

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

**ZACHARY REHL,
Defendant**

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CASE NO: 1:21-cr-0715-3 (APM)

**ZACHARY REHL’S MOTION TO ADOPT TARRIO’S MOTION AND REPLY FOR
THE GOVERNMENT TO PRODUCE DISCOVERY: BRADY MOTION**

Zachary Rehl, by his undersigned counsel, hereby respectfully moves for leave to adopt Mr. Tarrio’s Motion to produce Brady discovery (ECF 431) and his reply (ECF 441). Mr. Rehl has standing and a basis to join the motion and reply for the reasons stated below. Unless the Court requires it, Mr. Rehl will not brief the issues beyond the statements set forth herein.

1. To the extent that Mr. Rehl has been charged in two conspiracies allegedly involving Mr. Tarrio and other Proud Boys, the discovery requested by Mr. Tarrio is information “favorable to” Mr. Rehl as that term has been defined by the Supreme Court and courts in this Circuit. *See, e.g., Brady v. Maryland*, 373 U.S. 83, 87 (1963) and its progeny; LCrR 5.1, the Due Process Protection Act; *see also* FED. R. CRIM. PROC. 16(a)(1)(E) (information “material to preparing the defense”). Moreover, in making the request, counsel for Mr. Tarrio copied counsel for all the defendants and the government has equally copied all counsel in their response to the discovery requests.

2. On June 20, 2022, Mr. Rehl also separately requested information about his own contact with Philadelphia authorities, the FBI and other law enforcement agencies. Copy attached as Ex. 1. While the government has responded to this request, the information produced has been limited.

3. Another example of the existence of information that is believed to be in the government's possession¹ is a recent disclosure regarding an "internal memo" reports from the Secret Service "favorable to" the Proud Boys:

On 01/06/21, at an unknown time, Proud Boys (RID) will host an unnamed demonstration in Washington DC. The purpose of this demonstration is to join the pro-Trump demonstrations. *There was no indication of civil disobedience.* The group advised they will not wear their traditional black and yellow attire and will dress "incognito." The group self-reported plans to demonstrate in smaller groups throughout DC. Current numbers of planned participants was not indicated, but the group stated they will "turnout in record numbers." *Proud Boys is of record for numerous demonstrations at the White House and temporarily protected sites. Their demonstrations have concluded without arrests."*

CREW, "The Secret Service knew the Proud Boys posed a threat on Jan. 6. Why didn't they take it seriously?" (emphasis added).²

4. CREW obtained the Secret Service "internal memo" through a Freedom of Information Act request. *Id.*

5. A relevant email from the government, dated 8/28/22, is attached as Ex. 2 (SEALED).

¹ Local Criminal Rule 5.1(e) provides:

For purposes of this rule, the government includes federal, state, and local law enforcement officers and other government officials who have participated in the investigation and prosecution of the offense(s) with which the defendant is charged. The government has an obligation to seek from these sources all information subject to disclosure under this Rule.

² Counsel first learned of the existence of the article on August 19, 2022, from an attorney in an unrelated case. The article, "The Secret Service knew the Proud Boys posed a threat on Jan. 6. Why didn't they take it seriously?" is dated June 29, 2022 and is found at <https://www.citizensforethics.org/reports-investigations/crew-investigations/the-secret-service-knew-the-proud-boys-posed-a-threat-on-jan-6-why-didnt-they-take-it-seriously/>

6. A fair reading of the published materials suggests that additional reports about the Proud Boys were likely prepared by the Secret Service after January 6.

7. Counsel is of the opinion that similar memoranda that include information favorable to the Proud Boys are likely to be found in the internal records of the FBI, Metropolitan Police Department, and other federal law enforcement agencies.

WHEREFORE, Mr. Rehl seeks to adopt Mr. Tarrío's motion and reply as it will promote the just determination of the case, simplify procedures and eliminate unjustifiable expense and delay in a case where Mr. Rehl is represented by counsel appointed under the Criminal Justice Act. *See* FED. R. CRIM. PROC. 2.

Respectfully submitted,

/s/

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served via ECF on all counsel of record this 5th day of September, 2022.

/s/ Carmen D. Hernandez

Carmen D. Hernandez