

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Criminal Division—Felony Branch

UNITED STATES OF AMERICA	:	Case Nos.	2021 CMD 000156
	:		2021 CMD 000158
v.	:		2021 CMD 000161
	:		2021 CMD 000163
YEVGEMYA MALIMON	:		2021 CMD 000164
TARA COLEMAN	:		2021 CMD 000167
VICTORIA VERGESON	:		2021 CMD 000168
STACY EBANKS	:		2021 CMD 000171
ANTHONY TAMMARO	:		2021 CMD 000172
DAVID ROSS	:		2021 CMD 000176
NAZEER QAIM	:		2021 CMD 000179
JOHN PARKER	:		2021 CMD 000180
MARSHA MURPHY	:		2021 CMD 000181
MAURCIO MENDEZ	:		2021 CMD 000182
RYAN MASON	:		2021 CMD 000183
ESYEDEPA AESFYZA	:		2021 CMD 000184
MICHAEL AMOS	:		2021 CMD 000185
JERE BROWER	:		2021 CMD 000187
DANIEL CLAVIJO	:		2021 CMD 000188
JONATHON DOLL	:		2021 CMD 000190
DAVID FITZGERALD	:		2021 CMD 000191
EARL GLOSSER	:		2021 CMD 000193
LANCE GRAMES	:		2021 CMD 000194
YUJI HIRAIWA	:		2021 CMD 000195
ANDREW JOHNSON			
JOSHUA KNOWLES		Judge Yvonne Williams	
WILLIAM LEARY			
KRISTINA MALIMON	:	Status Hearing: September 13, 2021	
DEFENDANTS	:		

NOTICE OF FILING

The government requests that the attached discovery letter, dated June 23, 2021, be made part of the record in this case.

Respectfully submitted,

CHANNING D. PHILLIPS
Acting United States Attorney

JOHN B. TIMMER
Deputy Chief, Major Crimes Section

ANDY WANG
PAUL V. COURTNEY

By: /s/ Kathleen W. Gibbons
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U. S. Department of Justice

Channing D. Phillips
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June 23, 2021

BY EMAIL

Bruce Castor, Peter Cooper, Samuel Bogash, Brandon Burrell, Lucas Dansie, Kelsey Phipps, Sellano Simmons, Kevin Kassees, Adam Harris, Miguel Serrano, Raymond Jones, Damon Catacalos, Nabeel Kibria, Catherine Bernard, Anthony Smith, Mark Rollins, Cary Clennon, Joseph Fay, Brittany Kerr, Bruce Cooper, Peter Odom, Sean Coleman, and Daniel Dorsey

*Re: United States v. Yevgemya Malimon et al
Case No. 2021 CMD 000156 et al*

Dear Counsel:

I am writing regarding Protective Orders and the disclosure of materials gathered pursuant to cell phone and social media search warrants for the above-captioned cases.

Protective Order

I originally sent a copy of a Proposed Protective Order specific to cases related to the Riot at the Capitol on January 6, 2021 in an email dated March 25, 2021. I have included an additional copy as an attachment to this letter. Please be advised that the proposed order is essentially identical to one that was negotiated between District Court representatives of my office and AJ Kramer, the head of the DC Federal Public Defenders. It has been modified to include citations to the local rules rather than the Federal Rules.

The proposed Protective Order will govern only discovery materials that are designated either Sensitive or Highly Sensitive. It prohibits the disclosure of both Sensitive and Highly Sensitive materials to anyone other than the defendant, the legal defense team, or the person to whom the Sensitive or Highly Sensitive materials directly pertain or his/her counsel, without the agreement of the Government or prior authorization from the Court.

Additionally, pursuant to the Protective Order, defense counsel may not provide a copy of Highly Sensitive materials to the defendant or permit the defendant to view such materials unsupervised by defense counsel or an attorney, investigator, paralegal, or support staff person employed by defense counsel. Sensitive materials may be provided to the defendant.

Please note that the Order includes an acknowledgement by your client that must be signed and filed with the Court.

The Government will make efforts to produce as much discovery without any sensitivity designations as possible. However, Capitol CCTV videos and any Capitol Repair Estimates will be designated Highly Sensitive. The Government will also evaluate other materials and consider applying sensitivity designations to, among other things, Personal Identifying Information, medical or mental health records, sources and methods law-enforcement officials have used, and will continue to use, to investigate other criminal conduct related to the publicly filed charges, and materials designated as “security information” pursuant to 2 U.S.C. § 1979.

Cell Phone and Social Media Materials

The Government has collected a significant amount of evidence from search warrants executed on the defendants’ cell phones and social media accounts. To date, we have produced these materials only to counsel for the defendants from whom they were obtained. Counsel for other co-defendants have requested these materials as well. We intend to start producing these materials more broadly to counsel for the co-defendants pursuant to the Protective Order. Out of an abundance of caution, and to ensure that all of you are able to review these materials more quickly, we intend to produce the search warrant returns to each of you, in full, pursuant to the Protective Order, and designated as Highly Sensitive. We will, of course, notify you to the extent that there are materials on the cellular phones that we intend to use as exhibits at hearings or at trial.

If, based on your review of your own client’s cell phone or social media materials, you believe there is something that should not be produced to the other defense counsel, please let us know.

Next Steps:

1. Let us know whether you consent to the Protective Order.¹ If you do, we will file a Consent Motion for entry of the Order and will produce the CCTV video to you as soon as possible. If we do not hear from you by COB on June 29, 2021, we will assume you oppose our request and file the appropriate motion.

¹ Counsel for Joshua Knowles, John Parker, and Lance Grames previously indicated that they consented. If we do not hear to the contrary from them by COB on 6/25/2021, we will file Consent Motions in those cases.

2. Let us know whether there are any materials from your client's cell phone(s) or social media account(s) that you believe should not be produced to co-defendants' counsel.

Please reach out if you have any questions. Thank you.

Sincerely,

CHANNING D. PHILLIPS
Acting United States Attorney

JOHN B. TIMMER
Deputy Chief, Major Crimes Section
Assistant United States Attorney

PAUL V. COURTNEY
ANDY WANG
Assistant United States Attorneys

By: */s/ Kathleen W. Gibbons*
KATHLEEN W. GIBBONS
Assistant United States Attorney

cc: Superior Court Case File (without attachments)