

Memorandum of Law

Exhibit V
front pg. 1

Introduction

This memorandum addresses whether GANDY, prosecuted in federal court in Texas, has a basis to suppress the testimony of VICTIM, who agreed to testify against GANDY only after the FBI communicated to him information that was illegally obtained from GANDY following a clear invocation of his right to counsel.

Governing Principles

1. Right to Counsel (5th & 6th Amendments)

Once GANDY unequivocally invoked his right to counsel during custodial interrogation, questioning should have ceased. *Edwards v. Arizona*, 451 U.S. 477 (1981). Any statements obtained thereafter are inadmissible. Further, under the fruit of the poisonous tree doctrine, derivative evidence is also subject to suppression. *Wong Sun v. United States*, 371 U.S. 471 (1963).

2. Derivative Evidence

The exclusionary rule reaches not only the illegally obtained statement itself but also evidence derived therefrom. Courts inquire whether the evidence was obtained 'by exploitation of that illegality' or by means sufficiently distinguishable to purge the taint. *Brown v. Illinois*, 422 U.S. 590 (1975).

3. Witness Testimony as Fruit

The Supreme Court has recognized that live witness testimony may in some cases constitute fruit of an illegal interrogation. *United States v. Ceccolini*, 435 U.S. 268 (1978). In *Ceccolini*, the Court set out a framework for evaluating whether witness testimony should be suppressed, emphasizing attenuation and the witness's free will. However, courts apply a more lenient standard to live witness testimony, and suppression is disfavored.

Application to the Present Facts

Here, GANDY invoked his right to counsel but was nonetheless questioned. This constitutes a clear *Edwards* violation. The FBI then conveyed to VICTIM information derived from this unlawful interrogation. Prior to receiving this information, VICTIM had indicated he had 'no beef' with GANDY. Only after learning of the unlawfully obtained information did VICTIM 'flip' and agree to testify.

Thus, VICTIM's testimony was not the product of an independent decision but rather a direct consequence of the government's exploitation of an *Edwards* violation. The causal



Julie Gandy <jgandy79@gmail.com>

Gandy Legal Memo

1 message

Exhibit V
pg. 2

Erica Juarez <erica@wegmanlevin.com>

Wed, Oct 1, 2025 at 6:37 PM

To: Julie Gandy <jgandy79@gmail.com>

Cc: "Michael M. LEVIN" <mml@wegmanlevin.com>, Luis Gonzalez <Luis@wegmanlevin.com>, Izabella Meza <izabella@wegmanlevin.com>, "wegman-levin-YTcGLs4A7@mycasemail.com" <wegman-levin-YTcGLs4A7@mycasemail.com>

Hello Ms. Gandy:

I hope this finds you well. Michael and Jason spoke earlier this week. We told Jason we would be sending you the attached memorandum. Since we are not retained on the matter, this memo is what we can provide for you to forward to any professors that are willing to assist. Thank you!

Erica Juarez-Ramos

WEGMAN & LEVIN

4605 Lankershim Boulevard, Suite 650

North Hollywood, California 91602

Tel: (818) 980-4000

Fax: (818) 980-4080

Disclaimer

This e-mail message from Erica Juarez, Case Manager at Wegman & Levin, is intended only for the named recipient(s). It contains information that may be confidential, privileged, attorney work product, or otherwise exempt from disclosure under applicable law. If you have received this message in error, are not the named recipient(s), or are not the employee or agent responsible for delivering this message to a named recipient, be advised that any review, disclosure, use, dissemination, distribution, or reproduction of this message or its contents is strictly prohibited. Please notify us immediately at erica@wegmanlevin.com that you have received this message in error, and delete the message. Thank you.

 Gandy Memo of Law .pdf
122K