

United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 10th day of March, two thousand twenty.

PRESENT:

José A. Cabranes,  
Reena Raggi,  
*Circuit Judges,*  
Edward R. Korman,  
*District Judge.\**

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United States of America,

*Appellee,*

v.

**ORDER**

18-3074-cr, 18-3489-cr

Carl David Stillwell, AKA David Stillwell, Adam Samia, AKA Sal, AKA Adam Samic,

*Defendants-Appellants,*

Joseph Manuel Hunter, AKA Sealed Defendant 1, AKA Frank Robinson, AKA Jim Riker, AKA Rambo, AKA Joseph Hunter, Michael Filter, AKA Sealed Defendant 2, AKA Paul, Timothy Vamvakias, AKA Sealed Defendant 3, AKA Tay, Dennis Gogel, AKA Sealed Defendant 4, AKA Dennis Goegel, AKA Nico, Slawomir Soborski, AKA Sealed Defendant 5, AKA Gerald,

*Defendants.*

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On October 29, 2018, the Narcotics and Dangerous Drug Section, Criminal Division, Department of Justice (“NDDS”) filed with the Court a notice advising that the District Court

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\* The Honorable Edward R. Korman, of the United States District Court for the Eastern District of New York, sitting by designation.

had entered a protective order in the case barring the Southern District of New York prosecutors and defense counsel from reviewing certain documents. The sealed protective order had been granted upon the filing of an ex parte motion by an NDDS attorney, with no notice to counsel of record for either the prosecution or the defense in this case. Transmitted with the notice were the motion and memorandum of law, the exhibits that supported the motion, and the protective order.

On November 19, 2019, this Court issued a sealed Order to Show Cause to the NDDS to demonstrate why the motion and memorandum of law, the exhibits that supported the motion, and the protective order should not be disclosed to the United States Attorney for the Southern District for his review.

On December 8, 2019, the NDDS responded to the Order to Show Cause with a sealed memorandum of law in support of the protective order.

On January 2, 2020, this Court vacated the District Court's protective order. We simultaneously issued a sealed Order directing disclosure of the documents at issue to the U.S. Attorney for the Southern District of New York and requiring him to Show Cause why, pursuant to the Government's disclosure obligations, the defense counsel should not be made aware of the sealed proceedings or the material subject to the protective order.

On January 24, 2020, the U.S. Attorney for the Southern District of New York responded with a sealed memorandum of law in which he claimed, for several reasons, that the protected material and the sealed proceedings should not be disclosed to defense counsel.

Having reviewed the arguments raised in the U.S. Attorney's memorandum, IT IS HEREBY ORDERED that the U.S. Attorney disclose any material subject to Rule 16 of the Federal Rules of Criminal Procedure, 18 U.S.C. § 3500, *Brady v. Maryland*, 373 U.S. 83 (1963), and *Giglio v. United States*, 405 U.S. 150 (1972), to defense counsel for Appellants. Such a disclosure can be in an unclassified format through a so-called "substitution" pursuant to CIPA Section 6.

The U.S. Attorney will have until March 31, 2020 to file this substitution with this Court and simultaneously serve this substitution on defense counsel for both parties. Defense counsel will have until April 21, 2020 to file any response called for by the disclosure. The U.S. Attorney will then have until April 28, 2020 to file a reply, after which the matter will be deemed submitted.

The Court defers for the time being the question of whether oral argument by all interested parties will be required.

FOR THE COURT:  
Catherine O'Hagan Wolfe, Clerk

  
