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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,
Plaintiff,
-VS-
JON RITZHEIMER,
Defendant

Case No. 3:16-CR-00051-02-BR

NOTICE OF JOINDER AND SUPPLEMENTAL
GROUNDS IN OBJECTION TO
GOVERNMENT'S DECLINING TO PROVIDE
GLOBAL DISCOVERY, AND ALTERNATIVE
REQUEST FOR RULE 16 DISCOVERY AND
BRADY MATERIALS DIRECT FROM THE
GOVERNMENT

Defendant, Jon Ritzheimer, through counsel Terri Wood, hereby joins in Defendant Blomgren's Objection to Joint Status Report On Discovery Management [#343], and provides supplemental authority set forth below and in the supporting Declaration of Counsel filed herewith; and, as a less-favored alternative, requests the Government provide directly to him, through counsel Terri Wood, discovery specific to his prosecution, pursuant to Rule 16, F.R.Cr.P., and *Brady* materials as must be provided without demand.

Counsel certifies that she has asked to confer with the Government on this matter since last week, and will continue seeking to confer with the

Government to resolve these issues prior to the April 6th status hearing. Counsel further certifies that she has participated in joint defenders' conferences and engaged in related communications that cannot be further disclosed, and there is no consensus among defense counsel on these issues.

The Government's declining to provide any further discovery to individual defense counsel upon request—a practice it commenced last week by providing volumes 3 and 4 of discovery solely to the CJA Panel Office—has delayed and impaired Mr. Ritzheimer's preparation of his defense. Mr. Ritzheimer's objections were made known to the Government prior to it implementing this practice.

Rule 16 requires the Government to provide discovery directly to each defendant upon request. There is no good cause for the Government to seek modification of the rule and be permitted to satisfy its duties through providing global discovery only to the CJA Panel Office. See, Rule 16(d)(1). Although the Court's Standing Order No. 2015-5 regarding Criminal Discovery (copy attached to Declaration of Counsel), allows the schedule for producing discovery to be modified by agreement of the parties or by order of the Court, there is no provision for excusing the Government from providing discovery directly to each defendant.

The Government's primary objection to providing discovery directly to those defense counsel who so request (as relayed second-hand to Mr. Ritzheimer) has been the effort that would be required for it to duplicate the large amount of global discovery in this case for individual defendants. *But see*, Declaration of Counsel, *supra*. Accordingly, as a less-favored alternative, Mr. Ritzheimer requests the Government provide him directly with Rule 16 discovery specific to his prosecution—a relatively small subset of the global discovery it is providing to the Panel Office. In particular, the defense requests the following:

Rule 16(a)(1)(A)&(B)—Defendant’s Statements

(i) All relevant written or recorded statements of Mr. Ritzheimer known to the government and within its possession or control; (ii) the substance of any relevant oral statements made by Mr. Ritzheimer and not otherwise recorded, before or after arrest, in response to questioning by a person Mr. Ritzheimer knew to be a government agent, including state and local law enforcement acting under the direction of the government; and (iii) the portion of any written record containing the substance of any relevant oral statement made before or after arrest, in response to questioning by a person Mr. Ritzheimer knew to be a government agent, including state and local law enforcement acting under the direction of the government or out-of-district federal agents.

This request specifically includes law enforcement agents’ rough notes of communications with Mr. Ritzheimer; letters or emails written by Mr. Ritzheimer to third persons, including co-defendants; recorded conversations of Mr. Ritzheimer with third persons, including any government informants and calls made while in-custody; pre-arrest written or recorded statements made by Mr. Ritzheimer during the alleged crimes, or such statements made in his presence which the government intends to offer as adopted admissions at trial; and transcripts of recordings of Mr. Ritzheimer’s statements in the government’s possession.

Rule 16(1)(E)—Documents and Objects

All books, papers, documents, data, photographs, tangible objects, buildings or places—or copies or portions of any of these items—within the government’s possession or control, which (i) belong to or were obtained from Mr. Ritzheimer, or (ii) are intended for use by the government as evidence in its case in chief against Mr. Ritzheimer. *See, United States v. Poindexter, 727*

F.Supp. 1470 (1989)(Government required to identify with greater specificity those documents it intended to rely on at trial and could not meet its discovery obligation by identifying several thousand pages that it “may” rely on). Mr. Ritzheimer does not request at this time such items as may be material to his defense, due to lack of adequate information to make that specific request.

This request specifically includes such items in the possession of any federal agency participating in the investigation of Mr. Ritzheimer, including out-of-district agencies, and any state or local agencies if those items are in the government’s possession. This request includes Mr. Ritzheimer’s emails, text messages, and data from social media accounts; cell phone records; and credit card records.

Rule 16(1)F)—Reports of Examinations and Tests

The results or reports of any physical or mental examination and or any scientific test or experiment, within the government’s possession or control, that the government intends to use in it’s case in chief at trial against Mr. Ritzheimer.

This request includes ballistic reports; handwriting, fingerprint or voice analysis/comparisons; and electronic surveillance and intelligence reports based on information obtained through the use of scientific devices authorized by search warrants.

Format of Discovery

Mr. Ritzheimer requests that all electronically stored information responsive to his discovery request be identical in format to the global discovery

it has agreed to provide to the CJA Panel Office, and agrees to provide the external hard drive necessary to copy this discovery.

DATED this 29th day of March, 2016.

/s/ Terri Wood
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Attorney for Ritzheimer