

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 23-60173-CR-WILLIAMS (GRAHAM)

UNITED STATES OF AMERICA, :

Plaintiff, :

vs. :

CAROLYN DENISE WADE and :

TRACY D. WADE, :

Defendants: /

**DEFENDANTS MOTION FOR
SPECIFIC KYLES AND BRADY INFORMATION**

The Defendants, **Carolyn Denise Wade and Tracy D. Wade**, through counsel and pursuant to the dictates of *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194 (1963); *Kyles v. Whitley*, 514 U.S. 419, 115 S. Ct. 1555 (1995); *United States v. Bagley*, 473 U.S. 667 (1985), *United States v. Giglio*, 405 U.S. 150 (1972) and Fed. R. Crim. P. 16, respectfully move for the entry of an order requiring the government to disclose and provide specific information and materials known, or that with the exercise of due diligence should be known, to the government. The information sought is favorable to the defendants on the issue of their innocence and/or includes impeachment information and other material and evidence tending to discredit the

government's cooperating witness Haydee Granados. In support thereof, Ms. Wade and Mr. Wade state:

Procedural and Factual Background

Ms. Wade and Mr. Wade are charged in a superseding indictment with multiple counts related to receiving Paycheck Protection Program (PPP) loans by causing the submission of PPP loan applications that contained materially false information. *See* (DE 88, count 1, ¶ 20). In count 1 of the superseding indictment, the government alleges that Ms. Wade and Mr. Wade conspired to commit wire fraud with Haydee Rivero f/k/a Haydee Granados, in violation of 18 U.S.C. § 1349. (DE 88, ¶ 18).

The government further alleges that Haydee Rivero f/k/a Haydee Granados prepared, created and uploaded false fictitious IRS Schedule C forms in support of the PPP loan applications for Ms. and Mr. Wade. (DE 88, ¶¶ 20 and 23). Additionally, the government alleges that Haydee Rivero f/k/a Haydee Granados inputted and transmitted to a loan processor's website, materially false information in the PPP loan applications for Ms. Wade and Mr. Wade (DE 88 ¶ 22).

Haydee Rivero f/k/a Haydee Granados is charged separately in an information with one count of conspiracy to defraud the United States in violation of 18 U.S.C. § 371, *United States v. Haydee Rivero f/k/a Haydee Granados*, case no. 21-60124-Cr-Smith. Undoubtedly, this single charge by way of information is because Haydee Granados agreed to be a cooperating witness for the government against the Wades.

Prior to the filing of the instant superseding indictment, Ms. Wade was singularly charged with one count of wire fraud for submitting false information when obtaining the same PPP loan referenced in the superseding indictment. (DE 3). Ms. Wade was tried on the original indictment and after a six-day jury trial, the jury was unable to reach a unanimous decision, and the Court declared a mistrial. (DE 62-69).

During the trial, it was established that the IP address ending in 125 was associated with Haydee Granados. (DE 111, Transcript of Agent Kelly Dipietrantonio, pg. 6, lns. 14-17). It was further established during the trial that Haydee Granados's IP address was involved in the preparation of approximately 20 PPP loan applications that had nothing to do with Carolyn Wade. (DE 111, pgs 27-28).

As part of its discovery obligations, the government has provided the defense with a report of an interview of Haydee Granados which appears to be a debriefing. During the interview, Haydee Granados admitted to allowing an individual to use false information to obtain a PPP loan for herself. Additionally, Haydee Granados admitted to using false information to obtain PPP loans for Ms. Wade and Mr. Wade.

Specific Information Requested

- A. Any PPP loan application associated with IP address 76.110.183.125 (Haydee Granados's IP address).
- B. Any PPP loan application associated with IP address 76.110.183.125 (Haydee Granados's IP address) that contains false information.
- C. Any information that Haydee Granados included false information when preparing any PPP loan application or application for PPP loan forgiveness.

D. Any information that Haydee Granados has previously engaged in any fraudulent conduct.

E. Any information that Haydee Granados has previously made a false statement to a government agency.

F. Any statement made by Haydee Granados that conflicts in part or in whole with: (1) prior statement made by Haydee Granados; or a (2) a prior statement made by another government witness, regarding the subject matter of the expected trial testimony of witness.

G. Any promises, favorable treatment or preferential treatment the government has made or provided to Haydee Granados in exchange for her testimony.

H. Names and addresses and any contact information for the twenty one (20) PPP and or EIDL loan applications and any other PPP or EIDL applications prepared by Haydee Granados aka Haydee Rivero.

Memorandum of Law

The suppression by the prosecution of evidence favorable to the accused violates due process where the evidence is material to guilt or punishment, irrespective of the good faith or bad faith of the prosecutor. *Brady v. Maryland*, 373 U.S. 83, 87, 83 S.Ct. 1194, 1196-97 (1963). Impeachment as well as exculpatory evidence falls within the Brady rule. *United States v. Bagley*, 473 U.S. 667, 675, 105 S.Ct. 3375, 3381 (1985). Evidence is material if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. *Bagley*, 473 U.S. at 682, 105 S.Ct. at 3383.

An individual prosecutor has a duty to learn of any favorable evidence known to others acting on behalf of the government, including the police. *Kyles v. Whitney*, 514 U.S. 419, 438, 115 S.Ct. 1555, 1567 (1995). Inadmissible evidence may be material under Brady if the evidence would lead to the discovery of admissible evidence. *Spaziano v. Singletary*, 36 F.3d 1028, 1044 (11th Cir. 1994). Promises made by the government to a witness in exchange for their testimony must be disclosed because they relate directly to the credibility of the witness. *Giglio v. United States*, 405 U.S. 150, 155, 92 S. Ct. 763, 766 (1972).

WHEREFORE, Defendant Carolyn Wade and Tracy Wade respectfully request this Court grant the defendant's motion and enter an order requiring the government to disclose the above requested information.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing pleading was electronically filed with the Clerk of the Court via CM/ECF. I also certify that the foregoing pleading was served electronically on this date on all counsel of record via Notice of Electronic Filing generated by CM/ECF on August 21, 2024.

Respectfully submitted,

/s/ Daryl E. Wilcox.

Daryl E. Wilcox, Esquire

Attorney for Carolyn Wade and Tracy Wade

Florida Bar No.838845

5201 S.W. 18th Street

Plantation, Florida 33317

(954) 303-1457

darylewilcox06@gmail.com

/s/ Johnny L. McCray, Jr.

Fla. Bar Number 342319

Attorney for Defendants

Law Office of Johnny L. McCray, Jr. , P.A.

400 East Atlantic Boulevard

Pompano Beach, FL 33060

(954) 781-3662

mccrayjlaw@gmail.com