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14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**

16 UNITED STATES OF AMERICA,
17

18 *Plaintiff,*

19 v.
20

21 RICHARD AYVAZYAN,
22 MARIETTA TERABELIAN,
23 ARTUR AYVAZYAN,
TAMARA DADYAN,

24 *Defendants.*
25
26
27
28

Case No. 20-CR-00579-SVW

**JOINT REPLY IN SUPPORT OF
MOTIONS TO SUPPRESS AND
RETURN PROPERTY SEIZED
FROM SUBJECT PREMISES-4**

Hon. Stephen V. Wilson

Date: April 12, 2021

Time: 11:00a.m.

REPLY MEMORANDUM OF POINTS AND AUTHORITIES

The Government sought a nearly limitless search warrant at odds with a limited probable cause statement that effectively granted officers complete discretion to seize whatever records or items they found in the personal residence of Ayvazyan, Dadyan, and their children. The Government compounded its errors by engaging in serious misconduct risking the lives of private citizens. The Affidavit failed to adduce probable cause to justify the seizure of the property in question. The warrant was unreasonably executed as a military-style raid on a family home. The warrant was not executed in good faith.

I. FACTUAL INACCURACIES IN THE OPPOSITION

The Opposition relies primarily on misrepresentations and obfuscations in an attempt to justify the Government's misconduct. Indeed, the primary focus of the Government's opposition seeks to excuse the shocking manner of execution of the warrant. These excuses focus on unfounded character assassination in an attempt to paint Ayvazyan, Dadyan and their children as posing a serious risk of danger who should be considered armed and dangerous. Notably, none of these unfounded accusations had been made when seeking the warrant. Agent safety precautions such as requesting a "no knock" warrant were not applied for. It is only in retrospect that the Government attempts to shift the blame for the appalling military-style storming of the home to the family.

On September 23 and October 26, 2020, the government filed surveillance requests for three residences and multiple people. Ayvazyan and Dadyan were among the people listed as subjects of the surveillance. The requests for surveillance certified in writing that the subjects of surveillance were not potentially dangerous:

1
2 “Is the subject of this request considered armed and dangerous or do the circumstances
3 of the case involve a potentially dangerous environment (high-crime locations, known
associates, etc.)? **No**”¹

4 See Ram Declaration (DOJ_PROD_0000152041;DOJ_PROD_0000152446)(emphasis
5 added)

6
7 **A. Dangerous Law Enforcement Misconduct at a Family Home**

8 The Opposition does not deny that “the Affidavit alleged no threat of
9 violence or resistance and of course, the officers encountered none.” Dkt. 149 at 3.
10 Nor does the Opposition deny that the government employed overwhelming, military-
11 style force despite knowing that Ayvazyan and Dadyan would be at home with their
12 two children. The Opposition does not deny that the government officers
13 inappropriately held the children at gunpoint, threw smoke bombs into the home hitting
14 a child in the foot. Dkt. 149 at 6. The Opposition instead claims that this misconduct
15 was consistent with executing a search in “a professional manner.” Opp’n at 8.
16
17

18
19 **B. Misrepresentations About an Unrelated Person’s 2009 Conduct**

20
21 Faced with government misconduct that it cannot deny, the Opposition further
22 attempts to shift blame to the victims of their conduct by attempting to tie them to an
23 unrelated person. The Opposition tries to paint a non-violent Encino family as violent
24 gang members in an effort to justify the needlessly violent actions of the Government.
25 It is important to be clear on this point: neither Ayvazyan nor Dayan are associates of
26
27

28 ¹ Joint Reply in Support of Motions to Suppress and Return Property Seized from Subject Premises -1
by Richard Ayvazyan, No. 2:20-cr-00579-SVW, Dkt. 222 Attachment 1.

1 the Armenian gang referenced multiple times throughout the Opposition. The
2 Government does not allege that they are associates, and they are not. Instead, the
3 Opposition attacks Ayvazyan and Dadyan through allegations about a person they have
4 no relation to, Artur Pembejian.

5 The Opposition misrepresents Pembejian's case in an effort to smear Ayvazyan
6 and Dadyan. Pembejian pled guilty to delivering a gift antique rifle from an Armenian
7 gang member to a visiting politician from Armenia, discussing the potential purchase of
8 three other firearms that he neither bought nor sold, and discussing police presence at a
9 restaurant, all of which occurred in 2009. Factual Basis, Plea Agreement, *United States*
10 *v. Pembejian*, No. 11-cr-72, Dkt. 2598 (C.D. Cal. Sept. 5, 2013); Def't's Sent'g Mem.
11 at 2, Pembejian, Dkt. 2874 (Jan. 23, 2014). Pembejian's conduct was sufficient to
12 qualify as an "associate," but the government agreed that he played a "minor role," and
13 that his actions did not merit jail time. Plea Agreement at 9 (recommending probation
14 only). Critically, the Plea Agreement did not allege that Pembejian was a member of
15 the gang, and to the contrary, Pembejian averred that "[h]e [wa]s not a member of the
16 Armenian Power," Def't's Sent'g Mem. at 2 (emphasis added). There is no indication
17 that the government contested this fact, and Pembejian thereafter received the minimum
18 term of probation (two years below the government's request) indicating that any such
19 protest was overruled.

20 The Opposition posits that a person seen driving a car registered to Pembejian at a
21 property not owned by Ayvazyan nor Dadyan *could have been* Dadyan. The accusation
22 is absurd, unfounded, and irrelevant. The Opposition then states that an empty
23 ammunition was box was found days later in the trash. The Opposition fails to mention
24 that this box was found in the garbage in front of someone else's residence. The box
25 was not found outside Ayvazyan and Dadyan's home. Yet, somehow Ayvazyan and
26 Dadyan are being tarred with the brush of someone else's trash.

27 The Opposition exaggerates, misstates, and misrepresents Pembejian's conduct
28 in a desperate attempt to justify the use of military-style force during the execution of a

1 search warrant for a non-violent crime at a family home. Even if Pembejian’s home
2 were the one being searched, this use of force would have been inappropriate. Because
3 the home being searched was not Pembejian’s—but was in fact a family with zero
4 connection to the 2009 events or any gang—the government’s military-style raid was
5 inexcusable misconduct.

6 The Opposition also spends considerable space implying that Ayvazyan’s lawful
7 and responsible maintenance of firearms in a gun safe is somehow “proof” that military
8 force was necessary. The Opposition goes so far as saying that “these steps proved
9 necessary” as firearms were seized. Opp’n at 6. However, the uncontested fact that
10 Ayvazyan, his wife and children complied with all requests, and peacefully exited the
11 home shows that those steps were not necessary. Items discovered after a search are
12 irrelevant to the force used to execute a search warrant at Ayvazyan and Dadyan’s
13 home.

14 **II. THE SEIZED PROPERTY SHOULD BE RETURNED REGARDLESS**
15 **OF SUPPRESSION (DKT. 149 §§ IV.C, IV.D)**

16 The government does not contest that property seized without probable cause—
17 whether it was because the warrant went beyond the scope of probable cause or the
18 executing officers did so—should be returned regardless of whether that violation
19 occurred in good faith or bad faith. See Dkt. 149 § IV.C. The government should
20 therefore be required to return (A) physical property seized without supporting probable
21 cause, and (B) digital device data for which the review period has expired.

22
23 **A. Physical Property Seized Without Probable Cause Should Be**
24 **Returned**

25 **1. The Government Seized Property Without Adducing**
26 **Probable Cause That the Property Was Traceable to the Alleged**
27 **Crime**
28

1 The legal arguments and conclusions contained in Section II (A) (1) of Richard
2 Ayvazyan’s Joint Reply in Support of Motions to Suppress and Return Property Seized
3 from Subject Premises - 1 applies equally to the property seized from of Subject
4 Premises-4. We hereby adopt it in full and incorporate it by reference here.²

5 The specific non-responsive property seized from the Ayvazyan and Dadyan
6 home are:

- 7 • A.A.’s Birthday savings in a pink envelope
- 8 • Two truck navigation systems

9
10 **B. Digital Device Data Should Be Returned**

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12 The legal arguments and conclusions contained in Section II (B) of Richard
13 Ayvazyan’s Joint Reply in Support of Motions to Suppress and Return Property Seized
14 from Subject Premises - 1 applies equally to the digital device data seized from of
15 Subject Premises-4. We hereby adopt it in full and incorporate it by reference here.³

16
17 **III. THE SEIZED PROPERTY SHOULD BE SUPPRESSED AND**
18 **RETURNED BECAUSE THE WARRANT WAS EXECUTED**
19 **UNREASONABLY**

20
21 The Opposition attempts to call on the frequent government favorite “good faith”
22 to navigate a middle ground, but the facts of this case explain why the Court should
23 reject that attempt. No reasonable attorney or officer could think that suspicion of a
24 crime justifies the warrant execution in this case. As discussed, supra, the
25 government—after observing in internal documents that the residents posed no threat—

26 ² Joint Reply in Support of Motions to Suppress and Return Property Seized from Subject Premises -1
27 by Richard Ayvazyan, No. 2:20-cr-00579-SVW, Dkt. 222, at 9. (C.D. Cal. Mar. 29, 2021)

28 ³ Joint Reply in Support of Motions to Suppress and Return Property Seized from Subject Premises -1
by Richard Ayvazyan, No. 2:20-cr-00579-SVW, Dkt. 222, at 19. (C.D. Cal. Mar. 29, 2021)

1 treated the Ayvazyan/Dadyan family like second- or third-class citizens. The
2 government launched an invasion-style execution to the detriment of Ayvazyan's
3 children. The government terrified those children and held them at gunpoint.

4 There is no justification for holding children at the end of a military assault rifle.
5 To make matters worse, the government disabled the cameras to avoid being recorded
6 while they did this. Although the Opposition claims that this was out of fear of local
7 truck driver Artur Ayvazyan and his wife Tamara Dadyan, it continued disabling
8 cameras even after Ayvazyan and Dadyan had been handcuffed and led out of the
9 home. The Opposition's claims are false and should not be credited. These warrants
10 were not executed in good faith, and the resulting seizures should be
11 suppressed and returned.

12
13
14 Dated: April 1, 2021

Respectfully submitted,

15
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CERTIFICATE OF SERVICE

I certify that on April 1, 2021, I electronically filed the foregoing document with the clerk of the U.S District Court, Central District of California, using the electronic case filing system of the court to the following parties.

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