



U.S. Department of Justice

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To Counsel for Defendants Woods, Paris & Shelton

Sent via email to:

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Dear Counsel:

The following disclosures are considered "discovery materials" as that term is used in the Court's Order of March 27, 2017 (Doc. 14). As such, the information contained herein and the accompanying materials are subject to the protections of that Order.

After the in-chambers, off-the-record conference at the pre-trial hearing on November 30, 2017, the Government took steps to have the laptop computer used by FBI SA Bob Cessario to access the "Micah Neal" shared Dropbox folder (hereinafter "the computer") examined to determine whether it contained information related to SA Cessario's interaction with said Dropbox folder.

On Friday, December 1, 2017, SA Cessario advised he had contacted FBI CART Examiner Timothy Whitlock and left a message regarding getting the computer examined. I followed up this phone call with SA Cessario by sending an email, the same day, to Examiner Whitlock giving a brief description of the issues involved and requesting a conference call to discuss it further the following Monday. Examiner Whitlock responded later that day confirming that he had spoken with SA Cessario and advised he would be available by phone the following Monday to discuss the issues we were trying to determine.

During discussions regarding what, if any, information may be on the laptop that would assist the Government in ferreting out these issues, SA Cessario advised members of the prosecution team that the computer was designated as an undercover ("UC") computer that was used to conduct covert investigations. SA Cessario indicated that since his access of the Dropbox folder on November 2 and 3, 2016, the computer had been "wiped" on several occasions. SA Cessario also advised that it had to be wiped because it had ransomware on it. SA Cessario advised that he thought that there might be some record kept of the wiping of the computer. SA Cessario was asked to determine if such a record existed and, if it did, to obtain a copy.

On Monday, December 4, 2017, after talking to Examiner Whitlock about having the computer forensically examined, I sent an email to SA Cessario requesting that the computer be delivered to FBI CART for an examination, and that it be delivered by another agent.

The computer was delivered to FBI CART by SA Cessario on December 7, 2017. SA Cessario advised that the examination should be completed by December 12, 2017.

In preparation for the evidentiary hearing related to the Dropbox folder on December 14, 2017, DOJ Trial Attorney Sean Mulryne, IRS SA John Munns and I arranged to meet with witnesses, including SA Cessario, on December 12, 2017. That morning, SA Cessario called me, with Trial Attorney Mulryne and SA Munns present, and asked when we would want to meet with him. After sorting out the logistics of the meeting, SA Cessario was asked about the status of the examination of the computer. SA Cessario advised that the examination was complete and that nothing had been found because the computer had been wiped. SA Cessario then asked whether it was necessary for Examiner Whitlock to produce a report. SA Cessario was told that a report from Examiner Whitlock would be needed. SA Cessario was asked when the computer had been wiped, and in response, SA Cessario stated that it had been wiped the morning it had been transported to FBI CART. SA Cessario was asked who had wiped the computer, and he advised that he had. SA Cessario was asked why he had wiped the computer. In response, SA Cessario advised that he had allowed his children to download and play games on it, that it had personal information on it, and that he did not want his supervisors to know that. SA Cessario was asked about the existence of records of the prior wipes of the computer. SA Cessario advised that he had not located any such records, but that he would continue to search for them. SA Cessario was then asked to try to locate and produce the records, if they existed, at the arranged meeting that afternoon.

In the afternoon of December 12, 2017, Trial Attorney Mulryne, SA Munns and I met with SA Cessario as previously planned that morning. SA Cessario reiterated his statement made earlier that morning, that he had wiped the computer the morning it was delivered to FBI CART. When asked why he had wiped the computer, SA Cessario stated that it contained personal medical information pertaining to himself and his son that he did not want disclosed. SA Cessario stated that he was unable to locate records related to the prior wiping of the computer. SA Cessario stated that he had wiped the computer on at least three occasions since accessing the Dropbox folder on November 3, 2016: approximately March 2017 when the computer had ransom ware on it; another occasion when the computer's storage was full; and on December 7, 2017. SA Cessario was asked to continue to look for any records that are kept related to the wiping of the computer.

On the morning of December 13, 2017, SA Cessario arrived at the Fort Smith United States Attorney's Office (USAO) for a pre-arranged meeting in preparation for another hearing set for December 15, 2017. At that meeting, witnessed by USA Kenneth Elser, Trial Attorney Mulryne and I, SA Cessario expressed regret for his action and provided additional details regarding the medical records that he had stated were on the computer. The details he disclosed related to a medical diagnosis and treatment that he stated were embarrassing and he wanted to keep private. He also disclosed details about medical records of his son that he stated he also wanted to keep private. When asked about his children downloading games, SA Cessario advised that he had

allowed his children to use the laptop as he had previously stated on December 12, 2017, but the reason why he wiped the laptop was to protect the details contained in the medical records.

Special Agent Cessario was advised that this matter had to be reported, and he stated that he was going to report the matter to his supervisor. The meeting with SA Cessario was then concluded. On December 13, 2017, the USAO advised SA Cessario's supervisor, FBI RAC Brenan Despain, of the nature of the above, and he agreed that the matter should be reported. RAC Despain later advised the USAO that SA Cessario had reported his conduct, and that per the FBI policy an investigation would be conducted.

Enclosed with this disclosure are the following: 1) the report of forensic analysis of the computer dated December 13, 2017; 2) an email from AUSA Jennen to Examiner Whitlock dated Friday, December 1, 2017, at 3:00pm; 3) an email from Examiner Whitlock to AUSA Jennen dated Friday, December 1, 2017, at 4:40pm; and 3) an email from AUSA Jennen to SA Cessario dated Monday, December 4, 2017, at 1:02pm.

Sincerely,

Kenneth Elser
United States Attorney

By:



Aaron Jennen
Assistant U.S. Attorney

Encl.