

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

UNITED STATES OF AMERICA)
)
 v.)
) CR. NO. 2:10cr186-MHT
)
 JARRELL W. WALKER, JR.,)
)
 Defendant.)
 _____)

**UNITED STATES' RESPONSE TO DEFENDANT WALKER'S
RENEWED MOTION FOR SPECIFIC BRADY REQUESTS PERTAINING TO
RONNIE GILLEY, JARRED MASSEY, JENNIFER POUNCY, AND OTHER
COOPERATING WITNESSES**

The United States of America, through undersigned counsel, hereby responds to defendant Jarrell Walker's motion for an order directing the Government to comply with discovery requests pertaining to individuals who have entered into plea agreements with the Government and who may be witnesses at the retrial of this matter (*i.e.*, Ronnie Gilley, Jarrod Massey, and Jennifer Pouncy). For the reasons explained below, the Government respectfully requests that the Court deny defendant Walker's motion in its entirety.

As a threshold matter, defendant Walker's motion should be denied as he fails to provide any basis for the requested relief. In support of his motion, defendant Walker merely states in conclusory fashion that "[he] anticipates that new information has developed for the first trial which is discredibile." Defendant Walker's motion, however, does not identify this "new information" or his basis to believe that it exists and that it is in the Government's possession. This sort of speculation is simply not enough to establish that the Government has failed to honor its discovery obligations thereby

requiring a court order. See, e.g., United States v. Prochillo, 629 F.3d 264, 269 (1st Cir. 2011) (noting that “Brady already requires the government to disclose all favorable and material evidence in its possession to the defendant”); United States v. Navarro, 737 F.2d 625, 631-32 (7th Cir. 1984) (“A due process standard which is satisfied by mere speculation would convert Brady into a discovery device and impose an undue burden upon the district court”); United States v. Cadet, 727 F.2d 1453, 1466 (9th Cir. 1984).

Moreover, contrary to defendant Walker’s assertion, his motion fails to set forth specific requests for information. Rather, in boilerplate fashion, defendant Walker reiterates verbatim prior broad, general requests (*e.g.*, all information regarding misconduct by the witnesses, all information regarding benefits afforded to the witnesses). Defendant Walker previously made identical requests, see Dkt. 503 (as to Massey) and Dkt. 1104 (as to Gilley), and the Government promptly provided responses to defendant Walker’s satisfaction. All information responsive to defendant Walker’s requests was disclosed through pre-trial discovery and the extensive proceedings in this matter. Except for what has already been produced, there is no additional responsive, exculpatory material under Brady in the Government’s possession.

The Government has provided extensive discovery in this case and has accommodated the defendants in numerous instances by providing discovery far beyond what is required by the rules – a fact that defendant Walker’s motion does not dispute. In providing expansive and broad discovery in this case, the Government has repeatedly sought to err on the side of over-inclusiveness and disclosure. Indeed, the Government has produced virtually all materials gathered during the course of this investigation. Such items include grand jury transcripts, FBI 302s, agents’ notes, documents returned

pursuant to grand jury subpoenas, financial institution records, electronic communications, and public source documents. Further, the Government remains aware of its continuing disclosure obligation and, mindful that it has an affirmative duty to resolve doubtful questions in favor of disclosure, will provide any favorable material should it come into the Government's possession, including any information responsive to defendant Walker's requests.

WHEREFORE, the Government respectfully requests that the Court deny defendant Walker's motion for an order directing the Government to comply with discovery requests pertaining to witnesses cooperating with the Government.

DATED: November 17, 2011
Washington, D.C.

Respectfully submitted,

/s/ Justin V. Shur
Justin V. Shur
Deputy Chief
Public Integrity Section
U.S. Department of Justice
1400 New York Avenue NW
Washington, DC 20005
(202) 514-1412

CERTIFICATE OF SERVICE

I HERBY CERTIFY that on November 17, 2011, I electronically transmitted the foregoing motion to lead counsel of record.

/s/ Justin V. Shur _____
Justin V. Shur
Deputy Chief
Public Integrity Section
U.S. Department of Justice
1400 New York Avenue NW
Washington, DC 20005
(202) 514-1412