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December 16, 2005

Ms. Cathy Catterson
Clerk, United States Court of Appeals
for the Ninth Circuit
95 Seventh Street
San Francisco, CA 94103-1536

Re: Gilmore v. Gonzales, No. 04-15736

Dear Ms. Catterson:

On December 14, 2005, the government in this appeal filed material under seal for *in camera* inspection pursuant to this Court's Order of December 8. The government included with the material a letter to you which it asked you to circulate to each member of the panel in this appeal. The letter included the government's legal argument, including citation to cases, code sections and federal regulations, as to why neither plaintiff nor plaintiff's counsel should view the material despite it being the subject of this case.

Plaintiff's inability to view this material prevents plaintiff from both effectively litigating its effect on his rights and liberties and from knowing whether the materials filed under seal address only the identification requirements to travel by aircraft and leaves unaddressed the identification requirements to travel by trains, buses, and ships at issue in this case. One of the cases the government cites in their letter concerns classified information despite the government stating during oral argument that the material at issue isn't classified. None of the cases cited by the government relate to SSI or secret law.

Plaintiff understands that writing letters to the Clerk is not an appropriate manner to address this issue. Should this Court's Order not have foreclosed plaintiff's ability to review the material filed under seal, plaintiff respectfully requests, as did the government in their letter of December 14, that he be afforded an opportunity to brief this Court on whether *ex parte* review is appropriate.

Respectfully,

James P. Harrison
Attorney for John Gilmore

cc: Joshua Waldman
Jane H. Barrett