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September 23, 2022

Joseph Huynh
Assistant U.S. Attorney
U.S. Attorney's Office
405 East 8th Avenue
Eugene, Oregon 97401

RE: USA v. Thomas Carey * No. 1:22-mj-00203-GMH
United States District Court for the District of Columbia

Dear Mr. Huynh:

On behalf of my client, Thomas Carey, I am requesting the government to provide discovery in this case pursuant to the Fifth and Sixth Amendments to the Constitution, Rule 16 of the Federal Rules of Criminal Procedure, *Brady v. Maryland*, 373 U.S. 83 (1963), and Local Criminal Rule 5.1.

This request encompasses documents¹ and information in the possession, custody, or control of, or that have been reviewed by, the Department of Justice's Criminal Division, the U.S. Attorney's Office for the District of Columbia, and any federal, state, or local agency allied with the prosecution or involved in any way in investigating the activities alleged in the Indictment or related conduct. As used in this letter, the words "government" and "you" include your office and the above-referenced federal, state or local agencies. All of these requests are continuing in nature, requiring supplementation in accordance with FRCP Rule 16(c) and LCrR.5.1.

¹ The word "documents" includes, but is not limited to, all books, papers, letters, correspondence, reports, memoranda, studies, calendars, appointment books, diaries, notes, messages, e-mail, text messages, other computer-facilitated or transmitted materials, images, photographs, audio and video tapes, recordings, transcripts, ledgers, receipts, printouts, and any other written, recorded, or memorialized material of any nature whatsoever.

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I am requesting that the government comply with all its discovery obligations under federal law and local rules of this Court, including, but not limited to, the items listed below.

Statements of the Defendant

Pursuant to FRCP Rule 16(a)(1)(A) & (B), I am requesting the following:

- (A) Any written or recorded statement or admission made by Mr. Carey that is within the government's possession, custody, or control, the existence of which is known, or by the exercise of due diligence may become known, to the government. *See* FRCP 16(a)(1)(B)(i).
- (B) The portion of any written record containing the substance of any oral statement made by Mr. Carey in response to interrogation by any person then known to the defendant to be a government agent. *See* Fed. R. Crim. P. 16(a)(1)(B)(ii). This request includes without limitation all documents, including notes, prepared by any government employee or agent that contain the substance of any relevant statement made by Mr. Carey.
- (C) The substance of any other oral statement made by Mr. Carey in response to interrogation by any person then known by Mr. Carey to be a government agent if the prosecution intends to use that statement at trial. *See* FRCP 16(a)(1)(A).

Defendant's Prior Record

Pursuant to Rule 16(a)(1)(D), Mr. Carey requests a copy of his prior criminal record, if any. *See* FRCP 16(a)(1)(D).

Documents and Tangible Objects

Pursuant to FRCP 16(a)(1)(E), I am requesting the following:

- (D) All books, papers, documents, data, photographs, or tangible objects, or copies or portions thereof, that were obtained from or belong to Mr. Carey. *See* FRCP 16(a)(1)(E)(iii).
- (E) All books, papers, documents, data, photographs, or tangible objects, or copies or portions thereof, that the government intends to use at trial in its case-in-chief. *See* Fed. R. Crim. P. 16(a)(1)(E)(ii).

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- (F) All books, papers, documents, data, photographs, or tangible objects, or copies or portions thereof, that are material to Mr. Carey's defense. *See* Fed. R. Crim. P. 16(a)(1)(E)(I).

Reports of Examinations and Tests

Pursuant to Rule 16(a)(1)(F), I am requesting the results or reports of any physical or mental examinations, scientific tests, or experiments that were conducted in connection with the investigation of the charges contained in the Indictment.

Reports of Investigation

Please advise if your office may take the position that reports of investigation (ROIs) prepared by law enforcement officers are not discoverable under FRCP Rule 16. It is my view that many if not all ROIs are discoverable under Rule FRCP 16(a)(1)(A), (E), and (F), among other provisions. As you are aware, ROIs are also a primary source of information about the government's investigation and evidence, and producing them to the defense is essential to facilitating the resolution of cases. I therefore request that you continue to produce ROIs. If you intend to withhold some or all ROIs, I request that you identify the nature of the ROIs that you intend to withhold and the grounds for withholding so that we can meet and confer on this topic.

Expert Notice and Disclosure

Pursuant to FRCP 16(a)(1)(G), I am requesting a written summary of any testimony the government plans to use under Rules 702, 703, or 705 of the Federal Rules of Evidence in its case-in-chief. *See* F RCP 16(a)(1)(G). Furthermore, should the government request discovery under FRCP 16(b)(1)(C)(ii), and Mr. Carey complies, the government must, at Mr. Carey's request, provide a written summary of testimony that the government intends to use as evidence at trial on the issue of Mr. Carey's mental condition and describe the witness's opinions, bases, and reasons for such opinions, as well as the witness's qualifications. *See* Fed. R. Evid. 702(a)-(e), 703, & 705.

Other Crimes Evidence

Pursuant to the Fifth and Sixth Amendments to the U.S. Constitution and Rules 403 and 404(b) of the Federal Rules of Evidence, I am requesting that the government disclose all evidence of similar crimes, wrongs, or acts allegedly committed by Mr. Carey (or any person alleged to have been acting pursuant to his instructions), upon which the government intends to rely to prove motive, scheme, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

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Brady Materials

Pursuant to the United States Constitution and relevant case law interpreting its provisions, including *Brady v. Maryland*, 373 U.S. 83 (1963), and *Giles v. Maryland*, 386 U.S. 66 (1967), LCrR.5.1, and the applicable Rules of Professional Conduct, I am requesting immediate identification and disclosure of all documents and information (in whatever form) that are favorable to the defense, or that would tend to exculpate Mr. Carey with respect to the charges in the Indictment, or that are relevant to the issue of sentencing.

Jencks Materials



Pursuant to FRCP 26.2, 18 U.S.C. 3500, and LCrR.5.1, I request that you produce, at the earliest possible date, any statements of prospective government witnesses that are in the government's possession and that relate to the subject matter concerning which the witness will testify. Should you intend to produce Jencks materials later than one week before trial is scheduled to begin, I request that you provide me and the Court with written notice by no later than the date the government is required to make its disclosures.

Please let me know promptly whether there are any requests set forth in this letter with which you decline to comply. I am available to discuss any of the above requests at your convenience. I reserve the right to supplement these requests as I review the discovery materials and prepare for trial.

Please feel free to contact me by e-mail or on my cell-phone.

Very truly yours,

THE ORENBERG LAW FIRM, P.C.


BY: Allen H. Orenberg 

AHO/bip

cc: Via E-Mail: joseph.huynh@usdoj.gov