

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

UNITED STATES OF AMERICA

v.

VICTORIA CHARITY WHITE

Defendant.

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Case No: 21-CR-563 (JDB)

**UNITED STATES' UNOPPOSED MOTION FOR EARLY RETURN
OF TRIAL SUBPOENA(S) PURSUANT TO FEDERAL RULE OF
CRIMINAL PROCEDURE 17(c)**

The United States of America, by and through undersigned counsel, respectfully moves this Court for an Order permitting it to issue subpoenas *duces tecum* inviting the subpoenaed entities to produce records prior to trial pursuant to Federal Rule of Criminal Procedure 17(c). The subpoenas, a redacted version of which is attached as Exhibit 1, would require GiveSendGo, LLC., (GiveSendGo.com) to produce records that the United States believes will show that these accounts are attributed to defendant Victoria White. The defendant does not oppose this motion.

The subpoena would require the witnesses to produce the documents by June 14, 2023. The United States requests permission to invite the subpoenaed witnesses to produce the materials directly to the United States in lieu of appearing in Court. Upon receipt of any documents returned in this fashion, the United States will provide copies of the documents to counsel for the defendant. The United States further requests permission to grant any necessary extensions of time to the witness for compliance with the subpoena, should such requests be made.

In support of its requests, the United States states as follows.

I. BACKGROUND

On January 26, 2021, a Superseding Indictment was filed, charging the defendant, Victoria White, with Civil Disorder, in violation of 18 U.S.C. § 231(a)(3), Entering and Remaining in a Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(1), Disorderly and Disruptive Conduct in a Restricted Building or Grounds, 18 U.S.C. § 1752(a)(2), and Disorderly Conduct in a Capitol Building or Grounds, in violation of 18 U.S.C. § 5104(e)(2)(D).

The requested subpoena requests user, subscriber, and transactional information for a social media account believed to be used by the defendant in relation to the above-mentioned charges and the events which took place at the U.S. Capitol Building on January 6, 2021.

II. ANALYSIS

Federal Rule of Criminal Procedure 17(c) states that a trial subpoena “may order” the production of “any books, papers, documents, data, or other objects the subpoena designates.” The Rule further provides that the Court “may direct” the production of the designated items “in court before trial.” This Rule leaves advance production of a response to a document subpoena “to the court’s discretion.” *United States v. Binh Tango Vo*, 78 F. Supp. 3d 171, 178 (D.D.C. 2015) (quoting *United States v. Noriega*, 764 F. Supp. 1480, 1493 (S.D. Fla. 1991)). A party seeking an early-return trial subpoena must show “(1) relevancy; (2) admissibility; [and] (3) specificity.” *Id.* (quoting *United States v. Nixon*, 418 U.S. 683, 700 (1974)).

In *Nixon*, 418 U.S. at 699-700, the Supreme Court adopted the Rule 17(c) analysis set forth in *United States v. Iozia*, 13 F.R.D. 335, 338 (S.D.N.Y. 1952). Pretrial production under Rule 17(c) is permissible when: (1) the documents are evidentiary and relevant; (2) they are

not otherwise procurable reasonably in advance of trial by exercise of due diligence; (3) the party cannot properly prepare for trial without such production and inspection in advance of trial and that the failure to obtain such inspection may tend unreasonably to delay the trial; and (4) the application is made in good faith and is not intended as a “fishing expedition.”

Here, a website seeking funding on the defendant’s behalf has been established through a crowdfunding platform called GiveSendGo.com (<https://www.givesendgo.com/G23R>). The public facing website makes several claims about the defendant and her actions on January 6, 2021. It also specifically seeks donations for the defendant’s legal fund and appears to show that the defendant has received approximately 687 donations, totaling more than \$47,000 since the account was created. Therefore, the records sought from GiveSendGo, LLC., (GiveSendGo.com), providing subscriber, user, and transactional information would be necessary to attribute these accounts to the defendant.

The proposed subpoena thus meets the requirements for issuance of a Rule 17(c) subpoena. This request is made in good faith for records which will be admissible and relevant to the offenses charged. The information sought will assist the jury in determining the identity of the user of the social media account. The United States requires the records in advance of trial to allow sufficient time to review those records and seek any additional evidence those records uncover. Further, obtaining the records prior to the date of trial will facilitate the orderly progress of trial by allowing the parties to litigate or resolve any issues of admissibility arising from the document production before trial begins. *See Bowman Dairy Co. v. United States*, 314 U.S. 214, 219-20 (1951) (noting that an early-return trial subpoena serves the function of expediting trial by allowing for examination of the subpoenaed materials before trial begins.

As noted above, Rule 17(c)(1) requires a witness to produce the designated items “in court before trial” and states that “[w]hen the items arrive, the court may permit the parties and their attorneys to inspect all or part of them.” The proposed subpoena requires the witness to produce the designated documents by June 14, 2023.

The United States requests permission to invite the subpoenaed party to produce the documents to the government electronically in lieu of appearing at the status hearing. Similarly, anticipating that the subpoenaed entity may be facing logistical constraints in timely producing records, the United States further requests permission to grant any necessary extensions of time to the witness for compliance with the subpoena, should such requests be made.

III. CONCLUSION

The United States respectfully requests the Court to permit service of the subpoena to obtain records sought by the subpoena attached as Exhibit 1.

Respectfully submitted,

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