ORIGINAL

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

UNITED STATES OF AMERICA	)	**CRIMINAL NOS. 2008-CF1-27068**
	)	**2008-CF1-26997**
v.	)	**2008-CF1-26996**
	)	
JOSEPH PRICE	)	**JUDGE LIEBOVITZ**
VICTOR ZABORSKY	)	
DYLAN WARD	)	**STATUS HEARING DATE: 4/5/10**

GOVERNMENT'S CONSOLIDATED RESPONSE TO DEFENDANTS' MOTIONS TO SEVER

The United States of America, by its counsel, the United States Attorney for the District of Columbia, respectfully opposes defendants' motions to sever in the above-captioned matter, as follows:

BACKGROUND

On August 2, 2006, Robert Wone was murdered while inside 1509 Swann Street, N.W., Washington, D.C. The known occupants of the residence at the time of the murder were Joe Price, Victor Zaborsky, and Dylan Ward.

On or around October 27, 2008, Metropolitan Police Department Detective Bryan Waid applied for and obtained an arrest warrant for defendant Ward for obstruction of justice in connection with the investigation into the murder of Mr. Wone. Defendant Ward was subsequently arrested on the warrant.

On November 19, 2008, the grand jury returned a one-count indictment, charging the defendants with Obstruction of Justice. On that same date, Detective Waid applied for and

obtained arrest warrants for defendants Price and Zaborsky for obstruction of justice in connection with the investigation into the murder of Mr. Wone.

On January 15, 2009, the grand jury returned a three-count superceding indictment, charging the defendants with Conspiracy, Obstruction of Justice, and Tampering with Evidence.

Each defendant has filed a motion to sever his case from the other defendants. In substance, each defendant makes the same claim in support of his quest for a severance: the introduction at a joint trial of their statements to the police in the aftermath of the murder of Robert Wone would violate Crawford v. Washington, 541 U.S. 36 (2004), and Bruton v. United States, 391 U.S. 123 (1968). The government respectfully contends that these motions should be denied, and the defendants should remain joined for trial.

ARGUMENT

The District of Columbia Superior Court Rules of Criminal Procedure allow for the joinder of two or more defendants if "they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offenses." D.C. Super. Ct. Cr. R. 8(b) (2006). There is a presumption in favor of joinder in multiple defendant cases, in order to facilitate judicial economy. Johnson v. United States, 398 A.2d 354, 367 (D.C. 1979). Indeed, when two defendants are indicted on conspiracy charges growing out of the same series of transactions or are charged with jointly committing a criminal offense, there is a strong presumption they will be tried together. Christian v. United States, 394 A.2d 1 (D.C. 1978), cert. denied, 442 U.S. 944 (1979); Jennings v. United States, 431 A.2d 552 (D.C. 1981), cert. denied, 457 U.S. 1135 (1982). Joint trials conserve funds, reduce the inconvenience to shared witnesses and public authorities, and reduce delays. Carpenter v. United States, 430 A.2d 496, 502 (D.C.

1981).

Of course, the court must balance the strong preference for joint trials against the risk of prejudice to the defendants. In relevant part, Rule 14 of the Superior Court Rules of Criminal Procedure provides:

> If it appears that a defendant or the government is prejudiced by a joinder of offenses or of defendants in an indictment or information or by such joinder for trial together, the court may order an election or separate trials of counts, grant a severance of defendants or provide whatever other relief justice requires.

D.C. Super. Ct. Cr. R. 8(b) (2006). In this case, it appears that none of the defendants are challenging the propriety of joinder. Rather, the defendants argue that their cases should be severed because they would be prejudiced if the cases were tried together. Specifically, the defendants allege that they would be prejudiced by the introduction of co-conspirator statements.[1] This argument is without merit and should be rejected.

"A strong presumption arises that persons charged with committing the same offense will be tried jointly." Elliott v. United States, 633 A.2d 27, 34 (D.C. 1993). Indeed, the Supreme Court has noted that "[j]oint trials 'play a vital role in the criminal justice system.'" Zafiro v. United States, 506 U.S. 534, 537 (1993) (citations omitted). Moreover, the court should not grant a severance unless there is a serious risk that a joint trial would compromise a specific trial right of the movant. Id. at 539. The trial court enjoys "wide latitude" in addressing severance issues. King v. United States, 550 A.2d 348, 352 (D.C. 1988).

The government expects the evidence at trial to show that the three defendants conspired

[1] Transcripts of the defendants' statements are attached to the government's opposition to the defendants' motions to suppress statements, and the substance thereof will not be recounted in detail herein.

to cover-up the murder of Robert Wone. During the course of and in furtherance of that conspiracy, the defendants fabricated a story concerning the circumstances surrounding the homicide and told that fabricated story to the police and others during the course of the conspiracy. Specifically, each defendant made statements to the police on August 2 and 3, 2006, in a concerted effort to persuade the police that the killer must have been a random "intruder." Admittedly, during these statements, which very closely resemble one another in substance and detail, each defendant mentions the other two and attributes certain conduct to the other two when describing what happened at 1509 Swann Street during the evening hours of August 2, 2006. However, at no time does any defendant say anything incriminating about any other defendant. To the contrary, each defendant offers a robust defense of the other defendants in an attempt to persuade the police that none of them was or could have been involved in the murder of Mr. Wone.

Given that these very statements are direct evidence of the conspiracy and the obstruction of justice charged in the instant case, the statements are plainly admissible, and a joint trial is clearly appropriate. Importantly, as will be more fully addressed below, the statements are not hearsay for a number of reasons. First, they are co-conspirator statements which expressly are "not hearsay" by virtue of Federal Rule of Evidence E 801(d)(2)(E). Second, they are not being offered for the truth of the matter, indeed they are being offered for the falsity of the matters contained therein. Accordingly, as will be addressed below, nothing in the cases cited by the defendants–Bruton and Crawford–militates in favor of severance under the circumstances of this case.

Federal Rule of Evidence 801(d)(2)(E) provides that, when offered against a party, a statement is not hearsay if it is "a statement by a coconspirator of a party during the course and in furtherance of the conspiracy." The federal rule, which has been construed broadly in favor of admissibility, United States v. McMurray, 34 F.3d 1405, 1412 (8th Cir. 1994) (citations omitted), has been adopted affirmatively by our District of Columbia Court of Appeals ("DCCA"). Holiday v. United States, 683 A.2d 61, 86 n. 49 (D.C. 1996); Butler v. United States, 481 A.2d 431, 439 (D.C. 1984). Accordingly, the federal rule—and the cases interpreting it—inform this court with respect to the admissibility of co-conspirator statements.

A co-conspirator's out-of-court statement is admissible as nonhearsay when the proponent establishes that (1) it is more probable than not a conspiracy existed, (2) the defendant had a connection to the conspiracy, and (3) the conspirator made the statements during the course of, and in furtherance of, the conspiracy. Holiday, 683 A.2d at 86; Bellanger v. United States, 548 A.2d 501, 503 (D.C. 1988); Butler, 481 A.2d at 439. As also noted by the DCCA in Holiday and Bellanger, the proponent's burden when seeking the admission of the statement of a co-conspirator is "more probable than not" or, as alternatively phrased by the Supreme Court, a "preponderance of the evidence." Bourjaily v. United States, 483 U.S. 171, 175 (1987).

A pre-trial evidentiary hearing, however, is not required as a condition precedent to the admissibility of a statement by a co-conspirator. United States v. West, 58 F.3d 133, 142 (5th Cir. 1995) (holding that, "contrary to [appellant]'s argument, no hearing is required and the district court was free to allow the admission of the testimony before making its determination of whether the testimony fit within Rule 801(d)(2)(E)"); United States v. Ruiz, 987 F.2d 243, 246 (5th Cir. 1993) (same); United States v. Fragoso, 978 F.2d 896, 900 (5th Cir. 1992); United

States v. Medina, 761 F.2d 12, 17 (1st Cir. 1985) (holding that the district court did not abuse its discretion when it declined to require a pre-trial hearing to resolve objections to proposed co-conspirator statements); United States v. Hewes, 729 F.2d 1302, 1312 (11th Cir. 1984); United States v. Gantt, 617 F.2d 831, 844-45 (D.C. Cir. 1980).[2]

Moving on to the defendants' Crawford claims, at first blush, the defendants' reliance on Crawford may have some superficial appeal, in that the Crawford court did instruct that statements made to the police during an interrogation are likely going to be "testimonial" in nature. Crawford, 541 U.S. at 51-52. However, this assumes, as was true of the facts in Crawford, that the government is seeking to admit a truthful statement made to the police by a non-testifying declarant that incriminates a charged co-defendant. The government is not so offering the statements in the instant case. To the contrary, the government is offering the statements of the defendants as false, exculpatory statements and, importantly, as statements that so closely resemble one another in such detail, often in the extreme, that they constitute evidence of a coordinated effort to persuade the police of their fabricated cover-up. Needless to say, these statements are made during the course of the charged conspiracy (i.e., on August 2 and 3 of 2006, see Overt Acts 13 - 16) and are plainly made in furtherance of the conspiracy to cover-up the true circumstances of the murder.

Although Crawford is of very recent vintage such that there is a dearth of decisional case law addressing the exact issue presented by the defendant's motion, the Second Circuit Court of

[2] Because the co-conspirator exemption from the hearsay rule is "firmly rooted" in our jurisprudence, the trial court "need not independently inquire into the reliability of such statements." Bourjaily, 483 U.S. at 183. Thus relieved of the task of searching for other indicia of reliability independent of the statement's qualification pursuant to Rule 801(d)(2)(E), the need for an evidentiary hearing quickly evaporates.

Appeals has decided a case that is directly on point: United States v. Stewart, 433 F.3d 273 (2d Cir. 2006). In Stewart, the Second Circuit considered the "special context" where statements by co-defendants knowingly made to federal investigators were made in furtherance of a conspiracy to obstruct justice. Id. at 292. Defendants Stewart and Bacanovic were charged with several offenses, including conspiracy to obstruct justice, that arose from their statements to SEC and FBI investigators during the ImClone stock trading investigation.

The Second Circuit first noted that Crawford expressly confirmed its rule "does not extend to evidence offered for purposes other than to establish the truth of the matter asserted." Id. at 292 (citing Crawford, 541 U.S. at 58-59). Recognizing that "Crawford had no occasion to consider the situation we face: statements that are both in furtherance of a conspiracy and testimonial," the court held that admitting Stewart's and Bacanovic's statements did not violate Crawford or the Sixth Amendment. Id. at 292-93.[3] "Although the statements at issue, having been made during interviews with government officials in the course of an investigation, do have characteristics of Crawford's 'core class of testimonial statements,' in the context of the crimes for which defendants were convicted, the challenged statements are part and parcel of co-conspirators' statements made in the course of and in furtherance of defendants' conspiratorial plan to mislead investigators." Id. at 291.

The Second Circuit held that the false statements, including any truthful portions thereof, were made by the co-defendants in furtherance of a conspiracy to obstruct justice and were

[3] Indeed, in a strong pronouncement in favor of the admissibility of false statements made by the conspirators to the police, the Second Circuit declared that the "Defendants do not have the temerity to argue that somehow Crawford precludes the government's proof of the Defendants' false portions of their statements because they were provided in a testimonial setting." Id. at 291.

therefore admissible to show the co-conspirators' attempts to obstruct justice. Id. at 292-93 (noting also that "[i]t would be unacceptably ironic to permit the truthfulness of a portion of a testimonial presentation to provide a basis for keeping from a jury a conspirator's attempt to use that truthful portion to obstruct law enforcement officers in their effort to learn the complete truth.").[4] In conclusion, the court stated: "[W]e hold that when the object of a conspiracy is to obstruct justice, mislead law enforcement officers, or commit similar offenses by making false statements to investigating officers, truthful statements made to such officers designed to lend credence to the false statements and hence advance the conspiracy are not rendered inadmissible by the Confrontation Clause." Id. at 293.

Additionally, the case of United States v. Logan, 419 F.3d 172 (2d Cir. 2005), further supports the government's position in the instant case. Logan considered the admissibility of false alibi statements knowingly made by two co-conspirators of defendant Logan to police during an investigation of a conspiracy to commit arson. Both co-conspirator statements asserted the same alibi, and as other evidence showed that Logan was aware of the alibi, the government introduced the statements as evidence of a conspiracy between them. The Second Circuit held that admission of the statements did not violate the Confrontation Clause under Crawford because the statements were offered by the government not for the truth of the matters asserted, but instead to corroborate that the co-conspirators were planning a false alibi. Id. at 178. The court explained: "[T]he mere fact that the content of [the co-conspirators'] statements cast doubt

[4]As the Second Circuit persuasively observed, "It defies logic, human experience and even imagination to believe that a conspirator bent on impeding an investigation by providing false information to investigators would lace the totality of that presentation with falsehoods on every subject of inquiry. To do so would be to alert the investigators immediately that the conspirators are not to be believed, and the effort of obstruct justice would fail from the outset." Id. at 292.

on Logan's innocence does not bring those statements within the ambit of Sixth Amendment protection under Crawford. Since [the coconspirators'] statements were not offered to prove the truth of the matter asserted, introducing them . . . did not violate the Confrontation Clause." Id. at 178.

Accordingly, defendants' claims that introduction of these co-conspirator statements are barred by Crawford should be rejected.

Moreover, the very act of making these statements to the police is part of the *res gestae* of the charged offenses. As the Supreme Court instructed long ago, "[w]here two or more persons are associated together for the same illegal purpose, any act or declaration of one of the parties, in reference to the common object, and forming a part of the *res gestae*, may be given in evidence against the others." Ladrey v. United States, 155 F.2d 417, 420 n. 5 (D.C. Cir. 1946) (quoting American Fur Co. v. United States, 27 U.S. 358, 362 (1829)).

Also instructive is the case of Neal v. United States, 185 F.2d 441 (1950), cert. denied, 340 U.S. 937 (1951). Neal involved a conspiracy to distribute narcotics in which the court received into evidence against defendant Neal incriminating statements made by Neal's co-defendant to a law enforcement agent during the course of a criminal transaction. In affirming the trial court's admitting the co-defendant's statements, the Circuit Court announced:

> The contention that the testimony violated the hearsay rule overlooks the fact that there was ample evidence tending to show a criminal plan and purpose between Neal and Norman to obtain and deliver to [Agent] Newkirk the bulk marijuana or the cigarettes, and that the testimony was in proof of a declaration by one of the conspirators (Norman) while in the very act of committing the offense charged in the first count of the indictment. According to the governments's evidence Neal and Norman were partners in crime. Therefore, in carrying out their criminal design they were

> agents for each other. The acts and declarations of one were admissible against the other.

Id. at 442.

One can also conceptualize the false statements of the defendants more as acts rather than hearsay statements. Indeed, the false statements to the police are in fact charged as overt acts to the conspiracy. One need only look to the seminal case involving co-conspirator liability, Pinkerton v. United States, 328 U.S. 640 (1946), to see how the act of one co-conspirator is deemed the act of all co-conspirators.

In Pinkerton, two brothers, Daniel and Walter Pinkerton, were charged with a conspiracy and several substantive offenses in violation of the Internal Revenue Code. The Supreme Court observed that, although Daniel had joined the conspiracy with his brother, "[t]here [was] no evidence to show that Daniel participated directly in the commission of the substantive offenses on which his conviction has been sustained . . . ." Pinkerton, 328 U.S. at 645. Indeed, the dissent observed that, not only did Daniel not participate in any of the substantive offenses, but "Daniel in fact was in the penitentiary, under sentence for other crimes, when some of Walter's crimes were done." Id. at 648. Nevertheless, the Supreme Court affirmed Daniel's conviction. The Supreme Court reminded us that, "For two or more to confederate and combine together to commit or cause to be committed a breach of the criminal laws is an offense of the gravest character, sometimes quite outweighing, in injury to the public, the mere commission of the contemplated crime." Id. at 644. The Court noted that there was "no evidence of the affirmative action on the part of Daniel which is necessary to establish his withdrawal from [the

conspiracy]." Id. at 646. Importantly, the Court reinforced the "principle [] recognized in the law of conspiracy [that] the overt act of one partner in crime is attributable to all." Id. at 647. Similarly unavailing are defendants' claims that an application of the principles announced in Bruton v. United States, 391 U.S. 123 (1968), prohibit introduction of the statements at issue in this case. In Bruton, the Supreme Court held that the admission, at a joint trial, of a "facially incriminating" confession by Bruton's co-defendant (Evans), which also implicated Bruton, violated defendant Bruton's rights under the Confrontation Clause, notwithstanding the fact that the trial court had instructed the jury that the confession was being admitted against Evans only, not against Bruton, and that the jury therefore should not consider the confession in determining Bruton's guilt. Indeed, in their motions to sever, the defendants all concede that, in Bruton, the confession of the non-testifying co-defendant (Evans) was a "powerfully incriminating extrajudicial statement" for Bruton. In Bruton, the incriminating nature of Evans' statement was plain: "A postal inspector testified that Evans orally confessed to him that Evans and [Bruton] committed the armed robbery" with which they were charged. 391 U.S. at 124. In the instant case, there is no confession or even minimal admission of wrongdoing contained anywhere in any of the defendants' statements. To the contrary, the statements are entirely exculpatory of all involved. Accordingly, nothing in Bruton prohibits the admission of the co-defendant statements in this case.

WHEREFORE the government respectfully requests that the Court deny the defendants' motions to sever.

Respectfully submitted,

RONALD C. MACHEN JR.
UNITED STATES ATTORNEY

By: _____

GLENN L. KIRSCHNER
RACHEL CARLSON LIEBER
T. PATRICK MARTIN
Assistant United States Attorneys
555 4th Street, N.W.
Washington, DC 20530
(202) 514-7425 (GLK)
(202) 353-8055 (RCL)
(202) 514-7504 (TPM)

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing to be served by facsimile on March 24, 2010, upon Bernard Grimm, Esq., Cozen O'Connor, 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

WG WILTSHIRE & GRANNIS LLP

March 25, 2010

Via E-mail

Glenn Kirschner, Esq.

T. Patrick Martin, Esq.
Rachel Carlson Leiber, Esq.
Assistant United States Attorneys
Office of the United States Attorney
for the District of Attorney
555 4th Street, NW
Washington, DC 20530

Re: United Sates v. Victor Zaborsky, et al., *Case No.* 08-CF126997

Dear Glenn, Pat, and Rachel:

I write on behalf of all defense counsel in response to your March 19, 2010 letter and the related production on that date of a number of previously undisclosed statements alleged to have been made by each of the Defendants in the above referenced matter. In that letter you indicate that "in the process of preparing our opposition to your motions to suppress your clients' statements, we have uncovered additional statements by your clients of which we were not previously aware, and thus had not disclosed." The previously undisclosed statements identified in your letter include:

- A videotaped recording of Mr. Victor Zaborsky, made at approximately 5:30am, during his custodial interrogation throughout the night of Aug. 2-3, 2006.
- Five pages of handwritten notes made by Det. Brown taken during her August 3, 2006 interrogations of Mr. Dylan Ward and Mr. Zaborsky, while they were confined at the Violent Crimes Branch.
- Three-and-a-half, single-spaced pages of the "recollections" of eleven different police officers concerning a wide range of statements allegedly made three-and-a-half years ago by the defendants.

We have made numerous written requests under Rule 16(a)(1)(A) for the Defendants'statements. Those statements are exceedingly important in a case that is premised almost entirely on the government's theory, which we assert is simply false, that each Defendant lied to the police the night of August 2-3, 2006. Precisely because of the significance of the

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Defendants' statements, on sixteen separate occasions[1] since the year-and-a-half-old indictment, we have either requested or moved to compel[2] all of the Defendants' statements. In two of those sixteen requests, we expressly addressed the need to avoid the very sort of eleventh-hour production that has just been made:

> Regarding any defendant's statement, I would request all notes, running resumes, memoranda, 302s or summaries of my client's or any other defendant's statements in this case. *As you know, although unintended, it is not uncommon for statements to appear on the eve or in the course of a trial. I would like to eliminate that possibility now.*[3]

> As I have noted before, Mr. Price's recorded statement appears to commence well over an hour into his interrogation. I have requested his entire statement from you previously. . . . I reiterate my request for all of Mr. Price's statements to the police, as well as all notes and diagrams made by Mr. Price during the interviews with police. Please note, we have not received any notes or diagrams made by Mr. Price. *As you know trials are normally delayed over statements located or found during the course of the trial.*[4]

In response to our requests for the Defendants' statements, the government repeatedly and consistently insisted as far back as a year ago, that it had produced all of the Defendants' statements in the government's possession: "The defendants gave statements to law enforcement on or around August 3, 2006. The videotaped portions of those statements made to MPD are being provided on the enclosed CDs";[5] "All handwritten notes taken by all MPD personnel on August 2-3, 2006, during the interrogation of Defendants, including but not limited to notes taken by MPD Det. Waid and MPD Det. Norris [have been] [p]roduced."[6]

Having now learned of these recently discovered statements, we ask that ***no later than Monday, March 29, 2010***, you provide us with the following information so that we may address this matter with the Court on April 5, 2010 and file the appropriate motion(s). Given our time constraints, if we have not heard from you by March 29, 2010, we will assume that you do not intend to voluntarily produce this information.

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[1] *See* Letters from Grimm to Kirschner on 11/21/08, 01/09/09, 01/13/09, 03/03/09, 04/01/09, 08/03/09; Letters from Connolly to Kirschner on 12/01/08, 03/04/09, 01/26/09, 05/14/09; and Letters from Schertler to Kirschner on 12/01/08, 02/05/09, 02/05/09(II), 06/02/09.

[2] *See* Defendants' Joint Motion to Compel (Mar. 26, 2009); Defendants' Renewed Joint Motion to Compel (July 2, 2009).

[3] Letter from Grimm to Kirschner, 2 (Jan. 9, 2009) (emphasis added).

[4] Letter from Grimm to Kirschner, 3 (Mar. 3, 2009) (emphasis added).

[5] Letter from Kirschner to defense counsel, 6 (Dec. 19, 2008).

[6] Letter from Kirschner to defense counsel, Tab B, 1 (Apr. 17, 2009).

A. Victor Zaborsky's videotaped statement and Gail Brown's notes

Please provide us with the following information regarding the videotaped statement of Mr. Zaborsky ("video") and Det. Brown's handwritten notes of Mr. Zaborsky and Mr. Ward's statements ("notes"):

1. When, exactly (the date), each was found;

2. Where, exactly, each was "found." If they were found at either the United States Attorney's Office ("USAO") or at any Metropolitan Police Department ("MPD") office/location, please state exactly whose office in which the video and notes were located and where, exactly, in that office(s) the video and notes were found;

3. Identify who found the video and notes, what prompted the discovery and how and when the discovery was communicated to your office;

4. Identify what—if any—measures your office is taking to search all offices, computers and other appropriate locations for additional notes and videos of the Defendants' statements.

B. The statements of the eleven Officers

You have identified eleven MPD or former MPD officers who have now remembered undisclosed statements made by the Defendants' three-and-a-half years ago. Those officers are: Greg Alimian, Christopher Clemmons, Sgt. Charles Patrick, Eric Hampton, Sgt. Wagner, Det. Waid, Det. Norris, Det. Gaffney, Det. Lewis, Det. Brown, and Det. Kasul. Please provide the following information regarding each of these officer's purported recollection of the Defendants' alleged statements:

1. When, exactly (the date), did each officer recall these statements;

2. What notes, if any, do each of these officers possess that reflect these new recollections? We have received no such notes except for Det. Brown, and request that if any such notes exist they be produced immediately. We note that though you state in your March 19, 2010 letter that "[o]fficer [Eric] Hampton's written statement was provided to you in the initial discovery materials," we are unaware of having received such a written statement. Please provide us with the production numbers of officer Hampton's statement and the date of production.

3. When were these recollections conveyed to your office, to whom were they conveyed and under what circumstances, e.g., did the officer spontaneously contact your office or did someone from your office contact the officer;

Finally, we have insisted to you on several occasions that Mr. Price provided Detective Norris with a written list of the persons who had keys to the home at 1509 Swann Street and a separate diagram of the room in which Mr. Wone was found. You have consistently denied that you can locate the written list and diagram. The Government's recent discovery of a trove of statements by the Defendants leads us to believe that these are additional items that the Government simply has not uncovered. We again ask that you renew your efforts to search for the list and diagram.

Thank you in advance for your prompt attention to these matters.

Sincerely,

Thomas Connolly

cc: Superior Court Case File
The Hon. Lynn Leibovitz
Bernard Grimm, Esq.
Kathryn Yingling, Esq.
Amy Richardson, Esq.
David Schertler, Esq.
Robert Spagnoletti, Esq.

IN THE SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION

UNITED STATES, **v.** **DYLAN M. WARD,** **JOSEPH R. PRICE,** **and** **VICTOR J. ZABORSKY,** **Defendants.**	**Criminal No. 08-CF1-26996** **Criminal No. 08-CF1-27068** **Criminal No. 08-CF1-26997** **Judge Lynn Leibvotiz** **Status Hearing – Apr. 5, 2010**

NOTICE OF FILING

Defendant Victor J. Zaborsky, by and through counsel, respectfully requests that the attached discovery letter, dated March 25, 2010, be made a part of the record in this case.

Respectfully submitted,

Thomas G. Connolly, Esq. (DC Bar # 420416)
Amy Richardson, Esq. (DC Bar # 472284)
Wiltshire & Grannis, LLP
1200 18th St., N.W., 12th Floor
Washington, D.C. 20036
Telephone: 202-730-1339
Facsimile: 202-730-1301
Email: tconnolly@wiltshiregrannis.com

Counsel for Defendant Victor J. Zaborsky