

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CR. NO. 2:10cr186-MHT-001
)	
MILTON E. McGREGOR, et al.)	
)	
Defendants.)	

**DEFENDANT’S MOTION FOR EARLY
DISCLOSURE OF JENCKS ACT MATERIALS**

Defendant, Milton E. McGregor hereby moves for early disclosure of Jencks Act material. In support of this motion, Defendant states as follows:

1. 18 U.S.C. § 3500, commonly referred to as “the Jencks Act,” requires the Government to disclose any statements of a witness, after the witness has been called by the Government and testified on direct examination. *See* 18 U.S.C. § 3500(b) (“After a witness called by the United States has testified on direct examination, the court shall, on motion of the defendant, order the United States to produce any statement (as hereinafter defined) of the witness in the possession of the United States which relates to the subject matter as to which the witness has testified.”) This obligation includes all “statements” within the definition of that term in § 3500(e). Such disclosure must be ordered if a defendant makes a motion for it. *See* 18 U.S.C. § 3500(b). McGregor hereby makes such a motion.

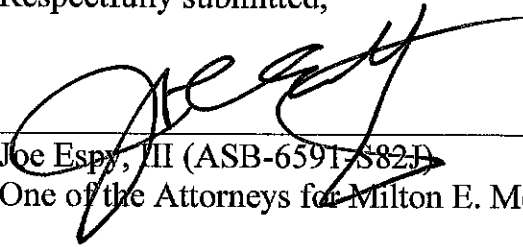
2. An obligation to produce statements, after a witness has testified on direct examination, is also found in Fed. R. Crim. P. 26.2. *See* Rule 26.2(a) (“After a witness other than the defendant has testified on direct examination, the court, on motion of a party who did not call the witness, must order an attorney for the government or the defendant and the defendant's attorney to produce, for the examination and use of the moving party, any statement of the witness that is in their possession and that relates to the subject matter of the witness's testimony.”)

3. If disclosure of witness statements is not made until trial, then the result can be frequent recesses and delays, between direct examination and cross-examination or other use of the statement by the defense. This is reflected in both the Jencks Act and Rule 26.2, both of which recognize that there will be times when a defendant will need a recess in order to review a newly-produced statement and prepare for cross-examination based on it. *See* 18 U.S.C. § 3500(c) (“Whenever any statement is delivered to a defendant pursuant to this section, the court in its discretion, upon application of said defendant, may recess proceedings in the trial for such time as it may determine to be reasonably required for the examination of such statement by said defendant and his preparation for its use in the trial.”); Rule 26.2(d) (“The court may recess the proceedings to allow time for a party to examine the statement and prepare for its use.”)

4. The Defendant is hereby requesting that this Court use its discretion in a manner that will avoid trial delays, by requiring the Government to disclose all Jencks Act and Rule 26.2 materials no later than two weeks prior to the commencement of trial.

The Defendant further requests that, whether with or without such a Court order, the Government provide any witness statements on that schedule before trial. This will increase the likelihood that the trial will proceed fairly and efficiently. Furthermore, such disclosure would not harm any legitimate interest of the Government.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the following electronically and via regular mail, postage prepaid and properly addressed on this the 5 day of October, 2010.

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