

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CASE NO: 8:07-cr-342-T23-MAP

YOUSSEF SAMIR MEGAHEDE,

Defendant.

---

**ORDER**

About 4:30 p.m. on Friday, May 2, 2008, after a hearing on certain pending motions, the United States by a conference telephone call notified the district judge and defense counsel that the United States elects to appeal immediately from the orders entered May 3rd excluding from admission into evidence at the trial of Youssef Samir Megahed certain evidence allegedly discovered by the United States and revealed to the defense only after the April 21, 2008, partial denial of the United States' motion for a continuance. The United States appeals under the second paragraph of 18 U. S. C. § 3731, which permits the United States an immediate appeal from an order "suppressing or excluding evidence . . . if the United States attorney certifies to the district court that the appeal is not taken for purpose of delay and that the evidence is a substantial proof of a fact material in the proceeding," a certification that the United States includes in the notice of appeal (Doc. 231).

Because the pendency of the United States' appeal indefinitely precludes the trial of the action against Megahed, the question recurs whether to detain Megahed further notwithstanding the extended delay in Megahed's trial. The United States and the defense discussed detention with the district judge during Friday afternoon's conference call. While neither proposing nor supporting the release of Megahed, the United States advances no active objection to Megahed's immediate release in accord with the conditions established by the magistrate judge during Megahed's initial detention hearing (Doc. 24).

The order (Doc. 61) revoking the magistrate judge's order of release and detaining Megahed is **VACATED**, the order (Doc. 30) staying the magistrate judge's order of release is **VACATED**, the issue of Megahed's detention is **REMANDED** to the magistrate judge to **RELEASE** Megahed under conditions no more restrictive than those provided in the September 14, 2007 order (Doc. 24).

ORDERED in Tampa, Florida, on May 5, 2008.



---

STEVEN D. MERRYDAY  
UNITED STATES DISTRICT JUDGE