

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re: Search Warrants Executed on April 28,
2021

Case No.: 1:21-MC-00425-JPO

SPECIAL MASTER REPORT

By Order of Appointment, dated June 9, 2021 [ECF No. 25] (the “Order”), the Court appointed me as Special Master to render decisions regarding “privilege issues relating to the materials seized in the execution of certain search warrants dated April 21, 2021, and April 28, 2021, and executed on April 28, 2021 (the ‘Seized Materials’).” *See* Order, § 2. This report is submitted to provide the Court with an update on the status of the review and the decisions I have made with respect to the materials reviewed to date.

I. Background

On June 16, 2021, I filed a Report that set forth the procedure and timeline for conducting the privilege review of the Seized Materials. *See* Special Master Report at 1-2, June 16, 2021, ECF No. 27. There were no objections to this Report.

On November 2, 2021, I filed a Report that updated the Court regarding the status of the review. In that Report, I indicated that Mr. Giuliani had reviewed the materials on 7 devices and designated 3 items as privileged and that I had reserved decision on those 3 items. I reported that Mr. Giuliani had begun reviewing another set of materials.

With respect to Ms. Toensing, I reported that her counsel was reviewing documents that hit on search terms related to her client, Dmitry Firtash, and that after that process was completed, I would discuss with her counsel whether she wished to further participate in the process.

II. Mr. Giuliani's Devices

A. Contents of the First Seven Devices

As indicated in my November 2, 2021 Report, I initially reserved decision on the first 3 items that were designated as privileged by Mr. Giuliani's counsel. After further discussions regarding these items, I agree that they are privileged and should not be turned over to the Government's investigative team.

B. Device 1B05 – Chats and Messages

I next assigned for review the chats and messages that post-dated January 1, 2018 on Device 1B05, which is a cell phone. There were originally 25,481 such items, which later increased to 25,629 after a technical issue involving document attachments was identified. An initial release of non-designated items was made to the Government's investigative team on November 11, 2021.¹

Of the total documents assigned for review, Mr. Giuliani designated 96 items as privileged and/or highly personal. Of those 96 designated items, I agreed that 40 were privileged, Mr. Giuliani's counsel withdrew the privilege designation over 19, and I found that 37 were not privileged. I shared these determinations with Mr. Giuliani's counsel, and they indicated that they would not challenge my determination that the 37 items are not privileged. The 40 privileged documents have been withheld from the Government's investigative team and the remaining 56 were released on January 19, 2022.

C. Multiple Devices – Date-Limited Chats and Messages

After consultation with the Government and Mr. Giuliani's counsel, I next assigned for review the chats and messages on Mr. Giuliani's remaining devices within the time frame

¹ Additional non-designated items were released on January 19, 2022.

December 1, 2018 to May 31, 2019. There were 3,204 such items. Mr. Giuliani's counsel informed me that they do not assert privilege over any of these documents, and they were released to the Government's investigative team on January 19, 2022.

III. Ms. Toensing's and Mr. Firtash's Review

A. Materials Related to Mr. Firtash

As I reported in my November 2, 2021 Report, I first asked Ms. Toensing's counsel to review materials that hit on the search terms provided by Mr. Firtash so that Firtash-related materials could be sent to his counsel for review. Ms. Toensing's counsel completed this review, and I provided 4,229 items to Mr. Firtash's counsel on December 21, 2021. I expect this review to be completed soon.


B. Toensing Date-Limited Chats and Messages

After completing the process of identifying Firtash-related materials, Ms. Toensing's counsel indicated that Ms. Toensing wished to participate in the review process. I assigned for review the chats and messages on Ms. Toensing's device within the time frame December 1, 2018 to May 31, 2019. There were 2,856 such items. Ms. Toensing designated 98 items as privileged. With respect to the non-designated items, 2 items were held for Mr. Firtash to review, and the remaining 2,756 items were released to the Government's investigative team on January 20, 2022. I am currently considering the proposed designations.

IV. Future Assignments

I will confer with the Government and counsel for Mr. Giuliani and Ms. Toensing regarding additional review assignments.

Dated: New York, New York
January 21, 2022


HON. BARBARA S. JONES (Ret.)