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SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION - FELONY BRANCH

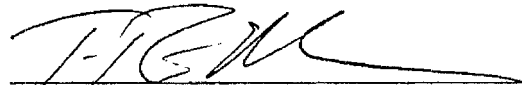
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UNITED STATES OF AMERICA) CRIMINAL NOS. 2008-CF1-27068
) 2008-CF1-26997
 v.) 2008-CF1-26996
)
)
 JOSEPH PRICE) JUDGE LYNN LEIBOVITZ
 VICTOR ZABORSKY)
 DYLAN WARD) STATUS DATE: 1/15/10

NOTICE OF FILING

The government requests that the attached discovery letter (without attachments), dated January 13, 2010, be made part of the record in this case.

CHANNING D. PHILLIPS
United States Attorney

By:



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CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the attached discovery letter (with attachments) to be served via courier pickup on January 13, 2010, upon Bernard Grimm, Esq., The Army and Navy Building, 1627 I Street, NW, Suite 1100, Washington, DC 20006, counsel for defendant Price, Thomas G. Connolly, Esq., Harris, Wiltshire & Grannis, LLP, 1200 Eighteenth Street, N.W., 12th Floor, Washington, DC 20036-2506, counsel for defendant Zaborsky, and David Schertler, Esq., Schertler & Onorato, LLP, 601 Pennsylvania Avenue NW, North Building, 9th Floor, Washington, DC 20004-2601, counsel for defendant Ward.



T. PATRICK MARTIN
Assistant United States Attorney





U.S. Department of Justice

United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St. N.W.
Washington, D.C. 20530*

January 13, 2010

BY FACSIMILE (LETTER ONLY) AND COURIER PICK-UP

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Re: United States v. Joseph Price
Case No. 2008-CF1-27068

United States v. Victor Zaborsky
Case No. 2008-CF1-26997

United States v. Dylan Ward
Case No. 2008-CF1-26996

Dear Counsel:

We are writing to provide you with additional information.

I. Discovery

A. Documents

The following additional documentation (Bates Nos. 2967 - 3043) and items are included:

- Report of Examination, Hair and Fiber Analysis Report, dated 12/23/09
- USSS Report and related documentation concerning enhanced copy of 911 call
- 1 CD, containing USSS enhanced 911 call
- 1 DVD, containing "electro ejaculation" clips
- Itemized list/description of S&M items recovered from 1509 Swann Street (with accompanying photographs) as prepared by Expert James Plant

B. Other Information

1. During the course of its investigation, the government received information that the electrical device recovered from 1509 Swann Street was capable of inducing passive/involuntary ejaculation. The government has also spoken with Eric Forbes, the President of Erostek. Erostek markets and sells electrical stimulation products, including the ET-302R recovered from defendant Ward's bedroom. Mr. Forbes, who claims to be familiar with the unit and its intended uses, informed the government that the ET-302R can deliver a voltage of up to 50 volts, and opined that such voltage, in and of itself, could not induce passive/involuntary ejaculation. Mr. Forbes can be reached at 831-335-3650.

2. As you are aware from earlier discovery, the EMS run sheet references, "UTO IV access." In attempting to determine the nature of that entry, we inquired of the EMS workers involved in transporting Mr. Wone's body from 1509 Swann Street to the hospital. One of the EMS workers indicated that she believes that entry indicates an attempt to gain IV access. The EMS worker indicated if they had attempted IV access they would ordinarily attempt said access in the antecubital area (at the bend of the elbow). The EMS worker specifically **ruled out** several of the locations of the puncture marks found on Mr. Wone's body as places where IV access would be attempted.

3. Attached please find photographs of some of the S/M items recovered from 1509 Swann Street and a corresponding list of the intended use of these items as denoted by James Plant, an expert in the field of S&M equipment and practices.

C. Return of Evidence Items. On several occasions, we have requested the return of various items of evidence previously transferred to the defense team pursuant to court orders, dated May 26, 2009, and November 16, 2009. To date, only a few of the transferred evidence items have been returned to the government. As we informed Mr. Grimm recently, the D.C. Metropolitan Police Department's Mobile Crime Lab remains available to receive custody of any evidence items at anytime. According to our records, the vast majority of the items of evidence transferred to you pursuant to the May 26, 2009 order have been in your possession well in excess of the twelve week period contemplated by the Court's order. The few remaining evidence items delineated in the May

26, 2009 order (except the fibers recovered from Item 13 (a knife)) and all of the evidence items delineated in the November 16, 2009 order were transferred to you on or around November 18, 2009. Please let us know at your earliest convenience when we should expect to regain possession of the above-referenced evidence items. Again, we would like to retake possession of items as soon as possible.

The remaining item(s) to be transferred to you are the fibers recovered from Item 13 (knife). The fibers are now available for pickup from the MPD's Mobile Crime Lab. Please call us to coordinate a mutually convenient time for their transfer to you.

D. Government's Renewed Discovery Requests

In a discovery letter, dated December 18, 2008, the government made the following discovery requests:

- notice of documents and tangible objects the defendant expects to introduce pursuant to Super. Ct. Crim. R. 16(b);
- a Jencks request for all prior statements to be produced at the appropriate time of any defense witness (excluding the defendant) pursuant to Super. Ct. Crim. R. 26.2;
- a Lewis request (for which we request the name, date of birth, sex, and social security number of each defense witness prior to trial); and
- **a request for information pertaining to any expert or scientific testimony or evidence pursuant to Rule 16(b)(1)(B) and (C).**

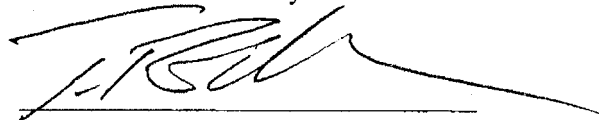
See December 18, 2008 discovery letter, pg. 6, para. F (emphasis added). To date, we have not received any discovery from any of the defendants. Please produce all discoverable information immediately, including any expert disclosure information mandated by Rule 16(b)(1)(B) and (C). With respect to required expert disclosures, the government must be afforded an adequate opportunity to assess and consider any expected trial testimony by purported defense experts well before the May 10, 2010 trial date if that date is to remain viable. Pursuant to Super. Ct. Crim. R. 16(b)(2), we note our continuing request to receive any material pursuant to Rule 16(b) as the case proceeds and reserve our right to object to the admission of any evidence, testimony or otherwise, that is not disclosed in a timely manner prior to trial.

As always, should you have any questions, you may contact us by telephone at 202-514-7425 (GK) or 202-514-7504 (PM).

Sincerely,

CHANNING D. PHILLIPS
United States Attorney

By:



Glenn I. Kirschner
T. Patrick Martin
Assistant United States Attorneys

cc: Superior Court Case File (w/o attachments)