

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

v.

ISAAC ANTHONY THOMAS,

Defendant.

Case No.  
23-cr-69-CKK-1

**ORDER**

Before the Court is the Government’s Motion for Court Action re: Discovery (“Motion”).<sup>1</sup> ECF No. 81. For the reasons stated below, it is hereby,

**ORDERED** that the Motion is **DENIED**.

The Motion concerns the Government’s disclosure obligations to Defendant Isaac Anthony Thomas with respect to the cell phone contents of his co-defendant, Christina Ann Legros.<sup>2</sup> *See generally* ECF No. 81. The Government acknowledges that it has reviewed the entire contents of Ms. Legros’ phone and determined that 549 of the 56,480 files on her phone are subject to disclosure to Mr. Thomas pursuant to Federal Rule of Criminal Procedure 16(a)(1)(E) and, ostensibly, its other disclosure obligations, including *Brady* material. *See id.* at 1–2. In the Motion,

---

<sup>1</sup> On December 21, 2023, the Hon. Colleen Kollar-Kotelly referred the Motion to the Undersigned for resolution pursuant to Local Rule of Criminal Procedure 59.1. ECF No. 85.

<sup>2</sup> On November 30, 2023, this Court ordered that Ms. Legros be “committed to custody of the Attorney General for placement for a determination of whether she is presently suffering from a mental disease or defect rendering her mentally incompetent to the extent that she is unable to understand the nature and consequences of the proceedings against her.” ECF No. 75. On December 8, 2023, Judge Kollar-Kotelly referred Ms. Legros’ case to the Hon. G. Michael Harvey “for the purposes of conducting a competency hearing pursuant to 18 U.S.C. § 4247(d) and for making a competency determination pursuant to 18 U.S.C. § 4241(d).” ECF No. 80 at 2. That determination is pending.

the Government requests that this Court either: (1) review the contents of Ms. Legros' cell phone *in camera* "to ensure none of the remaining undisclosed data falls under [Rule 16(a)(1)(E)(i)]"; or (2) "enter an additional protective order for Mr. Thomas's counsel to review the remaining information contained on Ms. Legros's phone, with instructions for future litigation of items in dispute." *Id.* at 2. During a hearing on January 12, 2024, the Government essentially conceded that it is asking this Court to review tens of thousands of files to conduct a quality check of the Government's determination that the balance of the 56,480 files on Ms. Legros' phone are not subject to disclosure to Mr. Thomas under Rule 16(a)(1)(E)(i).<sup>3</sup> There is no apparent dispute over these documents. The Government has stated that it makes the request of the Court "out of an abundance of caution." *Id.*

Despite its sweeping request, the Government could not provide any authority—either in its Motion or at the January 12, 2024 hearing—supporting its request. Although the Government cites Federal Rule of Criminal Procedure 16.1(b) as a basis for its Motion, that rule does not stand for the proposition that the Government may request *in camera* review so as to obtain Court approval of the Government's determinations of its discovery and disclosure obligations to the Defendant.<sup>4</sup> In any event, the Court is in no position to assess which materials on Ms. Legros' phone would be "material to preparing the defense" of Mr. Thomas. Fed. R. Crim. P. 16(a)(1)(E)(i).

---

<sup>3</sup> Federal Rule of Criminal Procedure 16(a)(1)(E)(i) provides that "[u]pon a defendant's request, the government must permit the defendant to inspect" any item within the government's possession that "is material to preparing the defense." Fed. R. Crim. P. 16(a)(1)(E)(i).

<sup>4</sup> Federal Rule of Criminal Procedure 16.1(b) provides that "[a]fter the discovery conference, one or both parties may ask the court to determine or modify the time, place, manner, or other aspects of disclosure to facilitate preparation for trial." Fed. R. Crim. P. 16.1(b).

As an alternative to *in camera* review of Ms. Legros' phone, the Government requests that this Court "enter an additional protective order for Mr. Thomas's counsel to review the remaining information contained on Ms. Legros's phone." ECF No. 81 at 2. The Government has neither provided a draft protective order nor proposed any terms or even contours of such a protective order. Moreover, the Government's conclusory request does not address the potential privacy concerns associated with allowing *Mr. Thomas's* counsel to review the contents of Ms. Legros' phone. For these reasons, the Motion is denied.

**SO ORDERED.**

Date: January 19, 2024

---

MOXILA A. UPADHYAYA  
UNITED STATES MAGISTRATE JUDGE