, Federal Bureau of Prisons ("BOP"), as the Health  
5 Services Administrator of the Metropolitan Detention Center in  
6 Los Angeles, California ("MDCLA"). I have been employed in this  
7 position since January 2002. I have been employed by the BOP for  
8 approximately 15 years. As the Health Services Administrator, I  
9 provide administrative supervision and direction to all Health  
10 Services staff, except the Clinical Director. I graduated with a  
11 degree of Doctor of Medicine from the University of the East  
12 Ramon Magsaysay Memorial Medical Center in Philippines in 1983.  
13 I have been employed by the BOP since 1992 as a Physician  
14 Assistant practicing under the license of the Clinical Director.  
15 If called upon, I could competently testify as set forth below.

16           2. I have twice before provided declarations in response  
17 to requests by the Office of the United States Attorney ("USAO")  
18 regarding the medical condition and the medical care available at  
19 BOP institutions in the event that Gerald Green, a defendant in  
20 United States v. Gerald Green, 08-CR-00059-GW, receives a  
21 sentence of imprisonment. In response to another request from  
22 the USAO, I have reviewed the declaration of Phillip S. Wise  
23 ("Wise Decl.") submitted in support of Defendant Gerald Green's  
24 Further Sentencing Arguments. I am familiar with Mr. Wise, as he  
25 is the former the Assistant Director for Health Care of the  
26 Federal Bureau of Prisons and he has submitted similar  
27 declaration in a number of other cases in the Central District of  
28 California.

1           3. Mr. Wise appears not to dispute my prior declarations.  
2 For example, we both agree that Mr. Green will almost certainly  
3 be designated to a Federal Medical Center ("FMC"), i.e., to a  
4 Care Level IV facility. Further, it appears that we agree that  
5 Mr. Green will be able to continue taking his current medication  
6 without interruption in the event that he is sentenced to term of  
7 imprisonment. While we agree on these, and other points, there  
8 are, however, several aspects of of Mr. Wise's declaration that  
9 require some further clarification.

10           4. **Access to specialty medical care.** Mr. Wise's  
11 discussion regarding BOP's practice of contracting out for  
12 specialists, such as a pulmonologist, requires further  
13 explanation. Wise Decl. ¶ 18. Mr. Wise's discussion implies  
14 that the facility would have to initiate a contract and pay for  
15 these outside services and, further, would necessarily have to  
16 transport Mr. Green outside of the institution in order to  
17 facilitate these consultations. This is not a fair  
18 characterization of the process. A FMC would not have to go  
19 through some sort of procurement or contracting process before  
20 providing Mr. Green access to specialized care. FMC's have  
21 established long-standing agreements with local medical providers  
22 so as to ensure immediate access to specialized medical care -  
23 such as pulmonologists or other specialists as the case may be.  
24 In many instances, the specialist travels to the FMC and there is  
25 no need to transport the patient outside of the facility. If  
26 sentenced to a term of imprisonment, Mr. Green could be seen and  
27 evaluated by a pulmonology specialist already available to  
28 inmates - any discussion of needing to contract out for a

1 specialist distorts the practice for providing medical care at  
2 the FMC facilities. For example, I contacted the Clinical  
3 Director of the FMC in Rochester, Minnesota and he informed me  
4 that inmates at that facility have access to multiple  
5 cardiologists and pulmonologists on contract from the Mayo  
6 Clinic. The cardiologists, including one who specializes in  
7 pulmonary hypertension, come to FMC Rochester every other week to  
8 examine patients and provide follow-up care. Moreover, to the  
9 extent that Mr. Green would need to be transported for care, FMC  
10 Rochester inmates are regularly transported to the Mayo Clinic to  
11 see a wide variety of medical specialists, including pulmonary  
12 specialists. Finally, FMC Rochester employs a full time  
13 Respiratory Therapist who performs pulmonary function testing and  
14 takes care of the portable oxygen, oxygen concentrators, CPAP  
15 machines, and other equipment needed by FMC Rochester inmates.  
16 Indeed, that institution ordinarily houses approximately forty-  
17 five (45) inmates who are on long-term oxygen.

18       5. **Costs.** Both Mr. Wise and defense counsel emphasize the  
19 various costs that the BOP will incur in housing and providing  
20 medical care to Mr. Green. Wise Decl. ¶¶ 18 and 21(d). However,  
21 I am not aware of any instance in which an inmate was denied  
22 necessary medical treatment by the BOP because of cost. While  
23 the availability of BOP resources is one of the factors that is  
24 taken into account when medical staff is considering the  
25 provision of certain elective procedures, (BOP Program Statement  
26 6031.01, Patient Care, p. 5-6), cost is simply not a  
27 consideration when it comes to providing inmates medical  
28 necessary treatment. Id. at p. 4-5.

1           6.     **Recommendations by Mr. Green's Current Physician.** Mr.  
2 Wise points out that while the Bureau's physicians would "likely  
3 talk to [Mr. Green's current physician] Dr. Reiss, but would not  
4 necessarily follow his treatment recommendations. What the  
5 Bureau would do, would be up to Bureau doctors, not an outside  
6 physician." Wise Decl. ¶ 17. This statement is true with  
7 respect to all physicians, not just those employed by the Federal  
8 Bureau of Prisons. All physicians are required to use their  
9 clinical judgment when deciding on which course of care to  
10 provide a patient. Thus, while physicians can and do consider  
11 reports and opinions from medical specialists, each physician  
12 must ultimately rely on their independent clinical judgment when  
13 making treatment decisions. More importantly, the decisions that  
14 BOP physicians adhere to are the same standards as those used by  
15 all other physicians. Put differently, there aren't two  
16 standards for medical care, one for inmates and one for everyone  
17 else. Instead, BOP physicians evaluate their patients and  
18 provide care as necessary to maintain their health. See  
19 generally, BOP Program Statement 6031.01, Patient Care.

20           7.     **Other Inmates** - Finally, Mr. Wise asserts that Mr.  
21 Green would generate a placement in a facility with a larger more  
22 criminally sophisticated population than a camp, where he would  
23 otherwise likely be designated without health concern. While all  
24 FMCs are administrative security level, the populations that they  
25 serve are significantly older (and necessarily in need of medical  
26 attention) than the populations at other BOP institutions. For  
27 example, as of March of 2010, approximately 37.4% of all federal  
28 inmates were 41 years old and older. By contrast, at FMC

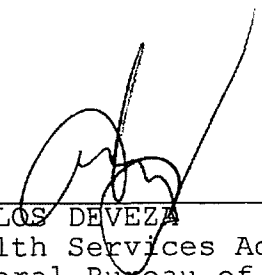
1 Rochester, the 56.9% of the inmate population was 41 years old  
2 and older. Moreover, according to FMC Rochester's Clinical  
3 Director, the average age of that institution's medically  
4 designated population is 52.7 years.

5 8. In sum, nothing in Mr. Wise's declaration contradicts  
6 my opinion that Mr. Green's medical condition can be adequately  
7 and appropriately treated and managed at an FMC. I therefore  
8 continue to opine that none of Mr. Green's medical conditions are  
9 unique and all can be adequately provided for by BOP Health  
10 Services staff.

11 I declare under the penalty of perjury, pursuant to Title  
12 28, United States Code, Section 1746, that the foregoing is true  
13 and correct to the best of my information, knowledge and belief.

14 Executed this 23rd day of April, 2010, at Los Angeles,  
15 California.

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CARLOS DEVEZA  
Health Services Administrator  
Federal Bureau of Prisons  
Metropolitan Detention Center,  
Los Angeles





**Royal Thai Consulate General**  
611 N. Larchmont Blvd., 2<sup>nd</sup> Floor  
Los Angeles, California 90004  
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No. 56401/ 317

The Royal Thai Consulate General presents its compliments to the United States District Court, Central District of California, and has the honour to enclose herewith a copy of the letter dated 12 April 2010 from Professor Medhi Krongkaew, Commissioner of the National Anti-Corruption Commission of Thailand, with the request that it be forwarded to the Honourable Judge George H. Wu. The said letter pertains to the Case No. 08-59(B)-GW against Mr. Gerald and Mrs. Patricia Green.

The Royal Thai Consulate General avails itself of this opportunity to renew to the United States District Court, Central District of California, the assurances of its highest consideration.



United States District Court,  
Central District of California,  
**LOS ANGELES.**

CC:  
United States Attorney's Office,  
Central District of California,  
**LOS ANGELES.**

04/23/10

FROM :NCCC

FAX NO. :022823161-5 119

May. 03 2003 06:27AM P2



THE NATIONAL ANTI - CORRUPTION COMMISSION  
165/1 Phitsanulok Rd., Dusit, Bangkok 10300 Thailand  
Tel. (662) 280 8203  
Fax. (662) 280 7283

12 April 2010

Judge George H. Wu  
Los Angeles Central District Court, Western Division  
312 N. Spring Street  
Los Angeles, CA 90012  
U. S. A.

Dear Honourable Judge Wu,

I had a great privilege and good fortune to be present in your court on April 1, 2010, to see an example of American justice system at work. While I was impressed with the cautious and thorough ways in which you conducted the Green case in court, I was a little disappointed that there were some inaccuracies mentioned in the court with regards to the role of, and reference to, the National Anti-Corruption Commission of Thailand, especially by the defence lawyers. I did not make any corrections then in your court because I did not know a proper protocol of doing so. Besides, these inaccuracies call for more than verbal explanation; they call for written clarification. Hence this letter to you.

As much as I could understand from what was going on in your court that day, there were four inaccurate allegations or stories that I want to clarify.

- (a) That the NACC was appointed by a political authority that was adversary to the former governor of the Tourist Authority of Thailand (TAT), and therefore had a tendency to be biased against her.

The circumstances under which the present NACC Commissioners were appointed to the jobs are complex and can be easily misunderstood. Suffice it to say here that the nine Commissioners had gone through a series of parliamentary vetting and investigations for their integrity and independence such that the above accusation is an affront. We owed nothing to the authority who appointed us. And like you, we are in no business of taking side: We make our decisions based on the strength and merits of evidence. We have no reasons to be biased against the former governor of the TAT.

- (b) That the Thai authority is not interested in doing anything with the Thai officials in this case as nothing is done on this case yet.

I think the letter from the President of the NACC had explained this point to you already that we are investigating this case according to steps and procedures under our own laws and regulations. Contrary to the American system, our indictment (of state officials) is based on inquisitorial approach, not accusatorial approach. This means that once we have received valid complaints against any officials, we need to collect sufficient information and facts, or make sufficient enquiries to establish adequate

FROM :NCCC

FAX NO. :022823161-5 119

May. 03 2003 06:27AM P3

foundation before sending our formal charges to our alleged wrongdoers. This process may take several years in some cases, so that it may appear that we are doing nothing. And, as he said in his letter, before we send our formal charges to any alleged wrongdoers, we have to assume that they are innocent or have not yet committed criminal offences.

In the case of the former Governor of the TAT and her daughter, we have been gathering facts and information during the last two years. Today (April 12, 2010), my Enquiry Subcommittee has agreed that we have sufficient evidence to file our official charges against the two alleged culprits already, and later today I will send out our notification letter to our alleged culprits to report to us at our office some time before the end of April to collect our formal charges against them. Once they have received our formal charges, they will have 15 days to explain these charges either verbally, in writing, or both. The Subcommittee will then deliberate on these explanations and/or any other evidence or witnesses submitted and proposed by the alleged culprits, and finally will submit the Subcommittee's decision to the NACC Board who will make final decision whether to indict the two alleged culprits or not. If the NACC Board decides to indict them, our report will be sent to the Attorney General Office for prosecution (or we can prosecute the case ourselves if the Attorney General Office disagrees with us), or if not, the case will be dropped.

- (c) That Thailand is not harmed by this international bribery case; indeed Thailand has benefited from this contract (or contracts) in terms of tourism and international reputation, so that there is no point in levying heavy penalty on the American defendants.

Again as mentioned in the letter by the President of the NACC to you, this is a sensitive and difficult issue. There were two kinds of damages, he said, one is the resource-transfer damage and the other is the systemic damage. The resource-transfer damage is measured by the amount of economic rent that is generated as bribes and unusual profits which can result in below optimal level of performance. On the assumption that this kind of film festival activity could be organized by a quarter of the actual budget allocation, Thai tax payers would lose several hundred million baht through over-priced contract which includes leakages. The argument that Thailand had benefited from the event (through tourism and international reputation) needs to be tempered by the fact that once the story broke that this festival had been involved in international bribery, the reputation of Thailand had suffered, and no one can be certain what effects this bribery have on international confidence of the country in general, and Thailand foreign investment in particular.

It is this systemic damage to the country that is difficult to measure but can be very large. And it is this systemic damage that we at the NACC are paying our close attention to. It is not true that Thailand takes this kind of corrupt practice lightly. As I said in my earlier letter to you, our system may have some weakness in that many of our public officials are prone to succumb to corruption temptations, but it is a shame that an advanced country like the US will allow its people to take advantage of the weakness in our system, and that is why I am so appreciative of the US Foreign Corrupt Practices Act. We want the US government and the US judicial system to send a strong signal to the world that they do not support all forms of foreign corrupt practices, and are willing to levy heavy penalty on its people for doing so.

FROM :NCCC

FAX NO. :022823161-5 119

May. 03 2003 06:28AM P4

(d) That the Investigation Committee set up by the TAT did not find anything wrong or any damage from the Bangkok Film Festival contract.

We have been informed about the existence of this report, but when we asked for it from the TAT we have received a reply that it was no longer with them but was sent to another oversight office. Our request to this oversight office generated a reply that this report was lost. Now that we know about this report from your court, we will start our enquiry again whether there is any attempt of a cover-up on our side. Please be informed that only the NACC has official and legal power to investigate all criminal wrongdoings of state officials in all state agencies. Any other (internal) investigation reports are not legitimate under the current Thai laws.

I hope that I have clarified these many pertinent points that I considered inaccurate as stated in your court. I wish to reiterate that we have absolutely no intention in interfering with the procedures in your court. I (we) simply want to state the facts and my (our) conviction against corruption in any cases and circumstances.

Yours sincerely,



Professor Medhi Krongkaew  
Commissioner