

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

**UNITED STATES OF AMERICA**

**v.**

**Case No. 1:21-cr-00719 (JEB)**

**CYNTHIA BALLENGER, and  
CHRISTOPHER PRICE,**

**Defendants.**

**MOTION FOR LEAVE TO FILE MOTION TO SUPPRESS DATA  
RECOVERED OR DERIVED FROM SEARCHES OF FACEBOOK  
ACCOUNTS AND FOR OTHER RELIEF**

As described by the sequence below, counsel for the Prices would not be able to file a proper motion without review of the search warrant application/affidavit that issued the Facebook account search warrants. The search warrants were issued well after the motions filing deadline in the instant case. Counsel for the Prices received a copy of the search warrant application/affidavit after inquiry on February 9, 2023 and seeks leave to file a WHEREFORE, the Prices respectfully requests that the Court permit the defense to file the attached Motion to Suppress Data Recovered or Derived from Searches of Facebook Accounts and for Other Relief and the related Memorandum of Points and Authorities.

1. The Court provided a deadline for pretrial motions of June 20, 2022. [Minute Order, May 2022].
2. By letter of September 19, 2022 counsel for Defendants requested from the United States any search warrant affidavits in this case, as part of discovery.
3. On November 7, 2022, Special Agent Jeffrey Belcher with the FBI submitted an application for search warrant of Facebook records concerning accounts related to Cynthia Ballenger (Price) and Christopher Price under a separate case name. Magistrate Judge G. Michael Harvey issued the search warrants to Facebook. There was no notice to the Prices or counsel for the Prices.
4. On November 15, 2022 Cynthia Ballenger (Cynthia Price) and Christopher Price received some notice from the Facebook Legal Response Team.
5. After inquiry from Cynthia Price and Christopher Price, respectively, the Facebook Legal Response Team, in emails dated November 17, 2022, sent redacted version that purported to be the relevant search warrants. In fact, what was sent appears, in retrospect, to be only 4 out of 7 pages of the search warrants. subpoenas. The emails stated:

Attached please find a copy of the legal process that we received on 11/7/2022. Please provide us with a file stamped copy of your motion to quash by 11/29/2022. Otherwise, we will be required to respond to the legal process.

6. By emails and calls between November 23, 2022 and November 28, 2022 Counsel for the Prices inquired with the clerks for the United States District Court for the District of Columbia and, in particular, clerk Harry Jackson what case number and process should the Prices file under for a Motion to

Quash. Mr. Jackson sent the filed motion to quash back to counsel for the Prices on November 28, 2022. The filing was under Case No. 22-MC-118(ZMF).

7. On November 28, 2022, a day before the deadline described by the Facebook Legal Response Team, counsel for the Prices sent both filed motions as attachments to emails to the same email address of the Facebook Legal Response Team that had been involved in the prior correspondence with the Prices. In each case, the email also carbon copied either Cynthia Price or Christopher Price as appropriate. Counsel listed his name and phone number and indicated he was representing Cynthia Ballenger (Price) and Christopher Price, respectively.
8. The emails sent on November 28, 2022 state, by example:

Facebook Law Enforcement Response Team---

I am the attorney representing Cynthia Ballenger (Price) with respect to the referenced Warrant in Facebook Case # 7362691. Per your instructions below, we have attached the Motion to Quash the Warrants and ask you not to provide any information without legal authorization. The clerk at the DC Court created a case number for this motion but you can see the Attachments to the motion are the Warrants relevant to Facebook Case #7362691 and #7362692. Please confirm receipt of this message and attachment. Please let us know if there is anything else you need from us.

Nandan Kenkeremath  
Counsel Representing Cynthia Ballenger (Price)  
[Phone number provided but omitted here]

9. From December 14, 2022 through January 11, 2023, Counsel for the Prices sent numerous emails to the Facebook Law Enforcement Team, with copies to the Prices, seeking confirmation of receipt, a point of contact and status.
10. On January 5, 2023, counsel for the United States sent counsel for the Prices and invitation to access the materials obtained from Facebook from the search warrant. Counsel for the Prices had some difficulty accessing but on January 9, 2023 with assistance from counsel for the United States, counsel for Prices was able to look at the materials.
11. On January 12, 2023 Counsel for the Prices requested by email to Counsel for the United States a quick call to go over some trial issues which was scheduled and conducted on January 18, 2023.
12. On January 14, 2023, Magistrate Judge Zia M. Faruqi issued an order stating that the Government was not added until after the deadline to file a response and setting a date of January 31, 2023 to file a response addressing whether the search warrant was executed and whether any returns were received and whether or not the motion to quash is moot and should instead be properly considered a motion to suppress.
13. On January 15, 2023, Counsel for the United States inquired about the motion and counsel for the Prices provided the motion.
14. On the call between counsel for the Prices and counsel for the United States, counsel for the Prices indicated that the Prices were interested in filing a motion to suppress, if the motion to quash was moot.

15. The United States filed its response to the magistrate's order on January 31, 2023
16. On February 2, 2023, Magistrate Judge Faruqui issued a minute order denying the motion to quash as moot and indicating any filing of motion to suppress should be filed in the criminal proceeding.
17. On February 9, 2023, Counsel for the Prices emailed Counsel for the United States indicating that he had seen the Facebook material in the files, that he could not locate the search warrant application/affidavit. Counsel for the United States uploaded the search warrant application/affidavit to the file that day.

WHEREFORE, the Prices respectfully requests that the Court permit the defense to file the attached Motion to Suppress Data Recovered or Derived from Searches of Facebook Accounts and for Other Relief and the related Memorandum of Points and Authorities.

Dated: February 13, 2023

Respectfully submitted,

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