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UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

United States of America,  
  
Plaintiff,  
  
v.  
  
Janice Sue Taylor,  
  
Defendant.

CR-10-00400-PHX-DGC

**UNITED STATES' MEMORANDUM  
RE: ADMISSIBILITY OF  
PROPOSED EXHIBIT 181**

The United States has offered into evidence what has been marked for identification as Exhibit 181. The exhibit is what appears to be a facsimile of a purported United States passport issued to Sue J. Taylor. The Court has heretofore declined to admit the exhibit into evidence. For the following reasons, the exhibit is admissible and should be admitted.

Respectfully submitted this 26th day of April, 2011.

DENNIS K. BURKE  
United States Attorney  
District of Arizona

*s/ Frank T. Galati*

FRANK T. GALATI  
JAMES R. KNAPP  
Assistant U.S. Attorneys

**MEMORANDUM**

**A. Testimony.**

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3 1. Azenith Larson testified that she and her husband sold their home at 1931 South Tate  
4 in Casa Grande to Ron and Suzie McBride in late 2003. The unofficial copies of the warranty  
5 deeds are part of exhibit 184 for identification and they reflect a recordation date of November  
6 26, 2003. As Ms. Larson testified, the property was transferred to MMM Land Trust, not Ron  
7 and Suzie McBride, and that defendant said that MMM Land Trust was held by defendant and  
8 her daughter, Desiree Saunders.

9 2. Revenue agent Cheryl Bradley has testified that she interviewed defendant on February  
10 12, 2004 and that defendant said that she lived in a motor home and owned no assets.

11 3. Ms. Larson testified that sometime soon after the sale, Ms. Larson and her husband  
12 Raymond went out to dinner with Ron and Suzie McBride and went to the McBrides' new home  
13 at 1931 South Tate. Ms. Larson described changes that had been made to her former home and  
14 that defendant was living there. Ms. Larson also testified that Suzie McBride told her that new  
15 furniture was purchased for the South Tate home and that their old furniture was at their former  
16 residence in Chandler.

17 4. Defendant, in various ways, has sought to create doubt about her ownership or  
18 possession of 1931 South Tate.

19 5. Special Agent Votaw testified that he found exhibit 181 in the trash at 1931 South  
20 Tate.

**B. Legal Argument.**

21  
22 Exhibit 181 is an object found at defendant's home. It is a piece of identification. It  
23 contains the name "Sue J. Taylor." As such, even though the Court has ruled that the exhibit is  
24 hearsay as to defendant's citizenship status, the exhibit is nevertheless admissible because it ties  
25 defendant to 1931 South Tate. Since defendant is disputing her ownership or possession, exhibit  
26 181 has a "tendency to make the existence of any fact that is of consequence to the determination  
27 of the action more probable or less probable than it would be without the evidence." Rule 401,  
28

1 F.R.E. We no longer offer the exhibit for the truth of any words contained in the exhibit. We  
2 offer it because it was found at 1931 South Tate and it ties defendant to that residence long after  
3 she and Ron McBride purchased the home.

4 Many courts have considered similar evidence. For example, in *United States v. Peveto*,  
5 881 F.2d 844 (10<sup>th</sup> Cir. 1989), *cert. denied*, 493 U.S. 943 (1989), a traffic ticket found during a  
6 search of defendant's apartment was offered to prove defendant's connection to the vehicle  
7 found in his garage. The Tenth Circuit upheld admission of the ticket and found that a hearsay  
8 objection was unavailing: "The existence of the ticket, not its assertions, was the point of its  
9 admission. It helped to show circumstantially Peveto's connection to the van." *Id.* at 854.  
10 Further examples include *United States v. Pulido-Jacobo*, 377 F.3d 1124, 1132 (10<sup>th</sup> Cir. 2004),  
11 *cert. denied*, 543 U.S. 1030 (2004)(engine repair receipt not hearsay when offered to prove  
12 defendant's control of car); *United States v. Jaramillo-Suarez*, 950 F.2d 1378, 1382-1384 (9<sup>th</sup>  
13 Cir. 1991)(pay/owe sheet in drug prosecution not hearsay when offered to prove use of  
14 apartment where it was found); *United States v. Mazyak*, 650 F.2d 788, 792 (5<sup>th</sup> Cir. 1981), *cert.*  
15 *denied*, 455 U.S. 922 (1982) (in prosecution of captain and crew of vessel for conspiracy to  
16 import marijuana, letter addressed to defendants and found in wheelhouse of vessel admissible  
17 over hearsay objection because it was introduced as circumstantial proof that defendants were  
18 associated with each other and the vessel); *United States v. Arrington*, 618 F.2d 1119, 1126 (5<sup>th</sup>  
19 Cir. 1980), *cert. denied*, 449 U.S. 1086 (1981), (utility bills found in search of defendant's home  
20 admissible to prove that he resided at the searched house; bills not hearsay because not offered  
21 to prove truth of their contents); *United States v. Mejias*, 552 F.2d 435, 446 (2<sup>nd</sup> Cir. 1977), *cert.*  
22 *denied, sub. nom, Padilla-Martinez v. United States*, 434 U.S. 847 (1977)(hotel receipt, luggage  
23 invoice and business card admissible in drug prosecution over hearsay objection when offered  
24 to prove connection between defendant and motel); *United States v. Ruiz*, 477 F.2d 918, 919-920  
25 (2<sup>nd</sup> Cir. 1973), *cert. denied*, 414 U.S. 1004 (1977)(slip of paper found on person of  
26 coconspirator bearing defendant's nickname and a telephone number almost identical to  
27 defendant's admissible to support inference that coconspirator knew defendant); *United States*

1 v. *Hazeltine*, 444 F.2d 1382, 1384 (10<sup>th</sup> Cir. 1971)(envelope bearing mane of inmate charged  
2 with introducing contraband into prison, and inmate's address as addressee, and a card from  
3 inmate's wife, admissible to establish that cell and locker containing heroine and envelope and  
4 card were inmate's cell and locker).

5 In addition, both *Mayzak, Id.* at 792, and *Hazeltine, Id.* at 1384, explain that under these  
6 circumstances the United States need not establish the authenticity of the document. It is the  
7 mere existence of the document and its location that is of any import; whether it is authentic is  
8 of no moment.

9 **CONCLUSION**

10 The United States again respectfully moves for the admission of exhibit 181 and, for the  
11 reasons stated in the preceding paragraphs, submits that its motion should be granted.

12  
13 Respectfully submitted this 25th day of April, 2011.

14 DENNIS K. BURKE  
15 United States Attorney  
16 District of Arizona

17 *s/ Frank T. Galati*

18 FRANK T. GALATI  
19 JAMES R. KNAPP  
20 Assistant U.S. Attorneys

21 **Certificate of Service**

22 I hereby certify that on 4/25/2011, I mailed copies of the attached document to the following:

23 Janice Sue Taylor  
24 3341 Arianna Ct.  
25 Gilbert, AZ 85298

26 *s/ Michelle L. Colberg*

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