IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA CHARLESTON

UNITED STATES OF AMERICA

v. **CRIMINAL NO. 2:23-cr-00123**

SEAN PATRICK BOYD, JR.

RESPONSE OF THE UNITED STATES OF AMERICA TO DEFENDANT'S STANDARD DISCOVERY REQUESTS, REQUEST OF THE UNITED STATES FOR RECIPROCAL DISCOVERY, AND NOTICE OF THE UNITED STATES'S INTENT TO OFFER EVIDENCE OF RECORDS OF REGULARLY CONDUCTED ACTIVITY

Pursuant to Rule 16 of the Federal Rules of Criminal Procedure, Rule 16.1(a) of the Local Rules of Criminal Procedure, and the Arraignment Order and Standard Discovery Request entered by the Court in this case on September 8, 2023, the United States of America, by counsel, herewith responds to each of defendant's Standard Discovery Requests as follows:

Request A: Disclose to defendant the substance of any relevant oral statement made by defendant, whether before or after arrest, in response to interrogation by a person the defendant knew was a government agent if the government intends to use the statement at trial. [Fed. R. Crim. P. 16(a)(1)(A)]

Response: The government has provided a January 26, 2023, audio recording of the defendant's statement to law enforcement officers.

Request B: Disclose to defendant and make available for inspection, copying or photographing, all of the following:

(i) Any relevant written or recorded statement by the defendant if the statement is within the government's possession, custody, or control; and the attorney for the government knows--or through due diligence could know--that the statement exists. [Fed. R. Crim. P. 16(a)(1)(B)(i)]

Response: The government has provided a January 26, 2023, audio recording of the defendant's statement to law enforcement officers. The government has provided a transcript of the January 26, 2023, audio recorded statement of the defendant. (Bates Nos. BOYD-000421 through BOYD-000435)

(ii) The portion of any written record containing the substance of any relevant oral statement made before or after arrest if the defendant made the statement in response to interrogation by a person the defendant knew was a government agent. [Fed. R. Crim. P. 16(a)(1)(B)(ii)]

Response: The government has provided a transcript of the January 26, 2023, audio recorded statement of the defendant. (Bates Nos. BOYD-000421 through BOYD-000435)

(iii) The defendant's recorded testimony before a grand jury relating to the charged offense. [Fed. R. Crim. P. 16(a)(1)(B)(iii)]

Response: The defendant did not testify before the grand jury.

Request C: Where the defendant is an organization, e.g., a corporation, partnership, association or labor union, disclose to the defendant any statement described in Fed. R. Crim. P. 16(a)(1)(A) and (B), if the government contends that the person making the statement (i) was legally able to bind the defendant regarding the subject of the statement because of that person's position as the defendant's director, officer, employee, or agent; or (ii) was personally involved in the alleged conduct constituting the offense and was legally capable to bind the defendant regarding that conduct because of that person's position as the defendant's

director, officer, employee, or agent. [Fed. R. Crim. P. 16(a)(1)(C)]

Response: Not applicable.

Request D: Furnish the defendant with a copy of defendant's prior criminal record that is within the government's possession, custody, or control if the attorney for the government knows--or through due diligence could know--that the record exists. [Fed. R. Crim. P. 16(a)(1)(D)]

Response: The government has provided a copy of the defendant's criminal history. (Bates Nos. BOYD-000018 through BOYD-000019) The government will allow counsel for defendant to inspect any item of evidence he deems appropriate. Counsel should contact AUSA Jonathan T. Storage as soon as possible to arrange a mutually agreeable time to view the evidence. The following is being provided:

Request E: Permit the defendant to inspect and to copy or photograph books, papers, documents, data, photographs, tangible objects, building or places, or copies or portions of any of those 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 defendant. [Fed. R. Crim. P. 16(a)(1)(E)]

Response: The government will allow counsel for defendant to inspect any item of evidence he deems appropriate. Counsel should contact AUSA Jonathan T. Storage as soon as possible to arrange a mutually agreeable time to view the evidence. The following is being provided:

BOYD-000001	BOYD-000017	Various email correspondence in case file
BOYD-000020	BOYD-000057	Records from A.E.F. (business)
BOYD-000058	BOYD-000200	Records from H.N.B. (business)

BOYD-000201		Correspondence from J.P.M.C. (business)
BOYD-000202	BOYD-000240	Records from I.T.T. (business)
NO BATES		Excel Spreadsheet provided by I.T.T. (business)
BOYD-000241	BOYD-000417	Records from H.N.B (business)
BOYD-000418	BOYD-000420	Pre-Trial Services Report for Sean Boyd, Jr.
NO BATES-mp3		Recorded audio statement of Sean Boyd, Jr., taken on 01/26/2023
BOYD-000421	BOYD-000435	Transcript of Sean Boyd, Jr.'s audio statement, taken on 01/26/2023
BOYD-000436		Target of Grand Jury Investigation letter mailed to Sean Boyd, Jr., on 01/10/2023

Request F: Permit the defendant to inspect and to copy or photograph the results or reports of any physical or mental examination and of any scientific tests or experiment if (i) the item is within the government's possession, custody, or control; (ii) the attorney for the government knows--or through due diligence could know--that the item exists; and (iii) the item is material to preparing the defense or the government intends to use the item in its case-in-chief at trial. [Fed. R. Crim. P. 16(a)(1)(F)]

Response: Not applicable.

Request G: For any testimony the government intends to use under Rules 702, 703 or 705 of the Federal Rules of Evidence during its case-in-chief, or during rebuttal to counter testimony that the defendant has timely disclosed under reciprocal discovery, give to the defendant, in writing, the following information:

(i) a complete statement of all opinions that the government will elicit from the witness in its case-in-chief, or during its rebuttal to counter testimony that the defendant has timely disclosed under reciprocal discovery;

(ii) the bases and reasons for them;

(iii) the witness's qualifications, including a list of all publications authored in the previous 10 years; and

(iv) a list of all other cases in which, during the previous 4 years, the witness has testified as an expert at trial or by deposition.

If the government requests discovery under the second bullet point in Federal Rules of Criminal Procedure 16(b)(1)(C)(i) and the defendant complies, the government must, at the defendant's request, disclose to the defendant, in writing, the information listed above in (i) through (iv) for testimony that the government intends to use at trial under Rules 702, 703, or 705 of the Federal Rules of Evidence on the issue of the defendant's mental condition.

The witness must approve and sign the disclosure, unless the government states in the disclosure why it could not obtain the witness's signature through reasonable efforts, or the government has previously provided a report, signed by the witness that contains all the opinions and the bases and reasons for them.

[Fed. R. Crim. P. 16(a)(1)(G)]

Response: The government does not have responsive materials at this time.

Request H: Disclose to defendant all evidence favorable to defendant, including impeachment evidence, and allow defendant to inspect, copy or photograph such evidence.

Response: The government is not presently aware of any such information, aside from that which may be contained in the materials referenced in the response to Request E above. The government will continue to provide exculpatory and impeachment information as it becomes known.

Request I: Notify defendant of all evidence the government intends to introduce pursuant to Rule 404(b) of the Federal Rules of Evidence.

Response: The government has not determined whether it will introduce evidence pursuant to Rule 404(b) of the Federal Rules of Evidence. However, should the United States elect to introduce such evidence, it will promptly provide notice of the same.

Request J: Disclose to defendant all reports of government "mail cover," insofar as the same affects the government's case against the defendant or any alleged aiders and abettors or co-conspirators.

Response: Not applicable.

Request K: Disclose to defendant any matter as to which the government will seek judicial notice.

Response: The government will seek judicial notice that Nitro, Kanawha County, West Virginia, lies within the Southern District of West Virginia.

Request L: Disclose to defendant and make available for inspection, copying or photographing, the results of any interception of a wire, oral or electronic communication in the possession, custody or control of the government, the existence of which is known, or by the exercise of due diligence could become known, to the attorney for the government, which contains any relevant statement made by the defendant or which is material to the preparation of the defendant's defense or which is intended for use by the government as evidence in its case-in-chief at the trial. For each such interception, disclose (1) any application for an order authorizing the interception of a wire or oral communication; (2) any affidavits filed in support thereof; and (3) any court order authorizing such interception.

Response: Not applicable.

Request M: Provide notice to defendant of the government's intention to use evidence pursuant to Rule 12(b)(4)(B) of the Federal Rules of Criminal Procedure.

Response: The United States reserves the right to use all information and evidence disclosed herein or made available for inspection and copying pursuant to this Response and such information and evidence which may be discovered and finally provided to defendant.

Any discovery provided that is not mandated by Court order, the Federal Rules of Criminal Procedure, federal statute or federal case law, is provided voluntarily as a matter of discretion solely to expedite and facilitate litigation of this case.

REQUEST OF THE UNITED STATES FOR RECIPROCAL DISCOVERY

Pursuant to Rules 16.1(b) and 16.1(d) of the Local Rules of Criminal Procedure, the United States of America requests that defendant provide all applicable reciprocal discovery within 14 days of the service of this response and the provision of materials requested by defendant in the Standard Discovery Request.

NOTICE OF THE UNITED STATES INTENT TO OFFER EVIDENCE OF RECORDS OF REGULARLY CONDUCTED ACTIVITY

Pursuant to Federal Rules of Evidence 902(11), notice is hereby given of the United States intent to offer into evidence

certified domestic records of regularly conducted activity. The records are referred to more specifically in Response E above.

Respectfully submitted,

WILLIAM S. THOMPSON
United States Attorney

By:
/s/ Jonathan T. Storage
JONATHAN T. STORAGE
Assistant United States Attorney
WV Bar No. 12279
300 Virginia Street, East
Room 4000
Charleston, WV 25301
Telephone: 304-345-2200
Fax: 304-347-5704
Email: Jonathan.Storage@usdoj.gov

CERTIFICATE OF SERVICE

It is hereby certified that the foregoing "RESPONSE OF THE UNITED STATES OF AMERICA TO DEFENDANT'S STANDARD DISCOVERY REQUESTS, REQUEST OF THE UNITED STATES FOR RECIPROCAL DISCOVERY, AND NOTICE OF THE UNITED STATES'S INTENT TO OFFER EVIDENCE OF RECORDS OF REGULARLY CONDUCTED ACTIVITY" has been electronically filed and service has been made on opposing counsel by virtue of such electronic filing this 22nd day of September , 2023 to:

Emily L. Szopinski, Assistant Federal Public Defender
Robert C. Byrd United States Courthouse
300 Virginia Street, East, Suite 3400
Charleston, West Virginia 25301

/s/Jonathan T. Storage
JONATHAN T. STORAGE
Assistant United States Attorney
WV Bar No.12279
300 Virginia Street, East
Room 4000
Charleston, WV 25301
Telephone: 304-345-2200
Fax: 304-347-5704
Email:Jonathan.Storage@usdoj.gov