

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

UNITED STATES OF AMERICA     )  
  )  
          v.                             )     1:11-cr-00184-JAW  
  )  
MARK RAZO                            )  
      and                                )  
BARRY DIAZ                          )

**ORDER ON GOVERNMENT’S MOTION IN LIMINE TO ALLOW THE JURY  
TO USE TRANSCRIPTS OF ADMITTED CALLS DURING  
DELIBERATIONS**

On October 26, 2012, the Government moved in limine for a ruling to allow the jury to use transcripts of intercepted calls during its deliberations. *Gov’t’s Mot. in Limine to Allow the Jury to Use Transcripts of Admitted Calls During Deliberations* (ECF No. 110). The Government represents that it will seek to admit audio recordings of approximately sixty-six conversations and it wishes to provide the jury with transcripts to assist them while the recordings are being played in court. *Id.* The Government further asks the Court to allow the jury to take the transcripts as admitted exhibits to the jury room during deliberations. *Id.* at 1-2. Neither Defendant has filed an objection.

Under longstanding First Circuit law, an authenticated transcript of a recorded conversation may be admitted into evidence and available during jury deliberations provided that the Court instructs the jury that “any discrepancies between the two were to be resolved in favor of the tape.” *United States v.*

*Anderson*, 452 F.3d 66, 77 (1st Cir. 2006); *see United States v. Ademaj*, 170 F.3d 58, 65 (1st Cir. 1999); *United States v. Carbone*, 798 F.2d 21, 26 (1st Cir. 1986).

The Court provides one caveat. The Court urges the Government to share the transcripts with defense counsel sufficiently in advance of trial to allow them to make an assessment as to whether the recordings have been accurately transcribed. If there is a dispute, the Court invites the Defendants to submit a transcript of their own. *Anderson*, 452 F.3d at 77; *Ademaj*, 170 F.3d at 65; *United States v. Pion*, 25 F.3d 18, 21, 26-27 (1st Cir. 1994).

Consistent with this authority, the Court GRANTS the Government's Motion in Limine to Allow the Jury to Use Transcripts of Admitted Calls During Deliberations (ECF No. 110).

SO ORDERED.

/s/ John A. Woodcock, Jr.  
JOHN A. WOODCOCK, JR.  
CHIEF UNITED STATES DISTRICT JUDGE

Dated this 19th day of November, 2012

**Defendant (1)**

**MARK RAZO**  
*also known as*  
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**Defendant (2)**

**BARRY DIAZ**

*also known as*

**LUCKY**

*also known as*

**TONNY DELACRUZE**

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**Plaintiff**

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