



**United States Department of Justice**

*United States Attorney  
Northern District of New York*

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May 2, 2022

Honorable Thomas J. McAvoy  
Senior U.S. District Judge  
Federal Building and U.S. Courthouse  
15 Henry Street  
Binghamton, New York 13901

Re: *United States v. Jacob Delaney*, 20-CR-00335 (TJM)

Dear Judge McAvoy,

On October 13, 2021, the defendant pled guilty, pursuant to a written conditional plea agreement, to one count of receiving child pornography and three counts of possessing child pornography, in violation of 18 U.S.C. §§ 2252A(a)(2) & (a)(5)(B), respectively. The defendant is scheduled to be sentenced on May 12, 2022.

Prior to the defendant's pleas of guilty, the government provided various discovery materials to the defendant's trial defense attorney, Scott Iseman, Esq. Included in the discovery materials provided by the government to the defense was a copy of FBI Special Agent Dave Fallon's December 10, 2019 signed search warrant application which authorized agents to search the defendant's New Paltz, New York apartment (*see* 19-MJ-830 (DJS)) for evidence of child pornography trafficking. Also included in the discovery materials provided by the government to the defense was FBI Special Agent Jessica Diggons' FD-1057 dated November 18, 2019. A copy of the FD-1057 is contained in Exhibit "D" to the defendant's motion to suppress materials filed on or about January 26, 2021 (*see e.g.* Dkt. No. 44). The FD-1057 provided to the defense did not include what are referred to as Enclosures 2 and 3 ("PRTT pony" and "Search warrant template"). The "PRTT pony" is a suggested application template for those agents who might seek a pen register trap and trace order. The "Search warrant template" is a suggested search warrant application template for those agents who might seek a search warrant for a particular location.

On March 31, 2022, a telephonic conference was held between the government and the defendant's trial defense attorney, Mr. Iseman, and the defendant's appellate attorney, Richard Willstatter, Esq. During the call the defendant's attorneys requested that the government provide copies of the "PRTT pony" and "Search warrant template" referenced as Enclosures 2 and 3 in Agent Diggons' November 18, 2019 FD-1057. On April 12, 2022, the government sent an e-mail to Mr. Iseman and Mr. Willstatter advising that (i) the government did not agree to produce

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the “PRTT pony” and “Search warrant template” referenced in Agent Diggons’ FD-1057, and (ii) the reasons for not disclosing the aforementioned materials. On April 26, 2022, the defendant’s attorneys filed a written motion which seeks an order compelling the government to produce the “PRTT pony” and the “Search warrant template” referenced in Agent Diggons’ FD-1057.

While the cases cited by the defendant’s attorneys in their motion suggest that the government is obligated to produce *Brady* information in connection with pre-trial suppression issues, none of the cases cited by the defense hold that either (i) an unsigned pen register trap and trace application template in a case in which agents never actually sought a pen register trap and trace order, or (ii) an unsigned search warrant application template when the actual signed search warrant application was provided to the defense in the course of routine discovery, constitutes *Brady* material. Moreover, none of the cases cited by the defense hold that the government should be compelled to produce the requested materials.

Thus, for the reasons cited above, the government respectfully requests that the Court deny the defendant’s motion. Finally, should the Court wish to review the “PRTT pony” and “Search warrant template” *in camera* prior to making its decision, the government can provide copies of those materials to the Court under separate cover.

Sincerely,

CARLA B. FREEDMAN  
UNITED STATES ATTORNEY

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Enclosures: (1) Agent Diggons’ November 18, 2019 FD-1057 as filed as defendant’s Exhibit “D” to his motion to suppress

(2) AUSA Belliss’ April 12, 2022 e-mail to the defense

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Copy to: Scott W. Iseman, Esq.  
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125 High Rock Avenue  
Saratoga Springs, NY 12866

Richard D. Willstatter, Esq.  
Green & Willstatter  
200 Mamaroneck Avenue  
Suite 605  
White Plains, NY 10601

**Belliss, Richard (USANYN)**

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**From:** Belliss, Richard (USANYN)  
**Sent:** Tuesday, April 12, 2022 3:37 PM  
**To:** Richard Willstatter; Scott Iseman  
**Cc:** Theodore Green  
**Subject:** RE: Delaney

Good Afternoon Mr. Willstatter & Scott,

The government does not agree to produce the PRTT pony and search warrant template referenced in Agent Diggons' FD-1057 dtd 11/18/2019. With respect to a pen register application particular to this case, none was ever done. With respect to a search warrant application particular to this case, you have received, in discovery, Agent Fallon's 12/10/2019 search warrant application which was submitted to the court for Judge Stewart's consideration. Finally, I believe you asked about the need to continue to have pleadings, papers, etc. sealed in this case? After speaking with a CEOS trial attorney, I have been advised that there are currently other Project Jarvis cases pending litigation, and as such the government will continue to seek that certain matters remain sealed and/or redacted.

Thank you.

Rick Belliss