

EXHIBIT D

Stanley@brandwoodwardlaw.com

From: stanley@[REDACTED]
Sent: Friday, June 30, 2023 3:30 PM
To: 'Boasberg CJ'
Cc: 'APM2 (JSPT)'; 'JPC (JSPT)'; 'MET (JSPT)'; 'Stan Brand'
Subject: RE: Filing in DC
Attachments: 2023-06-30 - Response Conflicts Inquiry.pdf

Chambers / government counsel – please find the attached response to the government’s motion. We will see you shortly.

Thanks,

Stanley

From: stanley@[REDACTED]
Sent: Wednesday, June 28, 2023 4:02 PM
To: 'Boasberg CJ' [REDACTED]
Cc: 'APM2 (JSPT)' [REDACTED]; 'JPC (JSPT)' [REDACTED]; 'MET (JSPT)' [REDACTED]; 'Stan Brand'
[REDACTED]
Subject: RE: Filing in DC

[REDACTED] – we were able to book [REDACTED] on flights from/to Palm Beach on Friday. He’s arriving at 1:30pm at DCA and we would appreciate being heard as soon as the Court is available on Friday. He’s then booked on an 8:30pm flight out of BWI that night. Of course, we understand that the timing of the hearing may be unpredictable, but we wanted to share this information with the Court in the event that there are any issues only for attorneys that could be handled after [REDACTED] is excused.

In addition, we would appreciate the Court’s assistance in authorizing [REDACTED] to enter the Courthouse securely on Friday. Please let us know if we may represent to the U.S. Marshals’ Service that we have your blessing and we’re happy to coordinate directly with the Marshals.

Thanks,

Stanley

From: Boasberg CJ [REDACTED]
Sent: Wednesday, June 28, 2023 9:34 AM
To: [stanley@\[REDACTED\]](mailto:stanley@[REDACTED]); Boasberg CJ [REDACTED]
Cc: 'APM2 (JSPT)' [REDACTED]; 'JPC (JSPT)' [REDACTED]; 'MET (JSPT)' [REDACTED]; 'Stan Brand'
[REDACTED]
Subject: RE: Filing in DC

Counsel,

Thank you for your response. The Chief Judge has ordered that we will move forward with a hearing on either Friday afternoon (at 4pm, or slightly later if that would be convenient) or sometime on Monday, whichever everyone is able to agree to. The hearing will be in person in the Chief Judge’s courtroom. Once a time has been agreed upon, we will issue a Minute Order so reflecting.

Please let me know if you have any questions. Additionally, for any logistical questions or issues, feel free to call my line at [REDACTED]

Best,
[REDACTED]

[REDACTED]
Law Clerk to the Honorable James E. Boasberg
U.S. District Court for the District of Columbia
[REDACTED]

From: [stanley@\[REDACTED\]](mailto:stanley@[REDACTED])
Sent: Wednesday, June 28, 2023 12:13 AM
To: Boasberg CJ [REDACTED]
Cc: 'APM2 (JSPT)' [REDACTED] 'JPC (JSPT)' [REDACTED] 'MET (JSPT)' <[REDACTED]> Stan Brand'
[REDACTED]
Subject: RE: Filing in DC

CAUTION - EXTERNAL:

Chambers – per the below the government has reached out on your behalf to inquire as to our availability concerning the below-referenced motion. Please never hesitate to reach out to either myself or Mr. Brand (copied here) should you need any information from us.

With respect to the potential for a hearing on Friday, we have a few observations.

At the outset, the government requests the Court hold a colloquy with our client, [REDACTED], so as to ascertain whether [REDACTED] has been appropriately advised of the possibility that a conflict may arise in our joint representation of both [REDACTED] and Mr. Nauta. We believe [REDACTED] grand jury transcript reflects his acknowledgement that he has been advised by counsel of the risks that arise in the joint representation of clients and would also note that our engagement letter with [REDACTED] advises of the same (which we would be happy to provide to the Court). That said, and although we do not lightly elect not to oppose a request of the government that utilizes court resources, as a practice we also do not oppose affirmation that no conflict exists in our representation of clients and/or that any such conflict is accompanied by appropriate waivers.

In addition, the government requests the appointment of conflicts counsel so that such counsel, “be present at the hearing to afford [REDACTED] the opportunity to confer with outside counsel if desired.” As a general matter, we do not oppose [REDACTED] consultation with counsel and, as a result of the government’s suggestion of a conflict, have encouraged [REDACTED] to do so (and have offered to facilitate the same) throughout our representation. We do, however, have concerns with the government’s proposed approach to this matter.

First, presumably at the government’s request, the Court has proposed a hearing on this matter on the Friday before a holiday weekend with just a few days’ notice. As the Court is well aware, [REDACTED] appeared before the grand jury (and answered every question posed to him) on March 23, 2023. The government has thus had at least three months (or more) to ask that this Court conduct a conflicts colloquy concerning our joint representation of Messrs. [REDACTED] and Nauta. The government knows that [REDACTED] is a resident of Florida and, as his grand jury testimony reflects, is expected to appear in person at his place of employment (Mar-a-Lago) Monday through Friday.

Second, insisting on a hearing on such short notice prejudices [REDACTED] and any appointed conflicts counsel. Although the government alludes to an ex parte submission, neither the Court, nor any potential conflicts

counsel, has had the benefit of any submission on behalf of [REDACTED]. Effectively, the government would have Mr. [REDACTED] through counsel, present his defense to the government's purported allegation of perjury in just a few days. Of note, the government filed its motion after meeting with us earlier today – a meeting at which we challenged the government's evidence contesting the veracity of [REDACTED] testimony. Among other things, government counsel conceded that the government did not believe [REDACTED] engaged in obstructive conduct; and, in the heated colloquy that followed, government counsel blurted out that they believed *Mr. Nauta* had been untruthful to his colleagues concerning certain events related to [REDACTED] testimony, a fact wholly irrelevant to whether [REDACTED] had committed perjury and evidencing the government's clear motive in filing this motion.

Third, although we do not, as a general matter, oppose the appointment of conflicts counsel to consult with and advise [REDACTED] given the serious nature of the matters under investigation by the government, we also believe he deserves – is entitled to the benefit of – a brief responding to the government's filing in which dozens, perhaps more than a hundred, cases are cited for the Court. Again, more than three months have passed since [REDACTED] testimony before the grand jury with no application to this Court for any relief. To force [REDACTED] to appear before the Court with just days' notice on the Friday before a holiday weekend when travel to and from South Florida has already proved problematic this week is not just unnecessary, it is unfair.

Finally, as the government is aware, we are scheduled to begin a three-week bench trial before Judge McFadden on Monday, July 10, 2023. Accordingly, although [REDACTED] would normally be entitled to fourteen (14) days to respond to the government's motion, we respectfully request thirty (30) days to brief a response, including an ex parte submission for the benefit of the Court and potential conflicts counsel.

Thank you for your consideration.

Stan and Stanley

Brand | Woodward

www.brandwoodwardlaw.com

From: MET (JSPT) [REDACTED]

Sent: Tuesday, June 27, 2023 3:54 PM

To: Stanley Woodward [REDACTED]

Cc: APM2 (JSPT) [REDACTED] JPC (JSPT) [REDACTED]

Subject: Filing in DC

Stanley,

Here is the motion for a conflict hearing we filed in DC and the order from the Chief Judge for disclosure. The Chief Judge intends to schedule a hearing this Friday at 4 PM and wants to know whether you and [REDACTED] are available to attend. I will give you a call shortly.

Thanks,
Mike

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