

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 24-CR-00029-BP
	)	
DAISHA SANDERS,	)	
	)	
Defendant.	)	

DEFENDANT'S MOTION TO EXCLUDE TESTIMONY

Defendant, DAISHA SANDERS (Sanders), by and through undersigned counsel, moves this Court to issue its Order excluding, at the Sentencing Hearing, any reference, direct or in-direct, argument, testimony and/or evidence concerning PPP loans and associated loss amount not previously disclosed through discovery.

BACKGROUND

On November 21, 2024, Daisha Sanders entered a plea of guilty pursuant to a plea agreement.

On January 17, 2025, the United States Probation Office prepared a preliminary presentence investigation report. Counsel for Daisha Sanders requested a two-week extension to the initial deadline. On January 30, 2025, counsel filed a Motion for an Extension of Time. (*Doc. 214*). This Court granted the request. (*Doc 215*) which extended the deadline to February 14, 2025.

Prior to that deadline, the Government provided supplemental discovery. Defense counsel requested another extension of time in which to file objections. (*See Doc. 222*). This Court granted a second extension. (*See Doc. 223*).

On March 4, 2025, the United States Probation Office filed the Presentence

Investigation Report which included changes to Paragraph 10, 23, 25, 30, 35, 39, 72, 73, and 82, which increased the loss amount and ultimately Daisha Sanders's guideline range. These adjustments were based on late disclosure of discovery by the Government.

On May 15, 2025, the Government provided a spreadsheet concerning new information concerning PPP loans for which no discovery has been provided. On May 16, 2025, the Government provided a revised spreadsheet concerning PPP loans and resulting loss amount for which no discovery has been provided. The defense has nothing more than the spreadsheet which the Government seeks to admit along with potentially other evidence and witnesses.

AUTHORITY

In federal criminal cases, discovery is generally governed by Fed. R. Crim. P. 16 which is broader than Brady, "requiring disclosure of all documents 'material to preparing the defense.'" *United States v. Muniz-Jazquez*, 718 F.3d 1180, 1883 (9th Cir. 2013) (quoting Fed. R. Crim. P. 16(a)(1)(E)(i)). Rule 16(a)(1)(E) provides for the production of discovery, upon a defendant's request. It directs:

[T]he government must permit the defendant to inspect and to copy or photograph books, papers, documents, data, photographs, tangible objects, buildings or places, or copies or portions of any of these items, if the item is within the government's possession, custody, or control and:

- (i) the item is material to preparing the defense;
- (ii) the government intends to use the item in its case-in-chief at trial; or
- (iii) the item was obtained from or belongs to the defendant.

Brady imposes obligations upon the government, separate and apart from Rule 16 of the Federal Rules of Criminal Procedure. Generally, *Brady* dictates that the prosecution must disclose any information or material that is: (a) material, (b)

relevant to guilt or punishment, (c) favorable to the accused and (d) within the actual or constructive knowledge or possession of anyone acting on behalf of the State. *Brady v. Maryland*, 373 U.S. 83 (1963). Moreover, the Due Process Clause of the Constitution requires that the Government disclose any evidence that “is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.” *Brady*, 373 U.S. at 87.

Under *Brady*, a prosecutor’s disclosure obligations begin when the case is brought and continue throughout the pretrial and trial phases of the case, and even post-trial. *See Pennsylvania v. Ritchie*, 480 U.S. 39, 60 (1987); *Steidl v. Fermon*, 494 F.3d 623, 630 (7th Cir. 2007). “The government has an obligation to disclose evidence that is favorable to the accused and material to either guilt or punishment, and this duty extends to impeachment evidence.” *United States v. Barraza Cazares*, 465 F.3d 327, 333 (8th Cir.2006) (citing *United States v. Bagley*, 473 U.S. 667, 676, 105 S.Ct. 3375, 87 L.Ed.2d 481 (1985)). All such information must be disclosed promptly after it comes to the government’s attention. And the prosecutor must disclose all favorable information regardless of whether he or she thinks it is “material” or would change the outcome of the proceedings. *See United States v. Safavian*, 233 F.R.D. 12 (D.D.C. 2005).

The Due Process Protections Act requires the Government to disclose information that is favorable to the defense and that relates to guilt or punishment. Rule 5(f) provides: In all criminal proceedings, on the first scheduled court date when both prosecutor and defense counsel are present, the judge shall issue an oral and written order to prosecution and defense counsel that confirms the disclosure

obligation of the prosecutor under *Brady v. Maryland*, 373 U.S. 83 (1963) and its progeny, and the possible consequences of violating such order under applicable law.

ARGUMENT

The information which the Government seeks to introduce impacts the loss amount and/or restitution concerning Daisha Sanders. This new information concerns PPP loans which were allegedly secured sometime in 2021. The Government has been in possession of this information for a considerable period of time.

The spreadsheets are not a substitute for discovery. The sparse information does not provide defense counsel with sufficient information about the nature of the alleged transactions. On February 14, 2025, counsel for Daisha Sanders requested the Government to provide the Bates stamp pages for a previous supplement to discovery so that counsel could, if possible, reference any material to the initial discovery.¹ The Government did not provide a response.

In this case, there may be other co-defendants who share responsibility for these alleged loans as well as the restitution owed. In view of the nature of this case, there is even more of a need to comply with the rule and spirit of the Due Process Protections Act, *Brady* and the Federal Rules of Criminal Procedure. The Government has deprived Ms. Sanders of material information concerning her objections, alleged loss amount, and restitution. More importantly, she has been deprived of the disclosures in a timely manner.

Allowing the Government to determine when and if they will turn over the full extent of reports and other documents which form the basis of her actual or

¹ On February 7, 2025, the Government produced supplemental discovery following the preliminary presentence investigation report.

intended loss amount, restitution and ultimately her guideline range is prejudicial and unfair. Ms. Sanders's defense has been prejudiced and significantly impaired by this unreasonable delay.

WHEREFORE, in view of the untimeliness of these disclosures, Ms. Sanders respectfully request that this Court exclude such evidence at his supervised revocation proceeding.

Respectfully submitted,

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/s/ Katrina Y. Robertson

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered on May 18, 2025, to the CM-ECF system of the United States District Court for the Western District of Missouri for electronic delivery to all counsel of record.

/s/ Katrina Y. Robertson

Katrina Y. Robertson MBN 61289