

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
CASE NO. 23-60173-CR-WILLIAMS/HUNT

UNITED STATES OF AMERICA,

Plaintiff,

v.

CAROLYN DENISE WADE and
TRACY D. WADE,

Defendants.

ORDER ON MOTION FOR RELEASE OF BRADY MATERIALS

THIS CAUSE is before this Court on Defendants' Motion for Release of *Brady* Materials. ECF No. 132. This Court held a hearing on September 26, 2024. Having considered the Motion and Response, and the representations made by counsel at the hearing, the undersigned hereby GRANTS the Motion within the scope of the previously entered Standing Discovery Order and Due Process Protections Act Order, ECF Nos. 11, 99, 100, for the reasons outlined below.

BACKGROUND

Carolyn Wade was charged in a one-count Indictment alleging wire fraud in connection with a Paycheck Protection Program ("PPP") application. The Indictment alleged that Ms. Wade, a Broward Sheriff's Office (BSO) Deputy, applied for a PPP loan and included materially false information in her application, including a claim that she operated a business that generated over \$100,000 in gross income. Ms. Wade was arraigned on October 19, 2023, at which time the Court entered the Court's Standing

Discovery Order, which incorporates Local Rule 88.10's *Brady* disclosure requirement, as well as the Due Process Protections Act Order, which specifically required the Government to disclose to the defense all exculpatory evidence as required by *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny.

Discovery produced during that litigation included information about third parties who also allegedly fraudulently applied for PPP loans using the same preparer as Ms. Wade. This third-party material was provided to the Government in response to a trial subpoena to a company that assisted with the filing of PPP loan applications. At the defense's request, the Government turned over to the defense all of the third-party material it received, in the condition in which it was received (subject to an agreed-upon protective order).

Ms. Wade went to trial in May 2024 before the Honorable Donald L. Graham, U.S. District Judge, and a jury. The trial resulted in a mistrial. The Government then sought and obtained a Superseding Indictment, adding a new Defendant and new counts. Both Defendants were arraigned on the Superseding Indictment on July 15, 2024, and the Court again entered the Standing Discovery Order and the Due Process Protections Act Order.

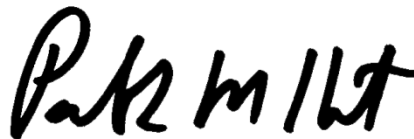
This third-party discovery production is the subject of a Motion to Dismiss the pending Superseding Indictment due to *Brady* violations. ECF No. 134. Defendants in the instant Motion maintain that the Government is continuing to withhold *Brady* material and list several categories of documents they believe are discoverable as *Brady*. The Government contends that it is aware of its discovery obligations under *Brady*, has complied with its obligations, and will continue to comply with its ongoing obligations.

Having reviewed the pleadings and argument of counsel, the undersigned hereby **ORDERS** the Government to disclose to Defendants all exculpatory information within its possession, custody, or control, within the meaning of *Brady* and its progeny, and within the scope of the orders mentioned above. This includes production of impeachment material with respect to any witness the Government intends to call at trial. To the extent Defendants are asking the Court to order the Government to conduct independent investigations of the third parties named in the above-described discovery response, the Motion is denied.

The Government is reminded that its discovery obligations are ongoing, and any *Brady* material that comes into its possession, custody, or control after the date of this Order must be disclosed to the defense immediately.

Accordingly, it is hereby **ORDERED AND ADJUDGED** as follows:
Defendants' Motion for Release of Brady Materials, ECF No. 132, is **GRANTED** within the scope of the previously entered Standing Discovery Orders and Due Process Protections Act Orders.

DONE and ORDERED at Fort Lauderdale, Florida, this 30th day of September 2024.



PATRICK M. HUNT
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:
The Honorable Kathleen M. Williams
The Honorable Donald L. Graham
All counsel of record