

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

UNITED STATES OF AMERICA

v.

TIM LEVON BOUGHNER,

Defendant.

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CR. NO. 22-cr-0020 (TSC)

**GOVERNMENT’S RESPONSE IN OPPOSITION TO DEFENDANT’S MOTION TO
ORDER BUREAU OF PRISONS TO ALLOW MR. BOUGHNER ACCESS TO
DISCOVERY MATERIAL**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, respectfully submits that, given the facts below, this Court should hold the motion in abeyance to give the parties the opportunity to meet and confer to determine if there are any current issues involving access to discovery, and provide the parties the opportunity to resolve any that may exist without unnecessary involvement of the Court.

DEFENSE ASSERTIONS ON ACCESS TO DISCOVERY

In his motion, Defendant Boughner’s counsel asserts that Mr. Boughner was recently transferred from the Northern Neck Regional Jail in Warsaw, Virginia, to USP Lewisburg in rural Pennsylvania, and that during an attorney visit on March 31, 2023, counsel attempted to play video files for Mr. Boughner from the discovery materials provided by the government, but the laptop computer provided by the institution was unable to play them. Further, counsel asserts that he sent through the mail to Mr. Boughner electronic media containing the government’s discovery materials, using the form of media prescribed by USP Lewisburg. Counsel asserts that although

Federal Express records showed them delivered, Mr. Boughner had not yet received them as of the date of the attorney visit.

THE UNITED STATES' ACTIONS

Upon the filing of the motion the undersigned Assistant U.S. Attorney (AUSA) contacted counsel at USP Lewisburg to inquire about Defendant Boughner's reported lack of access to discovery material. On April 5, 2023, counsel for USP Lewisburg reported that nine discs were received and provided to Mr. Boughner on April 4, 2023, and that he had them in his possession and could review the material on the discovery computers located in his housing unit. This information was then conveyed by the undersigned AUSA to Mr. Boughner's counsel by electronic mail on April 5, 2023. This was followed up with an electronic mail message on April 9, 2023, in which the undersigned AUSA provided counsel for Mr. Boughner a copy of USP Lewisburg's pre-trial legal procedures in case this may not have been previously provided to him. These procedures include specific guidelines on in-person legal visits and electronic discovery material. The undersigned AUSA and counsel for Mr. Boughner have communicated by electronic mail regarding the present motion, but efforts to speak by telephone or email substantively about the discovery motion have not been possible as counsel for Mr. Boughner has been engaged in a lengthy multi-defendant trial in District Court before the Honorable Reggie B. Walton.

CONCLUSION

Given the facts as articulated above, The United States respectfully requests that this Court hold the subject defense motion in abeyance to provide the parties the time and opportunity to

meet and confer to determine if there are any current issues involving the Defendant's access to discovery which exist and would require the Court's intervention.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of April, 2023, I caused the foregoing to be filed via the Court's electronic filing system (CM/ECF), which will serve copies upon all counsel of record.

By: /s/ Joseph S. Smith, Jr.
JOSEPH S. SMITH, JR.