

2110 First Street, Suite 3-137
Fort Myers, Florida 33901
239/461-2200
239/461-2219 (Fax)



300 N. Hogan Street, Suite 700
Jacksonville, Florida 32202
904/301-6300
904/301-6310 (Fax)

35 SE 1st Avenue, Suite 300
Ocala, Florida 34471
352/547-3600
352/547-3623 (Fax)

U.S. Department of Justice
United States Attorney
Middle District of Florida

400 West Washington Street, Suite 3100
Orlando, Florida 32801
407/648-7500
407/648-7643 (Fax)

Main Office
400 North Tampa Street, Suite 3200
Tampa, Florida 33602
813/274-6000
813/274-6358 (Fax)

Reply to: Fort Myers, FL

October 6, 2023

Russell K. Rosenthal
2075 West First Street, Suite 300
Fort Myers, Florida 33901

Re: *United States v. Diop McKenzie*
Case No. 2:23-cr-88-SPC-KCD

Dear Mr. Rosenthal:

In connection with the above-captioned case and pursuant to Fed. R. Crim. P. 16(a), please be advised of the following:

1. With respect to the substance of any oral statement which the government intends to offer in evidence at trial made by the defendant before or after arrest in response to interrogation by any person then known to the defendant to be a government agent, please be advised that the government has provided a copy of law enforcement reports such contain such statements in discovery.

2. With respect to any relevant written or recorded statements made by the defendant, please be advised that the United States is not in possession of any recorded statements made by the defendant.

3. Please be advised that we may seek to introduce evidence pursuant to Federal Rules of Evidence, Section 404(b), with regard to, inter alia, any prior actions by the defendant, to include any PPP and EIDL loans applied for which may not have been funded.

4. With regard to the below-listed items, they are available for you to inspect upon reasonable notice:

- a. PPP loan applications;
- b. EIDL loan applications; and
- c. Bank records.

5. Any prior criminal record will be made available as part of discovery.

6. At this time, there are no reports of examinations and tests in connection with this case.

7. At this time, the government does not intend to call an expert witness.

8. We are aware of continuing discovery obligations pursuant to Fed. R. Crim. P. 16(c) and will make you aware of such materials as soon as practicable if such materials come to our attention.

9. Pursuant to Fed. R. Crim. P. 16(b), the United States requests the following:

a. Books, papers, documents, photographs, tangible objects, or copies or portions thereof, which are within the possession, custody, or control of the defendant and which the defendant intends to introduce as evidence in chief at the trial. Fed. R. Crim. P. 16(b)(1)(A).

b. Any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case, or copies thereof, within the possession or control of the defendant, which the defendant intends to introduce as evidence in chief at the trial or which were prepared by a witness whom the defendant intends to call at the trial when the results or reports relate to that witness' testimony. Fed. R. Crim. P. 16(b)(1)(B).

c. A written summary of testimony that the defendant intends to use under Rule 702, 703, or 705 of the Federal Rules of Evidence as evidence at trial, describing the witnesses' opinions, the bases and reasons for those opinions and the witnesses' qualifications. Fed. R. Crim. P. 16 (b)(1)(C).

To be effective and capable of being accepted, plea offers from the United States must be in writing and contain all terms of the offer in a proposed written plea agreement. Oral communications regarding a potential plea are merely preliminary plea discussions and do not constitute a formal plea offer from the United States.

If you have any questions concerning any of the foregoing, please do not hesitate to contact me.

Sincerely,

ROGER B. HANDBERG
United States Attorney

By: /s/ Yolande G. Viacava
Yolande G. Viacava
Assistant United States Attorney