

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

Plaintiff,

v.

MICHAEL T. FLYNN,

Defendant.

Criminal Action No. 17-232-EGS

**MOTION TO PRODUCE NEWLY DISCOVERED *BRADY* EVIDENCE
AND BRIEF IN SUPPORT THEREOF**

Michael T. Flynn (“Mr. Flynn”) requests the government be ordered to produce evidence that has only recently come into its possession. This evidence includes the data and metadata of the following two devices:

Manufacturer	BlackBerry
Product	9900 Bold
Model	RDV71UW
IMEI	351504055559948
PIN	2B08EC98
SIM Card ID	89441000302074582859

and;

Manufacturer	BlackBerry
Product	Classic SQC100-1
Model	SQC100-1
IMEI	359892051315486
PIN	2BFD0057
SIM Card ID	89441000300487623120

The defense requested this information initially by email to Mr. Van Grack and Ms. Ballantine on Friday, October 11, 2019. The government did not reply to the email of October 11, but it did reply in response to the notice of our Motion on October 15, 2019.

This information is material, exculpatory, and relevant to the defense of Mr. Flynn, and specifically to the “OCONUS LURES” and agents that western intelligence tasked against him likely as early as 2014 to arrange—unbeknownst to him—“connections” with certain Russians that they would then use against him in their false claims. The phones were used by Mr. Joseph Mifsud.

Mr. Flynn is entitled to this information under *Brady v. Maryland*, 373 U.S. 83, 87 (1963). *Brady*’s mandate is fundamental to Due Process and crucial to ensure that prosecutors fulfill their obligation to seek justice rather than convictions. The rule of *Brady* does so “[b]y requiring the prosecutor to assist the defense in making its case,” and in that respect “the *Brady* rule represents a limited departure from a pure adversary model.” *United States v. Bagley*, 473 U.S. 667, 675 n.6 (1985). The government “may not knowingly use false evidence, including false testimony, to obtain a tainted conviction.” *Napue v. People of State of Ill.*, 360 U.S. 264, 269 (1959). This Court’s Standing Order also requires that the government produce this information to Mr. Flynn.

Dated: October 15, 2019

Respectfully submitted,

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CERTIFICATE OF CONFERENCE

Counsel for Defendant has personally attempted to contact counsel for the government to resolve the matter by e-mail on two occasions, Friday, October 11, 2019 and Tuesday, October 15, 2019. Counsel for the government replied on Tuesday, October 15, 2019 (“If we [the prosecutors] determine that they contain information that is discoverable or that is relevant to sentencing, we will produce them to you.”).

Certified on October 15, 2019.

Respectfully submitted,

/s/ Sidney Powell
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CERTIFICATE OF SERVICE

I hereby certify that, on October 15, 2019, true and genuine copies of Mr. Flynn's Amendment to his Motion to Compel Production of *Brady* Material and for an Order to Show Cause were served via electronic mail by the Court's CM/ECF system to all counsel of record, including:

Jessie K. Liu, U.S. Attorney for the District of Columbia
Brandon L. Van Grack, Special Assistant U.S. Attorney
Jocelyn Ballantine, Assistant U.S. Attorney
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Respectfully submitted,

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