

1 in the case the parties may arrange a date and time for the interview of the witness. A material
2 witness is not required to submit to an interview by any party.

3 4.) A material witness deposition shall be conducted within a time period ordered by the
4 Court, but in any event, no later than thirty (30) days of the witness' initial appearance. Deposition
5 of a juvenile material witness shall be conducted within a time period ordered by the Court, but in
6 any event, not later than ten (10) days after the juvenile witness' initial appearance. The time limit
7 for taking a deposition may be extended by the Court for good cause pursuant to 18 U.S.C. § 3144,
8 if necessary to prevent a failure of justice. Notification to the Court pursuant to Fed.R.Crim.P.
9 46(h)(2) shall not be required so long as the material witness deposition is conducted within the time
10 frame ordered by the Court and the witness promptly released thereafter. For any witness whose
11 deposition testimony is not requested, the witness shall be promptly released from custody. If a
12 witness is an alien and a detainer has been lodged with the United States Marshal, the witness shall
13 be released to the Department of Homeland Security, U.S. Immigration and Customs Enforcement
14 Office of Enforcement and Removal Operations for further proceedings.

15 5.) The deposition shall be conducted in accordance with Rule 15, Federal Rules of
16 Criminal Procedure, except that the officer and certification requirements of 15(e) and the
17 requirements of Fed.R.Civ.P. 28(a)(1), 30(b)(5)(A) and (C), 30(e), and 30(f)(1) shall not apply. The
18 deposition shall be conducted under the general supervision of a Magistrate Judge. A Magistrate
19 Judge shall stand by and be available during the deposition to rule on matters that are impractical
20 to reserve for the trial judge. In the discretion of the Magistrate Judge, he or she may, but need not,
21 attend and preside over all or part of the deposition.

22 6.) Following the deposition(s), the Court shall order the release of the material
23 witness(es) from custody absent a showing that further detention is necessary to prevent a failure
24 to justice. Such a showing may be made by any party. Counsel for the defendant may submit *ex*
25 *parte* an affidavit for *in camera* consideration. An *ex parte* affidavit and any hearing conducted
26 thereon shall be kept under seal unless otherwise ordered by the Court. The material witnesses shall
27 be permitted the opportunity to be heard regarding their release or detention.
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7.) No deportation or voluntary return shall be effectuated for any alien who has not been finally discharged as a material witness without concurrence of the Court.

DATED this 31st day of August, 2011.



Roslyn O. Silver
Chief United States District Judge