

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. [REDACTED]

[REDACTED],

Defendant.

REQUEST FOR DEFENDANT'S CUSTODIAL ACCESS
TO ELECTRONICALLY STORED DATA

[REDACTED], through undersigned counsel, asks this Court to grant her independent access to electronically stored data that was provided by the government in discovery or as necessary to prepare her defense. [REDACTED] is in custody at CCA pending trial on various counts of bank fraud, ERISA violations, and identity theft. A status conference is set for [REDACTED], and a pretrial motion to sever is pending. No trial date is currently set.

This is a complicated set of facts dating back to 2006. Discovery is voluminous and wide-ranging. Records independently collected by the defense are also extensive. In her current custodial circumstance, [REDACTED] meets with her attorneys or investigators to review discovery. The defense is permitted to take in a laptop loaded with discovery, but [REDACTED]

[REDACTED] is not permitted to use the laptop, even in the presence of the defense team, to look at discovery.

[REDACTED] asks the Court to order her custodians to allow her to have independent access to electronically stored information outside the presence of her defense team. This is the proposal:

The defense will provide a stripped laptop with certain programs installed that will allow review of material but no alteration. Once a review session is completed, the computer automatically resets. Discovery could either be loaded directly onto the laptop or a separate memory stick. The computer would be available to the U.S. Attorney for inspection before providing the laptop to CCA. An Order to CCA would direct that [REDACTED] have at least ten hours of access to the discovery per week ([REDACTED] already works in the library, so hopefully this would be less burdensome than with some detainees). This setup has been successful at Butler County Jail and follows the protocol of the national working group that includes both DOJ and Defender Services.

Of the available information, the defense has excised FBI reports of interviews and memoranda, which counsel can review with [REDACTED] in person. Transcripts of court proceedings and depositions, bank records, initial police reports, emails, loan documents, correspondence, audio recordings, bankruptcy records and court documents, other business

records, and Rule 16 material would be made available for independent, in-custody review. Some defense material that consists of emails and business records would also be included.

Obviously, review of this volume of information while the defense team is in attendance is burdensome on FPD time and resources. This would facilitate defense preparation for trial and ensure that [REDACTED] has full and complete access to all discovery in the case. Although the defense understands there may be some resistance by [REDACTED] custodians, a Court order could direct access and control in this particular case.

The government opposes this motion.

For these reasons, [REDACTED] asks this Court to grant this motion.

Respectfully submitted,

s/ Melody Brannon
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CERTIFICATE OF SERVICE

I hereby certify that on [REDACTED] I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

[REDACTED]
[REDACTED]
[REDACTED]

■ Melody Brannon
Melody Brannon