

3/9/2020

Executive Office for
United States Attorneys
Suite 5.400, 3CON Building
175 N Street NE
Washington DC 20530
(202)252-6620

EXHIBIT 1

Re: Jack Groenendal, Case No. 1:11-cr-260
EOUSA-2020-000592, Self MIW

To Whom It May Concern:

I recently received a letter from your office regarding the above tracking number that stated you requested an "extra" 10 days per 5 U.S.C. §522(a)(6)(B)(i) and that you assigned a complex track to the above request.

Because the items requested are needed for a pending appeal, with this written response to your letter, I am requesting an expedited response. My 2014 FOIA request (key items still missing) took over 4 years for your response.

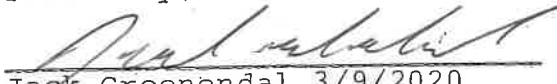
Your letter also mentioned "certain costs" related to my request. No need to "modify" my request. A similar "narrow request" took 18 months only to get a response that all 150 requested items were being withheld in full (see pending appeal of EOUSA-2018-000633).

Because I know the previously denied FOIA requests, (once disclosed even if court ordered) will result in winning my appeal thus granting immediate release (reason my FOIA requests continue to be denied). Enclosed is a copy of my understanding that additional funds may be needed. I agree to pay for "additional" duplication and search time.

If you are reading this letter, please be aware that an evidentiary hearing will be granted (too many disputed facts). Also, please inform your immediate supervisor that the media has been contacted. I still prefer an out of court settlement for whatever the insurance companies deem fair. In my case, Rule 16 evidence was denied, requested evidence was denied. If disclosed, likely acquitted of my "charged" crime way back on Jan 24, 2012. There was no "attempt" to possess illegal pornography. The media will expose that 11 days before my Aug 14, 2012 trial for that charge, it was dropped. 15 months after my arrest, the government admitted false evidence to arrest me. That same false evidence was used to indict me. That same false evidence was used to deny me bond. What "different file"? What specific questions by my hired experts? If the separate e-mail was sent, what answers? Why deny the 60 month ACCEPTED plea offer? (See U.S. v Paulus, 2020 U.S. App. LEXIS 6929 (6th Cir. March 5, 2020).

Cc: OGIS (mediation service)
Cc: Reporter John Agar (Mlive Media Group, Grand Rapids Press)

Sincerely,


Jack Groenendal 3/9/2020

Jack Groenendal #13243-040
FCI-Sandstone
P.O. Box 1000 Unit B
Sandstone MN 55072



Telephone: (202) 514-3642

U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

December 3, 2019

EXHIBIT
19

Jack Groenendal
Register No. 13243-040
FCJ Sandstone
Federal Correctional Institution
P. O. Box 1000
Sandstone, MN 55072

Re: DOJ-202C-000660

Dear Jack Groenendal:

This is to acknowledge receipt of your Freedom of Information Act (FOIA) request dated October 19, 2019 and received in this Office on November 1, 2019 in which you requested specified records pertaining to yourself, dating from August 1, 2016 to October 19, 2019.

We are in receipt of your request and are currently searching for responsive records. For your information, we use multiple tracks to process requests, but without those tracks we work in an agile manner, and the time needed to complete our work on your request will necessarily depend on a variety of factors, including the complexity of your records search, the volume and complexity of any material located, and the order of receipt of your request. At this time we have assigned your request to the simple track.

We regret the necessity of this delay, but we assure you that your request will be processed as soon as possible. If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, you may contact this Office by telephone at the above number or you may write to the Office of Information Policy, United States Department of Justice, Sixth Floor, 441 G Street, NW, Washington, DC 20530-0001. Lastly, you may contact our FOIA Public Liaison, Valere Villanueva, at the telephone number listed above to discuss any aspect of your request.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448.

Sincerely,
Initial Request Staff
Office of Information Policy
U.S. Department of Justice

Form No. 0024 - 12/15

EXHIBIT 2

electronically transmitted within ninety (90) days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

You may contact our FOIA Public Liaison at the Executive Office for United States Attorneys (EOUSA) for any further assistance and to discuss any aspect of your request. The contact information for EOUSA is 175 N Street, NE, Suite 5400, Washington, DC 20530; telephone at 202-252-6020; or facsimile 202-252-6048. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

Kevin Krebs
Assistant Director

Enclosure



U.S. Department of Justice
Executive Office for United States Attorneys

Freedom of Information and Privacy Staff

Suite 5.400, 3CON Building
175 N Street, NE
Washington, DC 20530
(202) 232-6000
FAX (202) 232-6008

December 20, 2019

EXHIBIT I

Jack Groenendal
#13243-040 FCI-Sandstone Unit B P.O.B. 1000
Sandston, MN 55072

Re: Request Number: EOU5A-2018-000633

Date of Receipt: November 3, 2017

Subject of Request: Self-Specific - USAO/ Western Michigan

Narrowed Request - Dated 11/5/17

Dear Mr. Groenendal:

Your request for records under the Freedom of Information Act/Privacy Act has been processed. This letter constitutes a reply from the Executive Office for the United States Attorneys, the official records-keeper for all records located in this office and the various United States Attorneys' Offices.

The material has been considered under both the FOIA and the Privacy Act to provide you the greatest degree of access. This letter is a full denial.

We have reviewed approximately 150 pages of material:

page(s) are being released in full (RUF);
page(s) are being released in part (RUP);
150 page(s) are withheld in full (WIF) and
page(s) were duplicate copies of material already processed. **THE GOVERNMENT'S OFFICE**

The exemptions cited for withholding records or portions of records are marked below. An Enclosure to this letter explains the exemptions in more detail.

- (b)(3) - 18 U.S.C. § 3509(d) (Federal Victims' Protection and Rights Act)
- (b)(7)(C)
- (b)(7)(D)

This is a final action on this above-numbered request. If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following website: <https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked on:

EXHIBIT 3



Case 1:11-cr-00260-PLM Doc #99-2 Filed 06/21/13 Page 1 of 2 Page ID#471
U.S. Department of Justice

Patrick A. Miller, Jr.
United States Attorney
Western District of Michigan

The Law Building, 5th Floor
330 Iowa Avenue, N.W.
Grand Rapids, Michigan 49503

Mailing Address:
United States Attorney's Office
Post Office Box 708
Grand Rapids, Michigan 49501-0208
(616) 455-3400
Facsimile (616) 455-3117

VIA E-MAIL - DENIED

November 18, 2012

*** DENIED AS FOIA REQUEST**

Mr. Peter C. Samouris
120 N. Washington Sq. Ste. 805
Lansing, MI 48933
e-Mail: psamourists@comcast.net

Re: United States v. Jack Groenendal
No. 1:11-CR-260-PLM

Dear Mr. Samouris:

Please permit me to confirm our conversation on Thursday, November 15, 2012. As I understand, you asked Agent Babcock to see if we could get more information from the computer monitoring company. Officer Wallock went back to the computer monitoring company in an attempt to get more information about what additional screen shots were available. In the course of that discussion, Officer Wallock discovered that we were operating under a misimpression as to the nature and scope of material available from the computer monitoring company. There are no more screen shot available. The company only had a limited number of screen shots and those have been disclosed. The company has the full list of web-searches entered by Mr. Groenendal, which was previously provided, but does not have images of what was on Mr. Groenendal's computer screen at the time.

When Officer Wallock and Agent Babcock reviewed Mr. Groenendal's Internet activity back in August 2011, they clicked on the links that Mr. Groenendal had generated. At the time, Officer Wallock and Agent Babcock believed that the links produced copies of screen shots of Mr. Groenendal's activities. We have since discovered that the links were "live" - that is, the links accessed the Internet and produced responsive material on the day of their search. At most, Officer Wallock and Agent Babcock were only able to replicate his search activity, albeit, approximately one week later. Please note that the affidavit and the Government's trial brief include the incorrect information and belief that we had more screen shots of Mr. Groenendal's activities. I intend to file a superseding trial brief, which will state the facts as we now know them and will address the change in the superseding indictment.

2014 FOIA RESPONSE
- JUST RECEIVED IN 2019

EXHIBIT 4



Very Important

(B)(6)

11/14/2012 10:54 AM

to: Judy Hogaboom

(B)(7)(c)

EXHIBIT

Hi Judy,

I think my misunderstanding (thinking when I clicked the link on the interface that I was seeing what the defendant saw) could be a big problem. It may even result in the charges being dismissed. * - SHOULD HAVE!

Is there any way you could be available to meet with us (me, the AUSA and the Forensic examiner) today at 2:15pm. We can do another go-to meeting and you can explain to them how the data is captured and when we are seeing what the defendant actually saw and when we are not.
↳ LIED AT TRIAL ↳ ONLY VIEWED ON SCREEN!

I am very sorry to be a pain. I know this is asking a lot.

Thanks,



(B)(6)

(B)(7)(c)

* I DID RECEIVE A REDUCED PLEA DEAL AND ACCEPTED IT!

* ON 11/14/12 AUSA MEKARU EMAILED A REDUCED PLEA OFFER (OBSCENITY) FOR A MAXIMUM SENTENCE OF 60 MONTHS

* DENIED FOIA REQUEST
ACCEPTANCE E-MAIL BEING DENIED TOO!

EXHIBIT #5

DAMNING FOIA REQUEST RECEIVED! (READ COMMENTS BELOW)

EXTRA COPY

* WHAT IS REDACTED?

EXHIBIT #5

1-A

From: (b)(6),(b)(7)(C)
Sent: Wednesday, August 31, 2011 9:12 AM
To: (b)(6),(b)(7)(C)
Subject: RE: (b)(7)(E) (GROENENDAL, Jack)

(b)(6),(b)(7)(C)

ACTUAL SCREEN CAPTURES SENT TO USPO WALLOCK? #1/1

Same violator, different file, (b)(7)(E)

WHAT IS THIS?

I ask that you please advise by the end of next week so that the import specialists have adequate time to conduct an appraisal.

→ SET 8 2011 GRAND JURY

Thank you.

BABCOCK QUOTED FROM ACTUAL SCREEN CAPTURES

(b)(6),(b)(7)(C)

* NOT DISCUSSED!

I was arrested on Aug 22, 2011 and they confiscated my home computer. I paid \$25.00 per month for a computer monitor that captures everything "viewed" on my computer. The actual screen captures were sent to co-investigator, U.S. Probation Officer Rhonda Wallock. Wallock gave them to ICE (Department of Home Security) Special Agent Blair Babcock who sent this email.

REASON FOR ALL MY DENIED FOIA REQUESTS?

MISSING AND NEEDED FOR MY \$ 2255 Motion

Did Attorney Fotieo, did investigator Adam Kelly, did attorney Samouris, did investigators Gary Wake and J.D. Gifford ask to view the actual screen captures from my paid monitor? (I told them I never viewed the images being shown in court) If not, ineffective assistance! I am being denied my FOIA request for letters and emails to and from my defense team.

If any of the five did ask, the government withheld the requested screen captures, none matched the charged images. (showed them "replicated" illegal images printed on USPO Agent Wallock's computer and printed on Babcock's work computer) They told the court, they told my defense that they were captured by my monitor, a lie.

If not requested, the "actual screenshots" from my monitored computer should have been disclosed (Rule 16 evidence) and if disclosed, the lies told by Wallock - the Sept 2011 detention hearing (transcript denied) and the lies told by Babcock at two different grand jury testimonies (Sept 8, 2011 & July 18, 2012) would have been exposed. Incurable prejudice! If disclosed, likely acquittal on Jan 24, 2012, my trial date for "attempting" to possess child porn. I waived my right to a speedy trial to hire Samouris & new computer experts.

If this "different file" was, in fact, the actual screen captures and the appraisal came back as none matched, they were knowingly withheld! Even if negligently withheld, my constitutional rights were violated! I have re-asked (new FOIA request) for the actual screen captures and the results from Aug 31, 2011, nine days after my arrest. Malicious prosecution! I waited 12.5 months for my "speedy" trial but denied bond! Why? Agent Wallock showed the Magistrate illegal porn and lied. She told the Court my monitor captured the images shown, a lie! The lie couldn't be challenged because the government withheld the "different file", withheld the screen captures from my paid monitor, even when asked! (see Jan 17, 2012 pretrial transcript)

EXHIBIT #6

* 2014 FOIA REQUEST
RECORDS APRIL OF 2019

EXHIBIT 1-K

RE: subpoena for 11/27/2012
Judy Hogaboom to [redacted]

11/20/2012 08:59 AM

DATE SENT

History: This message has been replied to.

Thanks [redacted] When you have a minute, can you call me? Thanks [redacted]

(B)(6)
(B)(7)(c)
(B)(6)
(B)(7)(c)

From: [redacted]@miwp.uscourts.gov [mailto:[redacted]@miwp.uscourts.gov]
Sent: Tuesday, November 20, 2012 7:44 AM
To: Judy Hogaboom
Subject: Re: subpoena for 11/27/2012

→ DENIED FOIA REQUEST

The defendant in this case accepted a plea offer yesterday. It looks like there will not be a trial. I will confirm once it is all in writing, but I don't think you will need to make travel arrangements.

Thank you

[redacted] (B)(6)
[redacted] (B)(7)(c)

* ANY COPY OF NOTES OF THIS PHONECALL?

FOIA REQUEST - ALL COMMUNICATION FROM PROSECUTOR'S OFFICE TO MY 3 ATTORNEYS!

EXHIBIT 1-M

EXHIBIT

* DENIED F.O.I.A. REQUEST

US v Groenendal

PRE-TRIAL 11-19-12 AM

COPY OF REJECTION ONLY

From: Daniel Y. Mekaru (USAMIW) <Daniel.Mekaru@usdoj.gov>
Subject: US v Groenendal
To: psamouris@comcast.net

Tue, Nov 20, 2012 09:49 PM

Pete, THEY PROPOSED IT TO ME! I WAS IN JAIL!
LOMO MAX - NOT PART OF COURT RECORD
My management has rejected the plea proposal. We cannot accept a plea to obscenity. Please call me when you get a moment.

Dan → WITH DINNER...

* I SENT A F.O.I.A. REQUEST FOR ALL EMAILS AND LETTERS TO/FROM MY THREE ATTORNEYS...

- 1. FORTO
- 2. SATHURS
- 3. TUREK

* STILL WAITING - SEE EXCLUDED

KEY 11

FOIA REQUEST - ALL PLEN DEFERS? EXHIBIT 18

EXHIBIT #7

From: Peter Samouris [mailto:psamouris@comcast.net]
Subject: Fwd: US v Groenendal
Date: November 2, 2016 at 11:45 PM
To: psamouris [mailto:psamouris@comcast.net]

From: "Peter Samouris" <psamouris@comcast.net>
To: "Gary Wake" <gwake@wakeagency.com>
Cc: "JD Gifford" <jdgexfed@gmail.com>
Sent: Wednesday, November 21, 2012 4:46:34 AM
Subject: Fwd: US v Groenendal

Hi Gary & JD --

Looks like the trial is back on. Long story short, the gov't made me an offer (5-year deal), Jack accepted, then after business hours yesterday, I get the e-mail from Daniel Mekarú that I am forwarding here below. Anyway, unless I can get get out of it, Jury Trial is set for **Tuesday, November 27, 2012 at 9:00 a.m.**

Peter C. Samouris, Esq.
Peter C. Samouris, P.C.
120 N. Washington Square, Suite 805
Lansing, MI 48933
E-Mail: psamouris@comcast.net
(517) 347-7047 (Office)
(517) 482-9006 (Facsimile)
(517) 336-7371 (Home Facsimile)
(517) 410-4966 (Mobile)

From: "Daniel Y. Mekarú (USAMIW)" <Daniel.Mekarú@usdoj.gov>
To: psamouris@comcast.net
Sent: Tuesday, November 20, 2012 4:49:22 PM
Subject: US v Groenendal

Pete,

My management has rejected the plea proposal. We cannot accept a plea to obscenity. Please call me when you get a moment.

Dan

EXHIBIT #8

EXHIBIT #8

* ANY COPY OF JONES OF THIS PROSECUTOR?

FOIA REQUEST - ALL COMMUNICATION FROM PROSECUTOR'S OFFICE TO MY 3 ATTORNEYS!

* DENIED F.O.I.A. REQUEST.

EXHIBIT #8

EXHIBIT

US v Groenendal

COMP UP RESECTOR GROUP

PRE-PRIMA

11-19-12

11-19-12

From : Daniel Y. Mekaru (USAMITW) <Daniel.Mekaru@usdoj.gov>
Subject : US v Groenendal

To : psamoultis@comcast.net

Pete,
THEY PROPOSED IT

AND WHO KNOWS ANY OTHER CASES LIKE THIS?

My management has rejected the plea proposal. We cannot accept a plea to obscenity. Please call me when you get a moment.

Dan

Tue, Nov 20, 2012 09:49 PM

KEY

* I SENT A F.O.I.A.

* REQUEST FOR ALL

EMAILS AND LETTERS

TO/FROM MY THREE ATTORNEYS

- 1. FORTNO
- 2. SAMOUILTIS
- 3. TURBER

* STILL WAITING - SEND ANSWERS

EXHIBIT 8
PLEA OFFERS

FOIA REQUEST

Office of Gov't Information Services
 National Archives & Records Administration
 8601 Adelphi Road (OGIS)
 College Park MD 20740-6001
 Email: ogis@nara.gov
 Phone 202-741-5770
 See archives.gov/ogis

EXHIBIT #9

9-A

Re: Multiple FOIA concerns

Dear OGIS Staff:

Please share my thanks to your entire staff for all that you do, especially for inmates without access to the internet and without direct phone access. I received your March 6, 2020 letter (thanks) and your second paragraph stated that you were unsure of what assistance I was seeking.

Enclosed is a reply letter from the Office of Information Policy regarding EOUSA-2018-002003 (Appeal # DOJ-AP-2019-006140), numbers you asked about in your January 17, 2020 letter (responding to my Dec 27, 2019 request for assistance. I admit I got carried away when I responded to your Jan 17, 2020 reply letter sending you a ten (10) page "detailed" history when you asked for a "brief" description. For that, I apologize. I did that so I could use it as an exhibit in an expected pro se civil lawsuit to obtain the many FOIA requests still be denied.

I received the 2/28/2020 letter from Matthew W. Hurd, Acting Chief, Administrative Appeals (Office of Information Policy) on Thurs. March 12, 2020. It states, " ... I have determined that EOUSA's response was correct and that it conducted an adequate, reasonable search for such records." He stated that, if dissatisfied, I can file a lawsuit in federal district court (5 U.S.C. §552(a)(4)(B)) or contact your office to resolve disputes.

This much shorter letter is my last attempt asking OGIS's help to resolve my FOIA issues (multiple) as the EOUSA and the Department of Homeland Security (ICE/HSI) continue to deny me needed FOIA requests to win my pending appeal. I am unable to call the FOIA Public Liaison Office (202)514-3642 and all previous letters sent remain unanswered.

SHORTER LIST OF NEEDS

1. I have received zero correspondence (letters, e-mails, faxes) sent to or received from my first attorney, Deno Fotieo including the Dec of 2011 plea offer. Did my lawyer ask to view the actual screen shots from my monitored computer? If yes, they were withheld!

2. I am missing the vast majority of correspondence (letters, e-mails, faxes) sent to or received from my "paid" attorney, Peter Samouris, including the Nov 19, 2012 e-mail of a reduced charge of obscenity and a maximum sentence of 60 months. The government is refusing to send me my FOIA request of the Nov 19, 2012 e-mail from my lawyer ACCEPTING that offer (see enclosed).

Case 1:20-cv-01030-UNA Document 1-1 Filed 04/16/20 Page 10 of 105
3. ICE/HSI (Homeland Security) continues to deny me my FOIA request for the "specific questions" from my two hired computer experts. They continue to deny me the "separate e-mail" mentioned in the enclosed "redacted" e-mail from a previous "Ice" FOIA response.

9-8

4. A serious issue (cleaner copy enclosed) is an altered Nov 20, 2012 e-mail (one being denied by EOUSA). Enclosed are two different versions of the same e-mail. Why the many discrepancies? Examples:

- | <u>ORIGINAL</u> | <u>ALTERED</u> |
|------------------------------------|--------------------------------------|
| a. No "quote" marks Daniel Mekar | a. "Daniel Y. Mekar |
| b. Order of "From" "Subject" "To" | b. From, To, Sent, Subject (changed) |
| c. Regular font (not bold) | c. Above items set in BOLD font |
| d. Sent out on "Tue" abbreviated | d. Sent out on <u>Tuesday</u> |
| e. Sent out on "Nov" abbreviated | e. Sent out on <u>Wednesday</u> |
| f. Sent out on "09:49 PM" | f. Changed time to 4:49 PM |
| g. Original is 09:49 | g. Altered is missing zero 4:49 |
| h. Original doesn't have "seconds" | h. Altered shows 4:49:22, why? |
| i. Message is only one line long | i. Larger font, two line message |

When court ordered, which version will the government submit? Please note that "paid" attorney (Peter Samouris) forwarded the e-mail "from" AUSA Dan Mekar (denied FOIA request) to my hired experts. This e-mail was dated November 21, 2012 at states the following key items:

1) "Long story short, the gov't made me an offer (5-year deal), Jack accepted, then AFTER BUSINESS HOURS YESTERDAY I get an e-mail from Daniel Mekar that I am forwarding here below." Who altered the forwarded e-mail? Was attorney Samouris asked to alter the time? NOTE: The enclosed example shows the government rejecting a plea offer they made that "we" accepted. The government is repeatedly denying me their offer, why? They are repeatedly denying me the e-mail accepting that offer, why? Answer: An offer accepted by a defendant is considered a binding contract.

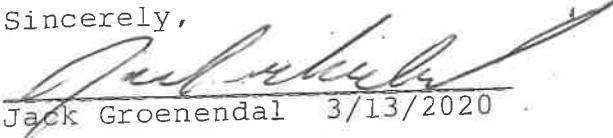
2) The offer (denied FOIA request) was made November 19, 2012 one day after the government admitted the evidence used to arrest me, the evidence used to obtain the indictment, the evidence used to deny me bond was false. I accepted that offer expecting to be sentenced to "time served" the 15 months wrongfully in county jail (perjury at bond hearing).

3. When court ordered, if the original e-mail shows the time "sent" as 09:49 (no seconds) PM, that is, in fact, after business hours. Is it fraud upon the court or obstruction of justice? Collusion between my hired lawyer and the U.S. Attorneys Office (Western District of Michigan)

Please assist me in resolving the above disputes.

Cc: Attorney Grievance Commission
Cc: Office of Professional Responsibility
Cc: Office of Information Policy
Cc: Privacy Office, DHS (ICE/HSI)

Sincerely,


Jack Groenenda 3/13/2020

Jack Groenenda #13243-040
FCI-Sandstone
P.O. Box 1000 Unit B
Sandstone MN 55072

Records Administration (OGIS)
 8601 Adelphi Road - OGIS
 College Park MD 20740-6001
 www.archives.gov/ogis
 ogis@nara.gov
 202-741-5770

EXHIBIT #10

Re: Complaint on EOUSA-2018-000633

Attention Staff:

Your office sent me a detailed letter dated Jan 17, 2020 about my request for assistance regarding the FULL DENIAL of the above mentioned FOIA request made of the U.S. Attorneys Office (EOUSA). Please add to your records that I did appeal and that I also asked investigative reporter, John Agar (Mlive Media Group, The Grand Rapids Press) to also assist me if he could.

You also wrote that if I had questions or concerns that have not been addressed to provide you with.... a brief description of my FOIA issue or dispute, a copy of my request, the agency's response to my request and the agency's response to my appeal.

As you know, I am an inmate at a federal prison. Our inmate copy machine (needs tokens) is not available so I am sending what I can to assist your office of my issues and disputes (ongoing for years).

Enclosed as Exhibit #1 is a four (4) page detailed letter (To Whom It May Concern) regarding one of many such letters that I don't recall sending to the OGIS staff. It is regarding DOJ-AP-2017-005004, my appeal of FOIA-2016-01954. It is relevant because I continued to ask for the denied FOIA requests that I knew were in the possession of the U.S. Attorneys Office. Page one clearly states:

{ MISSING ALL FOUR PLEA OFFERS!

Enclosed as Exhibit #2 is a letter dated 11/2/17 sent "to" the FOIA Public Liaison (a copy was sent to the OGIS staff) that specifically mentions ten (10) FOIA assigned request numbers (for tracking purposes) plus one additional tracking number.

Because I sent multiple FOIA requests out in 2017; It is hard to connect which request matches the above assigned tracking number. Enclosed as Exhibit #3 is a letter "from" K. Zelasko of the U.S. Attorneys Office, Western District of Michigan dated Nov 20, 2017. It stated my FOIA request to their office was forwarded to EOUSA, FOIA/PA Unit, BICN Building, Room 7100 600 E Street NW, Washington DC 20530. My best guess this was in response to the 11/15/17 request directly to the Western District of Michigan's U.S. Attorney Office that stated, "On Case No. 1:07-00093-PLM-1, Docket No. 75 mentions Exhibits 1, 2, and 3 [] copies needed for appeal."

I also sent out a "new" FOIA request to the EOUSA office located on 600 E Street dated 11/28/17 that stated, "Any/all letters to U.S. Attorney Andrew Birge with Jack Groenendal's name on it (also include faxes and e-mails). The above tracking number "may" be for that request?"

On November 17, 2017, I sent out yet another FOIA request (Central Law Office, Room 3311 - South Building) that stated, "Any/all letters, e-mails, faxes or notes involving Jack Groenendal and Case Nos. 1:07-cr-00093 & 1:11-cr-260 plus any appeals on the same."

On December 7, 2017, the government sent me a "new request" tracking number of 2018-000633. It doesn't indicate which request matches that tracking number. Enclosed as Exhibit #4 is a reduced copy of the 12/13/17 reply letter I sent to the FOIA/PA office on 600 E street. It is front and back (5 page letter) plus includes that I agree to pay \$1,000 for duplication and/or search time.

Please note: On the back of pages 1 & 2 is a full size "extra" copy of a typed letter to the FOIA Public Liaison regarding tracking number EOUSA-2018-000633. The last paragraph states, "A review will most likely confirm that they knew back on August 31, 2011 (nine days after my arrest) that the illegal images shown in court to arrest me, to deny me bond, and to indict me (TWICE) were not screen captures from my paid monitor. [] The actual screen captures to prove Wallock & Babcock lied under oath were withheld from multiple lawyers and multiple paid investigators (reason my FOIA requests are being withheld)."

If needed, my lawsuit in U.S. District Court will also include Appeal No. DOJ-AP-2018-001204 (regarding FOIA request DOJ-2017-006772). It will also include Appeal No. DOJ-AP-2018-001215 (regarding EOUSA-2018-000633) one of these may be the one you need?

On Jan 4, 2018, I wrote a letter to the FOIA/PA unit on 600 E Street NW (room 7300) regarding DOJ-AP-2018-001204 (FOIA Request No. DOJ-2017-006772) which reported, "Page two of the 12/21/17 letter states, 'Please be advised that the IR Staff referred certain records to EOUSA for processing and to direct a response to you.'" Is this the FOIA request showing 150 pages that are denied?

Then, on January 10, 2018, I sent a two page letter to the FOIA/PA Unit on 600 E street (room 7300) regarding tracking number EOUSA-2018-001242. Page one (item #4) states, "AUSA Mekaru and AUSA Lewis e-mail four (4) different plea offers to my lawyers. On November 19, 2012, hired attorney, Peter Samouris e-mailed my acceptance of the government's **MAXIMUM** offer of 60 months. All plea offers and my acceptance of the government's plea offer are being denied." NOTE: Somewhere in my OGIS file is a Cc: copy of this letter I sent.

In my lawsuit, I will include as an exhibit (copier down) a letter "from" the Office of Information Policy dated Jan 5, 2018 (quote) "... your administrative appeal from the action of the Executive Office for U.S. Attorneys regarding Request Number EOUSA-2018-000633 was received by this office on 12/29/17 [] your appeal has been assigned number DOJ-AP-2018-001865."

On Feb 16, 2018 I sent the FOIA/PA staff another letter (tracking number EOUSA-2018-002003) the last paragraph includes the following: "One denied FOIA request is for the Nov. 19, 2012 e-mail plea offer made by AUSA Mekaru for a maximum sentence of 60 months. Also denied is the e-mail acceptance of that offer."

DENIED FOIA REQUESTS IS CAUSING INCURABLE PREJUDICE

Any review of Case No. 1:11-cr-260 will confirm that I was sentenced to triple the offered AND ACCEPTED revised plea offer after the U.S. Attorneys Office admitted the evidence used to arrest me, the evidence used to indict me, the evidence used to deny me bond was false! I accepted the government's offer expecting "time served" the 15 months spent in county jail based on perjury by USPO Agent Rhonda Wallock. Even "if" sentenced to the MAXIMUM of 60 months, per the Bureau of Prisons, my "out" date from federal prison would have been Dec 30, 2015 less 4 months of local halfway house. The INCURABLE PREJUDICE continues as I have already spent more than four years locked up above the maximum offered and accepted.

On March 29, 2018, I wrote the FOIA public liaison at the EOUSA's 175 N Street address (Three Constitutional Square, Washington DC) regarding EOUSA-2018-002605. This letter was triggered by a statement of Mr. Krebs who wrote, "The EOUSA already received your FOIA requests and acted on them. Thus, we take NO FURTHER ACTION..." Multiple FOIA requests continue to be denied.

The above letter "to" the EOUSA (last paragraph) stated, "One of my unresolved issues is the November 19, 2012 e-mailed plea offer for a lesser charge (obscenity) that is being denied. [] also denied is the November 19, 2012 e-mail acceptance of the government's offer." As of February 1, 2020, I am still being being both e-mails!

Enclosed as Exhibit #5 is page one of a letter dated March 25, 2018 sent "to" the Executive Office for U.S. Attorneys (950 Pennsylvania Ave) sharing that my denied FOIA issues also include a misrepresentation of facts and the withholding of favorable evidence. The "Different File" mentioned in the redacted e-mail (dated August 31, 2011) just nine days after my arrest WAS NOT DISCLOSED! I am expecting to be granted an evidentiary hearing (my \$2255 motion has been "pending" since August of 2016) which should expose that the "Different File" were screenshots from my confiscated computer sent to co-investigator Rhonda Wallock and given to government expert Blair Babcock (ICE/HSI). Even upon request, the actual screenshots (zero matched the seven "charged" illegal images printed on USPO Agent Wallock's work computer after clicking to view "live" links) were withheld. Special Agent Blair Babcock (ICE/HSI) stated at the November of 2012 evidence hearing that he didn't have the "actual" screen captures. He stated they were in the office of AUSA Daniel Mekar.

If the government didn't compare the "actual" screenshots with the seven (7) illegal images printed on Agent Wallock's work computer (none matched), that is a reckless disregard for the truth or deliberate indifference. Worse yet, if an evidentiary hearing exposes that the evaluation requested August 31, 2011 came back as zero matched, the withholding of that information will result in the dismissal of all charges! If disclosed in 2011, if disclosed at my Jan 17, 2012 pretrial, I would have demanded my right to a speedy trial that would have likely resulted in an acquittal. Both Wallock and Babcock's testimony would have been impeached. They both told the court, told my lawyers, told my computer experts that they were captured as viewed by my paid computer monitor, a lie!

On April 8, 2018, I sent the EOUSA (600 E Street office) yet another letter. Item # 7 stated, "Pages two and three of the November 2017 "new" FOIA request." The last paragraph stated, "Please share this letter and the enclosed to your immediate supervisor and pass this "up" the ladder. [] why? Read Exhibit #7, pages two and three of my "newest" FOIA request. I have in my possession items that the EOUSA claims they don't have or can't find. Lost? Destroyed? Inadequate search?"

Was the above request finally responded to in late 2019 stating they found 150 pages and all of them are being withheld in full?

Enclosed as Exhibit #6 is a copy of an April 8, 2018 letter to the FOIA Public Liaison (175 N Street address, Three Washington Square, Washington DC) that mentions Appeal No. DOJ-AP-2018-000522. I am very concerned about the statement in the 3rd paragraph (quote) "I have determined that the EOUSA's response was correct and that it conducted an adequate, reasonable search for such records."

Also on page one of the above 4/8/18 letter it states, "Also enclosed is a copy of the "new" FOIA request I sent out in November of 2017. This "specific" FOIA request is three pages long. I have never received any letters, faxes, e-mails, or notes "to" or "from" attorney Deno Fotieo or attorney Peter Samouris. Zero? Can you inquire as to the status?"

Obviously missing is the Nov 19, 2012 e-mail plea offer and e-mail acceptance of the government's offer. One of my "pending" issues in front of the U.S. District Court is that any "offer" made by the government that is "accepted" by the defendant should be considered as a "binding contract". Only a judge can reject or accept the terms of that contract. Judge Maloney wasn't told that there was a plea offer and that it was accepted. (See January 27, 2014 sentencing transcript where this was mentioned "on" the record).

The last paragraph on page two states, "Who knew what and when did they know? [] USPO Agent Wallock lied at the Sept of 2011 Detention Hearing and ICE (Department of Homeland Security) Special Agent Blair Babcock lied at two (2) different grand jurys (Sept 8, 2011 & July 18, 2012) telling the court that my monitor captured the seven (7) charged illegal images." Again, the withholding of the actual screenshots caused incurable prejudice! (quote) "Because favorable evidence was withheld, Groenendal couldn't expose the lies told under oath. [] The EOUSA is still withholding all four (4) plea offers including the one accepted via e-mail. Why withhold all e-mails?"

As long as OGIS is willing to connect with the U.S. Attorneys Office on my behalf, re-ask the status of Appeal No. DOJ-AP-2018-000522. I sent multiple letters out dated May 4, 2018 (copy machine is out). On May 13, 2018, I submitted a very detailed eight page explanation of 16 exhibits. In lieu of not having a copy machine available, please allow a "short" recap of the 16 exhibits that I am confident is still in a file in Washington DC.

- 1) Six page letter to Kevin Krebs dated 12/13/17
- 2) Dec 24, 2017 copy of the certification of Identity (they told my rejection was because my request wasn't notarized?)
- 3) A letter dated 9/1/17 to the FOIA Liaison

CONTINUATION (FOIA-2018-003379) - 16 exhibits for "new" FOIA request

- 4) I listed four (4) specific examples of denied plea offers
- 5) I listed four (4) specific examples of "new" FOIA request
 - a. Redacted ICE FOIA request (page 105 of 217)
 - b. Redacted ICE FOIA request (page 15 of 217)
 - c. 9/6/12 e-mail "from" AUSA Mekaruru "to" attorney Samouris
 - d. Copy of my 11/7/15 FOIA request, asking the same questions
- 6) Four more copies of previous FOIA requests
 - a. Copy of Jan 11, 2012 e-mail from Mekaruru to Fotieo
 - b. Copy of Jan 11, 2012 e-mail from Mekaruru to Fotieo
 - c. Copy of JAN 13, 2012 e-mail from Mekaruru to Fotieo
 - d. Copy of e-mail mentioning Leah Groenendal (denied)
- 7) Three additional examples for "new" FOIA request
 - a. List of previous FOIA requests
 - b. Oct 8, 2015 FOIA request (yet no records found?)
 - c. Two page "typed" list (items needed for "new" request)
- 8) Four additional "specific" examples (items not found)
 - a. I did appeal (see FOIA-2016-00286) Western Michigan Office
 - b. Written request to file a lawsuit for denied requests
 - c. They combined FOIA-2016-01068 with FOIA-2016-0286
 - d. EOUSA reply stated "no responsive records" stating: See previous responses to 14-4282, 15-2537, 15-2528, 16-285,286
- 9) Four previous requests to assist with "new" request....
 - a. Copy of my 2014 FOIA request, any/all contact w/ Samouris
 - b. Original 2015 request stamped as "received"
 - c. My 2015 FOIA request, letters to/from U.S. Attorney Miles
 - d. Copy of the "original" 3/10/16 FOIA request
- 10) Three "more" specific examples to assist "new" FOIA request
 - a. FOIA-2015-02537 - request of USAO Western Michigan
 - b. Appeal received on FOIA-2016-01954
 - c. Original FOIA request dated 11/7/15 (AUSA Mekaruru & Lewis)
- 11) Three "additional" items for "new" FOIA request
 - a. Copy of "original" 11/28/17 FOIA request
 - b. FOIA-2016-01954 (mentions Western District of Michigan)
 - c. 10/8/14 response to FOIA-2014-04283 (where is my file?)
- 12) Two letters sent to aid in "new" FOIA request
 - a. Sept 22, 2014 letter clearly mentions Western District of Michigan, Subject: (Self(specific records) MIW
 - b. Nov 9, 2015 letter re: FOIA-2016-00285 also stating that Subject: "Self (Groenendal) (Specific Records)/MIW
- 13) Three more letters re: past FOIA requests for same info
 - a. Feb 1, 2016 letter re: FOIA-2015-03260
 - b. Oct 29, 2015 letter re: FOIA-2015-03260
 - c. Jan 21, 2016 letter re: FOIA-2016-01068
- 14) Three "more" letter regarding past FOIA requests
 - a. I continued to ask for denied FOIA requests!
 - b. Yet another confirmation of MIW (Western Michigan Office)
 - c. Letter "from" EOUSA re: FOIA-2016-01954 that states in the "Subject of Request" Jack Groenendal(self)(specific records) - Western District of Michigan
- 15) Four additional letters they "can't find"?
 - a. Exhibit D-2 involving Fotieo & expert Babcock
 - b. Exhibit D-17 (May 16, 2013 e-mail to attorney Samouris)
 - c. C/D of legal material from attorney Turek exposed:
 1. Website REPLICATION results (not disclosed as such)
 2. SCREEN SHOTS from the audit report

The reason I am again asking for assistance ~~from~~^{ERom} OGIS is because the government continues to withhold needed evidence for my \$2255 motion.

On August 31, 2011, there is a redacted sentence after "Same violator, different file". The government ONLY showed REPLICATED images in court, only showed REPLICATED images to my lawyers, only showed REPLICATED illegal images to my computer experts telling them they were "captured" as viewed by my computer's monitor, a lie. Because this "different file" was withheld, because the actual screenshots were withheld (one and the same?), I couldn't, my lawyers couldn't and my computer experts couldn't expose the false evidence and false testimony.

The denied FOIA requests (all exchanged e-mails) includes D-17, the May 16, 2013 e-mail that states, "... you previously inspected the website replication results SA Babcock preserved on August 16, 2011." My point is simply this, my defense team was ONLY shown replicated illegal images and were never shown "actual" screenshots from the paid monitor.

16) The last four "specific" support documents

a. Exhibit D-8, a Jan 13, 2012 e-mail to Fotieo re: search terms. The C/D of my legal file (sent by trial attorney Sharon Turek) shows these search terms except that inmates are not allowed to "print" them to use as evidence or an exhibit on appeal. The trial transcript confirms that only one (1) illegal thumbnail image was 100% sure of being viewed (based on circumstantial evidence only) and it just so happens that one (1) search term was not on expert Babcock's list of known child porn search terms, more reasonable doubt as to the knowingly element of the charged crime.

b. Exhibit D-3, a copy of the Dec 22, 2011 letter (or e-mail?) from AUSA Mekaru sent "to" attorney Fotieo about "other" reports. Because every letter and e-mail exchanged with Fotieo continues to be denied, there is no way to find out if attorney Fotieo requested these "other" reports from the paid monitor. Note: Zero of the 7 illegal images shown to the court were captured as viewed by my monitor.

c. A copy of the ICE FOIA response (page 104 of 217) showing an importance level of HIGH. What is being redacted? Will an evidentiary hearing likely expose that the government knew zero of the "charged" illegal images were captured by the paid monitor and failed to disclose this highly exculpatory evidence? If they had the screen captures for 15 months and never once compared them to the images printed on USPO Agent Wallock's work computer (after clicking "live" links) that proves a RECKLESS DISREGARD for the truth.

d. I sent a copy of ICE FOIA response (page 122 of 217) that proves the "different file" was not the hard drive from my work computer. The denied FOIA requests are needed for my "pending" §2255 motion. Either it was ineffective assistance by my lawyers (failed to ask for the "actual" screen captures from my paid monitor) or they did ask and the government withheld "actual" screen captures choosing to show REPLICATED illegal images claiming them to be captures.

Exhibit #7 includes 7-A through 7-F, most important facts include 7-D and 7-E, the very detailed 13 items noted as a REPLACEMENT FOIA request because the government wrote that 2018-003379 was "improper". The OGIS office has a copy Cc: of page 7-A, the 5/11/18 letter to EOUSA located at 175 N Street (5th Floor, FOIA suite). Please review the enclosed page 7-F (front and back sided copies) and address the following: "On May 4, 2018, Kevin Krebs [] sent me a letter with subject of "Improper FOIA request." [quoting] "The signature of the requester or subject of the request should be notarized by someone OTHER than the requester or his/her representative."

Exhibit #8 is a June 11, 2018 letter to the EOUSA on 600 E Street (Washington DC) that includes in capital letters,

THE PINK ELEPHANT IN THE ROOM

The last paragraph states, "Not only is the EOUSA denying me FOIA requests needed to win my appeal, an "officer of the court" is now lying.

On August 4, 2017 I wrote a letter to Matthew Hurd (Office of Information Policy) regarding Appeal No. DOJ-AP-2017-005004 (also assigned DOJ-AP-2017-005475?). Item #2 asked, "Why am I being denied a copy of my four (4) plea offers from the U.S. Attorneys Office, Western District of Michigan regarding Case No. 1:11-cr-00260-1?"

Item 5 stated, "Is it the position of the United States Attorneys Office that any e-mail from a defendant's lawyer or any e-mail "to" a defendant's lawyer are exempt from disclosure in any FOIA request?" IS this part of the 150 pages being withheld in full?

On 9/5/18, I wrote the Office of Information Policy a letter regarding DOJ-2018-004253, the first paragraph states, "I received your 8/16/18 letter [] stating your office is remanding my request back to the EOUSA for further review and processing of records responsive to my request."

Enclosed as Exhibit #9 is a letter dated 10/16/18 sent "to" the EOUSA on 175 N Street (5th Floor) in Washington DC that states in #2) "Exhibit "E" from attorney Samouris confirming a five year plea offer for obscenity was both made and accepted, both are FOIA denials."

Item #3 explains Exhibit 40 (part of a 45 item affidavit) that shares there are, in fact, two different e-mails dated Nov 20, 2012, a close review at an evidentiary hearing will expose seven DIFFERENCES that will prove very interesting. When the EOUSA is court ordered to send me (or send the media) a copy of the Nov 20, 2012 e-mail, which version will they send? Who altered the e-mail sent by attorney Samouris to the Attorney Grievance Commission?

The OGIS office asked me to contact them if I had questions or concerns, thus this long letter. On October 14, 2018, I sent an eleven (11) page letter to the EOUSA at 950 Pennsylvania Ave because my complaint to the U.S. Attorney General's Office stated "Please direct any further correspondence regarding this matter..." to that office. This detailed 11 page letter shares, "MY FILE WITH THE EOUSA INCLUDES THE FOLLOWING: ..." and then goes on to a detailed synopsis of my failure to obtain the needed FOIA requests. Page 10 of this explanation includes (quote) "This letter from Kevin Krebs, Assistant Director, stated the following, 'Once you have corrected the above deficiencies, please submit a new request for the documents. When we have received your new, corrected request, we will open a new file for you. Please send your new, corrected request to the address above.'" Maybe this is the 150 pages "found" that are being withheld in full?

Could the OGIS staff find out "exactly" what request was being responded to regarding the 150 pages being withheld in full? Again, I did appeal, but sometimes the government's reply takes years!

To make the job of the OGIS staff easier, on October 19, 2019 I did send a detailed FOIA request to the Office of Information Policy (1425 New York Ave) asking for all letters "from" me (I have written them often) plus I asked them (Item #3) for any tracking numbers assigned to any FOIA requests that I made. I asked them for any FOIA Appeals reviewed by their office and for any and all letters sent to or received by the Executive Office for U.S. Attorneys, - DOJ-2020-000660 (EXHIBIT 19)

I will quote Item #7 as incoming mail policy here at FCI-Sandstone changed, did I get all my responses? (quote) "I need a copy of all letters sent "to" Jack Groenendal from the Office of Policy Information regarding any and all FOIA requests and appeals from 8/1/16 thru 10/19/19..."

Enclosed as Exhibit #10 is a letter "from" the Office of Information Policy (undated?) regarding Appeal No. DOJ-AP-2019-002822 (request No. 2019-001408 regarding the failure of the EOUSA to respond to my FOIA requests. This letter (see enclosed) stated they forwarded my letter to EOUSA and suggested I call their service at 202-252-6020 for further updates regarding the status of my requests.

Inmates cannot call government offices direct from inside a federal prison. Can someone from OGIS call for an update on all my pending FOIA requests and appeals?

Exhibit #11 is a letter dated July 30, 2019 to the EOUSA office located at 950 Pennsylvania Ave (Washington DC) regarding EOUSA-2018-001242. The 2nd paragraph asked the following question, "If it is your common practice to wait 18 months to respond to a FOIA request and then state it is a FINAL ACTION only to inform me that my request [for records in Michigan] could not be found in the Western District of Virginia, this practice should be exposed and stopped." It explains I am still missing my plea offers plus my e-mail acceptance of the government's offer. Can the OGIS Staff help me?

Enclosed as Exhibit 12 is a 8/28/19^k letter to the EOUSA that mentions the 8 page letter dated 8/25/19 and the 16 exhibits previously explained. The bottom paragraph states, "Maybe they'll have better luck in obtaining FOIA requests and "public record" transcripts."

Enclosed as Exhibit #13 is a September 9, 2019 letter to EOUSA on 600 E Street (Washington DC) regarding UNRESOLVED ISSUES. Please read carefully.

1) Redacted ICE FOIA response (page 105 of 217) mentions a "different file. The 7 illegal images shown to the court to obtain a search warrant, shown the grand jury to obtain my indictment and shown to the U.S. Magistrate to deny my bond were printed on USPO Agent Wallock's work computer. Both co-investigators stated under oath that they were captured by my paid computer monitor. This "lie" couldn't be exposed because the "different file" (actual screenshots from monitor?) were withheld.

2) Mentions a denied e-mail dated Nov 18, 2012 from AUSA Mekaru "to" attorney Samouris admitting they have zero illegal images captured from my paid monitor (15 months AFTER my arrest) and then sent an e-mail with a reduced plea offer of obscenity on Nov 19, 2012. Attorney Samouris e-mailed an acceptance of the government's offer. These continue to be denied as FOIA requests and no one seems to care. Incurable prejudice resulted, as I was sentenced to 15 years, triple the offered and ACCEPTED maximum.

On page two of Exhibit #13, it shares an even more egregious concern of a denied FOIA request. Maybe "some" of the 150 pages being **WITHHELD IN FULL** are e-mails exchanged between the EOUSA and Department of Homeland Security (ICE/HSI)?

3) Mentions the redacted ICE FOIA response (page 55 of 217) that clearly mentions a **SEPARATE E-MAIL** (to be sent later that same day or for sure tomorrow), This missing e-mail is the key to winning my appeal (why it continues to be denied?) I spent \$7,500 to hire two experts. The redacted e-mail clearly mentions they were asking **SPECIFIC QUESTIONS** that they (and attorney Samouris) need answers to. Can OGIS help?

- A. WHAT SEPARATE E-MAIL? WAS ONE SENT?
- B. WHAT "SPECIFIC QUESTIONS" BY MY HIRED EXPERTS?
- C. IF ASKED, WHERE ARE THE E-MAIL ANSWERS?

The above is like a "fork" move in chess. The government cannot have it both ways (why they continue to deny my FOIA requests!) If my "hired" attorney (Samouris) never sent my "specific questions" from my hired experts to the government, that is clearly ineffective assistance. If, on the other hand, the FOIA request confirms a "**SEPARATE E-MAIL**," was sent, the withholding of the answers caused incurable prejudice!

NOTE: At my November of 2012 evidence hearing, the government expert (Blair Babcock, ICE/HSI) told me, my lawyer, and my hired expert that the actual screen captures were in the office of AUSA Daniel Mekaru. If he failed to compare them to the 7 illegal thumbnail images printed on U.S. Probation Officer Wallock's work computer with the ACTUAL screen captures from my paid monitor, he was in reckless disregard of the truth. Worse yet, if the government did compare them and knew all along that zero of the 7 "charged" images were captured, they knowingly withheld favorable evidence that was both exculpable and impeaching. Both co-investigators took an OATH to tell the whole truth yet lied.

Exhibit #14 is a letter dated 10/17/19 sent to the EOUSA on 950 Pennsylvania Ave (Washington DC) stating in the last paragraph, "If favorable AND REQUESTED evidence was disclosed, likely acquittal of my "charged" crime." I can't seem to obtain any help from the courts.

Exhibit #15 re EOUSA-2018-000633 letter to the FOIA Public Liaison (EOUSA on 175 N Street, Washington DC) brings "some" of my FOIA concerns to the attention of the FOIA Public Liaison. I did appeal the government's response, the Dec 20, 2019 letter stated, "We have reviewed APPROXIMATELY 150 pages of material..." Can OGIS find out why they only give an "approximate" number? The "**NARROWED REQUEST**" contains zero e-mails exchanged with attorney Fotieo? Many e-mails exchanged with attorney Samouris are still missing. Are all four plea offers (an my acceptance of them) correctly withheld in full?

Can OGIS help me in obtaining a Vaughn Index? Can you send me the EOUSA policy on complying to a Vaughn Index request? I am trying to avoid a long and costly civil lawsuit in U.S. District Court.

Can OGIS determine for me **EXACTLY** what items are included in the 150 pages being withheld in full? Maybe I still have "other" pending FOIA requests (correspondence with attorney Fotieo, correspondence with attorney Samouris, correspondence with Blair Babcock (ICE/HSI), and all the plea offers and my Nov 19, 2012 e-mail acceptance of the 60 month offer?

Case 1:20-cv-01030-JNA Document 1-1 Filed 04/16/20 Page 20 of 105
Because the prison's copy is down, I do not have a tracking number for you and do not have their response.

Enclosed as Exhibit 16 is a denied FOIA request that was quoted at my January 27, 2014 sentencing hearing and this denied FOIA request has been altered! Please review the stand alone Exhibit 16 closely then compare it to Exhibit #17 and see for yourself all the changes.

Exhibit 18 is a Hocus-Focus example as I sent my "originals" out and I am waiting for a clearer copy for my civil lawsuit if your efforts fail.

When court ordered, which version of the Nov 20, 2012 e-mail will EOUSA send me, the original that shows Tue, Nov 20, 2012 09:49 PM or the altered version that shows Tuesday, November 20, 2012 4:49:22 PM?

Talk about the "pink" elephant in the room. Even though the inmate copier was almost out of toner, anyone can clearly tell that the "forwarded" e-mail withdrawing the offered AND ACCEPTED maximum of 60 month plea was altered! The unanswered question (maybe OGIS can help?) is who altered that time?

I sent a copy of the original e-mail to a family member who sent it to me here in prison. The EOUSA continues to deny me their offer, my lawyer's acceptance e-mail plus are denying me their rejection e-mail. Exhibit #16 clearly shows 09:49 PM yet the "forwarded" e-mail from attorney Samouris to my two hired experts shows a time of 4:49:22 plus six additional alterations.

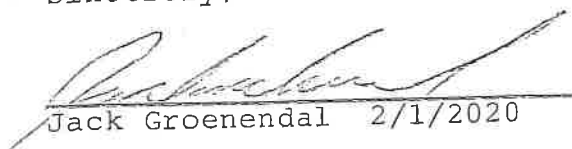
I filed a complaint against my hired lawyer (Peter Samouris) because he also refuses to send me a copy of the government's e-mail plea offer and refuses to send me a copy of his e-mail ACCEPTING that offer! Obviously either attorney Samouris of the U.S. Attorneys Office altered the Nov 20, 2012 e-mail. Are both guilty of obstruction of justice and fraud upon the court? What will the U.S. District Court (Washington DC) rule?

I am hoping that the Attorney Grievance Commission adds Exhibit #18 to its investigation (Hocus-Focus) I asked them (and the media) to help me get a copy of my denied FOIA requests. The reason for this long letter to OGIS is to share exactly what I have tried to do these past five years, they finally admit they "found" 150 pages but now withhold them in full? How can they justify withholding plea offers? How can they justify withholding what questions my hired experts asked? How can they withhold the answers to my hired expert's questions?

Thanks in advance for any assistance.

Cc: U.S. Attorneys Office, Western District of Michigan
Cc: U.S. Attorneys Office, Washington DC
Cc: Attorney Grievance Commission (State Bar of Michigan)
Cc: Reporter John Agar (Mlive Media Group, Grand Rapids Press)

Sincerely,


Jack Groenendal 2/1/2020

Jack Groenendal
#13243-040 Unit B
FCI-Sandstone
P.O. Box 1000
Sandstone MN 55072

EXHIBIT *Sal*

(b)(6), (b)(7)(C), (b)

EXHIBIT #11

From: (b)(6); (b)(7)(C)
Sent: Tuesday, August 21, 2012 5:24 PM
To: (b)(6), (b)(7)(C), (b)(7)(E)
Subject: Fw: USA vs Jack A. Groenendal / Expert (b)(6), (b) CV Attached
Attachments: GROENENDAL (b)(6) v.doc

(b)(6), ()
(b)(5)

Sent using BlackBerry

From: (b)(6), (b)(7)(C), (b)(7)(E)
Sent: Monday, August 20, 2012 05:40 PM
To: (b)(6), (b)(7)(C), (b)(7)(E)
Subject: FW: USA vs Jack A. Groenendal / Expert (b)(6), (b) CV Attached

FYI -

From: (b)(6), (b)(7)(C), (b)(7)(E)
Sent: Monday, August 20, 2012 3:57 PM
To: (b)(6), (b)(7)(C), (b)(7)(E)
Cc: psamouris; jdgedxfed@gmail.com
Subject: USA vs Jack A. Groenendal / Expert (b)(6), (b) CV Attached

J-D's EMAIL

MISSING DATA

Dear Mr. (b)(6), (b)(7)(C), (b)(7)(E)

Please be advised that Mr. Groenendal has, through our firm, retained the services of two experts: (1) (b)(6) (b)(6), (b)(7)(C), (b)(7)(E) work together, so I am listing both as experts, since I anticipate that both will be involved. Attached is Mr. (b)(6), resume or curriculum vitae. In a separate e-mail, I will be posing some specific questions that both of these gentlemen and, by extension, I, need answers to. I have to tend to something else at this very moment, but I will send you another e-mail later today or tomorrow at the latest.

MISSING E-MAIL

MISSING QUESTIONS

MISSING

Also, per earlier discussions, I will be e-mailing you all of the reports I have received from Mr. (b)(6), (b)(7)(C). Today, I spent too much time in court, but tomorrow I have a great office day in which to get things done and communicate with opposing counsel as needed. Talk to you soon.

→

(b)(6), (b)(7)(C), (b)(7)(E)
120 N. Washington Square (b)(6), (b)(7)(C)
Lansing, MI 48933
(b)(6), (b)(7)(C), (b)(7)(E)
(517) 347- (b)(6) (Office)
(517) 482-9006 (Facsimile)
(517) 336-7371 (Home Facsimile)
(517) 410- (b)(6) (Mobile)

GOVERNMENT'S REPLY ALSO MISSING

Department of Homeland Security
ICE Privacy Office
500 12th St SW
Washington DC 20536

2/25/2020

EXHIBIT #12

Re: Jack Groenendal, Case No. 1:11-cr-260

To Whom It May Concern:

Because my previous two letters were ignored, I am writing one last time and including the same two exhibits that are now in front of the U.S. Court of Appeals (mandamus request) and soon to be exposed in an expected evidentiary hearing. Please share this letter and enclosed exhibits with your immediate supervisor as the media is now involved.

I am also including a copy of this letter to the office listed on 2801 Nebraska Ave NW (MS 0655) hoping it will be assigned to an FOIA Program Specialist.

The enclosed shares what questions remain unanswered. If the "different file" mentioned in FOIA response 105 of 217 would have been disclosed, no need to hire a different computer expert, no need to hire a different lawyer, and no need to waive my right to a speedy trial. Both Special Agent Blair Babcock (ICE/HSI) and co-investigator Rhonda Wallock (U.S. Probation Office) would have been impeached. Instead of "dropping" my charged crime of attempting to possess illegal porn, likely acquittal as zero of the illegal images were captured as viewed.


ICE FOIA response 55 of 217 mentions "specific questions" by my two replacement computer experts and a "separate e-mail" to be sent by replacement attorney Peter Samouris "later today of for sure tomorrow." **WHAT QUESTIONS? WHAT ANSWERS? WHAT SEPARATE E-MAIL?**

Note: Agent Wallock and Special Agent Babcock told the court, told my lawyers, told multiple investigators that the 7 illegal images were captured as viewed, a lie. The government withheld the "different file" and withheld the "actual" screenshots. If my defense team never asked to compare the screenshots with the charged illegal images, that is clearly ineffective assistance. If they did ask and the government withheld exculpatory and impeachment evidence (requested evidence and Rule 16 evidence) my rights were violated. Was any investigation held?

Please add this letter and the enclosed to my file. I prefer to settle quietly "out" of court. If not, expect media involvement.

Cc: Reporter John Agar, Mlive Media Group, The Grand Rapids Press

Sincerely,


Jack Groenendal 2/25/2020

Jack Groenendal #13243-040
FCI-Sandstone
P.O. Box 1000 Unit B
Sandstone MN 55072

From: Peter Samouris <psamouris@comcast.net> (EXHIBIT 13) (EXHIBIT 13)
Sent: Monday, June 10, 2013 7:26 AM
To: Lewis, Sean M. (USAMIW) [REDACTED]@usa.doj.gov (B)(6)
Cc: Hessmiller, Tessa K. (USAMIW) [REDACTED]@usa.doj.gov; Mekar, Daniel Y. (USAMIW) [REDACTED]@usa.doj.gov (B)(7)(c)
Subject: Screen Shot Controversy
Attach: GROENENDAL,JAG'Resp P's11-18-12Ltr.pdf EXHIBIT 13-F

Hi Sean,

* 2014 FOIA RESPONSE
JUST RECEIVED IN 2019

Following up on our discussion from last Friday, the only documents that I am still questioning whether or not I have, are the images referenced in the indictment and in all of your trial briefs. Do I have the actual, captured screen shots of those 7 images? Are those in fact actual screen shots?

↳ HOW COULD HE NOT KNOW THIS?

Before I continue, please note that I am copying Dan Mekar on this e-mail. In short, I am still confused about actual, captured screen shots on Jack's computer, vs replicated searches. In the previously discussed November 18th letter, Dan explains that the screen-shot discrepancy will be explained in the superceding trial brief (ECF 57), but said trial brief has the exact same language.

↳ * ONE DAY BEFORE TRIAL?

In other words, according to Dan's November 18th letter, what we were shown at our meeting on November 9, 2012, were not captured screen shots, but were the result of a replicated search. Also, even Agent Babcock's testimony would indicate a replicated search was conducted to determine what pornography was on Jack's computer (please see Grand Jury transcript dated September 8, 2011, of Agent Blair's testimony at pages 8 & 9). For your convenience, I am attaching the November 18, 2012 letter (it has Jack's notes - my only copy that I can locate, sorry).

All of this has caused me whether Mr. Mekar should be listed as one of my witnesses, in the event Ms. Hogaboom, Agent Blair or Officer Wallock testify differently than what is stated in said November 18th letter. Talk to you later. Thanks.

Peter C. Samouris, Esq.
Samouris Law Firm / Grabel & Associates
PNC Bank Building
120 N. Washington Square, Suite 805
Lansing, MI 48933
WEB: www.samourislaw.com
E-Mail: psamouris@comcast.net
(517) 347-7047 (office)
(517) 482-9006 (office facsimile)
(517) 336-7371 (home facsimile)
(517) 410-4966 (mobile)

From: "Sean M. Lewis (USAMIW)" [REDACTED]@usdoj.gov (B)(6)
To: "psamouris@comcast.net" <psamouris@comcast.net>, "Tessa K. Hessmiller (USAMIW)" [REDACTED]@usdoj.gov (B)(7)(c)
Sent: Sunday, June 9, 2013 10:08:15 AM (B)(7)(c)
Subject: Re: Documents - Hogaboom

Pete,

We have since explained the judge's order to her, and we do not anticipate there will be any issues.



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

EXHIBIT # 14

Telephone: (202) 514-3642

2-28-20

Jack Alan Groenendal
Register No. 13243-040
Federal Correctional Institution
Post Office Box 1000
Sandstone, MN 55072

Re: Appeal No. DOJ-AP-2019-006140
Request No. EOUSA-2018-002003
CDT:RCS

VIA: U.S. Mail

Dear Jack Groenendal:

You appealed from the action of the Executive Office for United States Attorneys (EOUSA) on your Freedom of Information Act request for access to specific records concerning your criminal case.¹ I note that your appeal concerns the withholdings made by EOUSA, as well as the adequacy of EOUSA's search for responsive records. In addition, I note that you are also appealing EOUSA's response informing you that certain responsive records had already been provided to you in prior FOIA requests.

After carefully considering your appeal, I am affirming, on partly modified grounds, EOUSA's action on your request. In order to provide you with the greatest possible access to responsive records, your request was reviewed under both the Privacy Act of 1974 and the FOIA. I have determined that the records responsive to your request are exempt from the access provision of the Privacy Act. See 5 U.S.C. § 552a(j)(2); see also 28 C.F.R. § 16.81 (2019). For this reason, I have reviewed your appeal under the FOIA.

The FOIA provides for disclosure of many agency records. At the same time, Congress included in the FOIA nine exemptions from disclosure that provide protection for important interests such as personal privacy, privileged communications, and certain law enforcement activities. EOUSA properly withheld this information in full because it is protected from disclosure under the FOIA pursuant to:

5 U.S.C. § 552(b)(6), which concerns material the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties;


¹ I note that your request was originally submitted to the Federal Bureau of Investigation. The FBI routed your request to EOUSA given your reference to your federal prosecution.

- 2 -

5 U.S.C. § 552(b)(7)(C), which concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to constitute an unwarranted invasion of the personal privacy of third parties; and

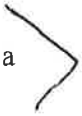
5 U.S.C. § 552(b)(7)(F), which concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to endanger the life or personal safety of an individual.

Please be advised that for each of these exemptions, it is reasonably foreseeable that disclosure of the information withheld would harm the interests protected by these exemptions.

As to your appeal concerning the adequacy of EOUSA's search for responsive records subject to the FOIA, I have determined that EOUSA's response was correct and that it conducted an adequate, reasonable search for such records. 

Finally, as to your appeal concerning EOUSA informing you that it had already processed faxes, emails, or letters from 2011-2013 in Request Nos. 2014-4282 and 2016-0286 by letters dated April 3, 2019, and September 15, 2017, respectively. I have determined that EOUSA's response was proper. If you would like another copy of these records, you may submit a FOIA request directly to EOUSA seeking an additional copy of these previously provided records.

Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request, and the action of EOUSA in response to your request.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B). 

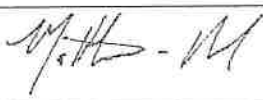
For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. If you have any questions regarding the

- 3 -

action this Office has taken on your appeal, you may contact this Office's FOIA Public Liaison for your appeal. Specifically, you may speak with the undersigned agency official by calling (202) 514-3642.

Sincerely,

2/28/2020

X 

Matthew W. Hurd
Acting Chief, Administrative Appeals Staff
Signed by: MATTHEW HURD

EXHIBIT # 18
5-11-18

Kevin Krebs, Assistant Director
FOUSA, U.S. Department of Justice
175 N Street NE
5th Floor, FOIA Suite
Washington, DC 20530
Phone 202-252-6020

5/11/18

FOIA Request No. 2018-003379
(missing signed Certification of Identity)

7-A

Dear Mr. Krebs:

I received your May 4, 2018 letter on Friday, May 11, 2018 with the following tasks "prior" to process my request. (deficiency?)

1) I must provide a notarized example of my signature. I signed the enclosed form you sent. If I overlooked sending one, my bad.

2) the files and records of the United States Attorneys are maintained in over 100 separate offices... Please identify the specific U.S. Attorney's Office(s) where you believe records may be located. Please note it was the U.S. Attorney's Office, Western District of Michigan. Enclosed are some "specific" examples with contact information. NOTE: My previous requests resulted in zero letters, zero faxes, zero emails to or from my lawyers and the U.S. Attorney's office including the four (4) plea offers and my November 19, 2012 acceptance of the 60 month MAXIMUM plea offer of "Obscurity". If given the maximum sentence, my "out" date per the Bureau of Prisons would have been December 30, 2015. (more than two years ago and counting)

PLEASE EXPEDITE THIS REQUEST

4) Your letter stated "the signature of the requestor [] should be authorized by someone other than the requestor or his representative." Is this a new policy? Enclosed are multiple Certification of Identity forms that are not notarized yet various government agencies responded. The staff here at FBI-Sandstone no longer notarizes FOIA requests. If this is a new policy, please send the guidelines so the DOP can notarize the hundreds upon hundreds of future FOIA requests of inmates.

5) Request must describe the records sought in sufficient detail to locate records with a reasonable amount of effort. (Dates, locations, names, nature of records. Your letter stated to "Please send your new, corrected request to the address above." (see enclosed)

Cc: FOIA Public Liaison
Cc: Office of Governmental Services (OGIS)
Cc: Director, Office of Information Policy (Appeal)
Cc: Judge Maloney, U.S. District Court (Kalamazoo MI)
Cc: Reporter John Agar, the Grand Rapids Press (if needed)

Sincerely,
Jack Groenendal #13243-040
FBI-Sandstone
P.O. Box 1000 Unit B
Sandstone MN 55072

P.S. Enclosed are miniatures. I will include full size exhibits of denied FOIA requests with my lawsuit in U.S. District Court. If denied access to the courts, I will share full sized exhibits with the media. (Just some examples of location of records and "sufficient detail")
J.A.G.

REVISIONS
EXHIBIT 7

Re: FOIA Request Number 2018-003379
FREEDOM OF INFORMATION ACT REQUEST

Attn: Kevin Krebs

DATE: May 11, 2018

To: U.S. Attorney's Office
Western District of Michigan
175 N Street NE
5th Floor, FOIA Suite
Washington DC 20530

RE: FOIA Request per 5 U.S.C. 552a

Dear FOIA Officer:

This is a specific request under the Freedom of Information Act, 5 U.S.C. 552a et seq, I hereby request any and all records, documents, photographs, audio or video recordings or any other type of information that your agency has in its possession that is in any way connected to or related to, or even remotely in reference to the following:
See attached sheet - Previous requests denied or redacted.

NOTE: Replacement FOIA request, 2018-003379 was "Amropex"
In the event that you believe that some or all of the requested information is exempt from release, kindly advise me which exemptions you are relying on. Also please provide a Vaughn Index for all items withheld, as well as detailed justification for any exemptions claimed, either specifically or implied.
As required by law, I anticipate a reply within ten (10) working days.
If there is a cost for the copying of this information, kindly contact me for authorization.

Respectfully,

Signature: 

Jack Groenendal

Grand Rapids Michigan, 12/01/1059
Place of Birth & Birthdate
386-70-1243

Printed Name

Social Security Number

DECLARATION

I, Jack Groenendal hereby declare that the foregoing is true and correct according to the best of my information, knowledge, and belief.

Dated this 11th day of May 20 18.

Signature: Jack Groenendal
Printed Name

EXHIBIT # 15

15-A

Department of Justice

Certification of Identity

FORM JPN050 OAS NO. 100-016 EX-100 02/01/03



7-C

Privacy Act Statement: In accordance with 28 CFR, Section 16.41(a) personal data submitted to identify the individuals submitting requests by mail under the Privacy Act of 1974, 5 U.S.C. Section 552a, is required. The program of this certification is to ensure that the records of individuals who are the subject of U.S. Department of Justice systems of records are not wrongfully disclosed by the Department. Requests will not be processed if this information is not furnished. False information on this form may subject the requester to criminal penalties under 18 U.S.C. Section 1001 under 5 U.S.C. Section 552a(f)(3).

Public reporting burden for this collection of information is estimated to average 0.50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments on this burden estimate and any aspect of this collection of information, including instructions, data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, to Washington Headquarters Service, Paperwork Project (033-0010), Washington, DC 20503.

Full Name of Requester: Jack Alan Groenendal c/o FCI-Sandstone (see below)

Citizenship Status: USA Social Security Number: 386-70-1243

Jack Groenendal Inmate # 13243-040 C/O

Current Address: FCI-Sandstone P.O. Box 1000 Unit B Sandstone MN 55072

Date of Birth: 12/01/1959 Place of Birth: Grand Rapids Michigan

OPTIONAL: Authorization to Release Information to Another Person

This form is also to be completed by a requester who is authorizing information relating to himself or herself to be released to another person. Further, pursuant to 5 U.S.C. Section 552a(b), I authorize the U.S. Department of Justice to release any and all information relating to me to:

Print or Type Name

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above, and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. 552a(f)(3) by a fine of not more than \$5,000.

Signature: [Handwritten Signature] Date: May 11, 2018

Name of Individual who is the subject of the record(s) sought

Individual submitting a request under the Privacy Act of 1974 must be either "a citizen of the United States or an alien lawfully admitted for permanent residence," pursuant to 5 U.S.C. Section 552a(b)(2). Requesters will be processed as Freedom of Information Act requests pursuant to 5 U.S.C. Section 552, rather than Privacy Act requests, for individuals who are not United States citizens or aliens lawfully admitted for permanent residence.

Providing your social security number is voluntary. You are asked to provide your social security number only to facilitate the identification of records relating to you. Without your social security number, the Department may be unable to locate any or all records pertaining to you.

FOIA0000561

Per 2018-003379 (5/4/18 letter) new corrected FOIA request

7-D

15-B

1) Any and all correspondence sent "to" AUSA Mekaru and sent "by" AUSA Mekaru mentioning Jack Groenendal and/or Case Nos. 1:11-cr-260 and 1:07-cr-93 from August of 2011 till present specifically including:

- 1) Attorney Deno Fortleo
 - 2) Adam Kelly (court provided forensic expert)
 - 3) Attorney Peter Samouris (hired March 5, 2012)
 - 4) Investigator Gary Wake (computer forensic expert)
 - 5) Investigator J.D. Gifford (computer forensic expert)
 - 6) CO-Investigator USPO Agent Rhonda Mallock
 - 7) CO-Investigator ICE Special Agent Blair Babcock
 - 8) Government witness Judy Hoganson (owner computer monitoring)
 - 9) Government witness David Bergnulis (court mandated therapist)
 - 10) Leah Groenendal, ex-wife (was ready to testify June 11, 2013)
 - 11) Jack Groenendal - defendant
 - 12) Any outside vendors doing any exam or evaluation specifically.... (the redacted ICE FOIA response dated August 31, 2011 of "SAME VIOLATOR [Jack Groenendal] - DIFFERENT FILE. (actual screenshots?)
- 2) Any and all correspondence sent "to" AUSA Lewis (also Western District of Michigan U.S. Attorney's office) and sent "by" AUSA Lewis to all 12 items mentioned above.
- 3) Any and all correspondence sent "to" AUSA Heesmiller (Western Michigan Office) and sent "by" AUSA Heesmiller to (or from) all 12 items mentioned under item #1.

4) Any and all discovery requests by my three lawyers, Deno Fortleo, Peter Samouris, and Sharon Thurek. Specifically, did any of my three lawyers ask to see the actual screen captures from my court mandated computer monitor? (saves images viewed on the computer screen) Any "other" requests that would have included items from my confiscated computer?

5) Any and all replies to my three lawyers discovery request. (OK to redact nudity but I need to "see" which images were "enlarged", which were used to deny me bond, which images were used to obtain a search warrant, "replicated" images from USPO Agent Mallock's work computer? NOTE: "Expert" Babcock told me when I asked to view the actual screen captures that they were "in" AUSA Mekaru's office. Were these ever disclosed?

6) Adam Kelly's work product. The court paid for his services and my paid lawyer hired two (2) experts. One of them was sent an electronic copy of Adam Kelly's work product. (Hostile attorney) - refuses to send me requested items from my legal file including he refuses to send me the Nov 19, 2012 email plea offer sent by AUSA Mekaru (MAXIMUM of 6C months for this reduced charge of Obscenity) and he refuses to send me the Nov 19, 2012 email sent by Peter Samouris "to" AUSA Mekaru "accepting" that offer. (Also denied FOIA request)

7) Any and all discovery requests from computer forensic investigators Adam Kelly, Gary Wake, or J.D. Gifford? Did any of them ask to view the actual screen captures from my paid computer monitor? If yes, what images were sent? (OK to redact nudity) Were "replicated" images sent instead?

8) Specific examples: May 16, 2013 email "from" AUSA Lewis "to" attorney Samouris sharing that SA Babcock located, "... the website replication results and screenshots from the audit report" saying they remain available for further review. (NOTE: Zero illegal images captured by

8) (continued)

7-15

Groenendal's paid monitor - the actual screen captures were withheld.)

9) Government witnesses Judy Hogboom and Blair Babcock both ^{sent} their curriculum vitae to my lawyers, not disclosed to me. Mr. Babcock testified at my trial he didn't call Judy Hogboom because he didn't have her phone number yet he was cc'd her information? (denied FOIA?)

10) Any and all plea offers or emails, faxes, letters or notes discussing any plea offers. (see exhibits for specific examples) All previous FOIA requests for plea offers were denied. NOTE: 20 year offer, 15 year offer, 10 year offer, + 5 year offer yet zero disclosed upon my previous FOIA requests. (Court order needed?) Does the media need to get involved? If given the maximum of 60 months, Groenendal's "out" date per the Bureau of Prisons would have been Dec 30, 2015, more than two years ago! (reason for FXPEDITED request.)

11) I was denied my appeal (twice) based on errors of the evidence! The United States Court of Appeals for the 5th Circuit stated Groenendal "moused" or hovered over the seven (7) illegal images to make them appear larger so he could view them better "on" his computer screen, a lie. Zero of the seven charged illegal images were captured by the court mandated computer monitor. I need the following images: (ok to redact nudity but need to confirm if any of the 7 illegal images were enlarged)

1) All images used to obtain the arrest warrant, to obtain the search warrant, to deny Groenendal bond at the September 2011 detention hearing and all the images shown the September 8, 2011 grand jury and again shown to the July 18, 2012 grand jury.

2) Per AUSA Mekaru, only a "limited" number of actual screen captures are in my file. I need a copy of all the ACTUAL SCREEN CAPTURES sent to USPO Agent Wallock (named co-investigator by AUSA Mekaru) and given to "expert" Blair Babcock. Are any of the 7 original illegal images captured by the paid monitor? (NOTE: zero)

3) the seven illegal images shown at my October 2011 trial. (all came from my unviewed temporary internet cache file) None were captured by the court mandated computer monitor? Can only capture images actually viewed.

12) Any and all emails, letters or notes sent by the U.S. Attorneys office to co-investigators Babcock and Wallock regarding screenshots or screen captures. Was there a comparison made?

13) Any and all emails, letters, or notes sent "to" the U.S. Attorneys office "from" co-investigators Babcock and Wallock that mention the screenshots or screen captures from Groenendal's paid monitor. Was the U.S. attorneys office informed that a comparison was made? Was the U.S. Attorneys office informed zero of the screen captures matched the even (7) charged illegal images? Failure to correct known false testimony and known false evidence. (duty to learn of favorable evidence)

NOTE: If denied this FOIA request, I will appeal. If denied my appeal, I will file a lawsuit in U.S. District Court. Because the enclosed Exhibit list mentions multiple previous FOIA requests, you may want to carefully review your item #5 (describe records sought in sufficient detail) Jack Groenendal #13243-040 FCI-Sandstone

TRULINGS 13243040 - GROENENDAL, JACK ALAN - Unit: SST-B-A

MS-C

FROM: 13243040
TO: ISM/Airroom/Records
SUBJECT: "Request to Start" GROENENDAL JACK, Reg# 13243040, SST-B-A
DATE: 05/19/2018 07:23:05 AM

7-F

To: Denied FOIA request...
Inmate Work Assignment Chapel

Please respond via email so I can send your "typed" reply of the following:

On May 4, 2018, Kevin Krebs, Assistant Director, Executive Office for United States Attorneys (EOUSA) sent me letter with subject of "Improper FOIA request"

Of interest to the BOP, of interest to the records office at FCI Sandstone, was an "X" marked in item #4 telling me to correct the following deficiencies: "The signature of the requestor or subject of the request should be notarized by someone OTHER than the requestor or his/her representative."

All my "other" FOIA requests WERE processed with the U.S. Department of Justice Certification of Identity form (FORM DOJ-361) yet now my Request Number 2018-003379 requires the records office to notarize my request?

If you want to call to confirm, the phone # given in the letter from Kevin Krebs is 202-252-8020 (fax 202-252-5049)

This "may" be yet another smoke screen by the EOUSA to deny me, yet again, my FOIA request needed to win my open appeal.

Page two of Mr. Krebs letter stated: "Once you have corrected the above deficiencies, please submit a new request for the documents." (I have a pending request to file a lawsuit in U.S. District Court for the previously denied FOIA request) I need them to win on my open 2255 motion. The truth will set me free!

Thank you for a typed reply so I can include your "official" reply with my "new" request

Jack Groenendal #13243-040

1) Any and all records in regards to complaints or allegations made against AUSA Daniel Y. Mearu, Western District of Michigan Office with regards to prosecutorial misconduct before any grand jury, during any criminal trial, or investigation "PRIOR" to trial which involved the withholding and concealing of exculpatory evidence and/or the presentation of false or misleading evidence during trial.

2) Any and all records in regards to complaints or allegations made against Sean M. Lewis, Western District of Michigan Office with regards to prosecutorial misconduct before any grand jury, during any criminal trial, or investigation "PRIOR" to trial which involved the withholding and concealing of exculpatory evidence and/or the presentation of false or misleading evidence during trial.

3) Any and all electronic communications, faxes, or letters mentioning Jack Groenendal and/or case numbers 1:11-cr-260 & 1:07-cr-93 sent by or sent to three different Assistant U.S. Attorneys from the Western District of Michigan Office; 1) AUSA Daniel Y. Mearu, 2) Sean M. Lewis, and 3) AUSA Tess Hessmiller and their collective legal secretaries between August 10, 2011 through November 20, 2018. This FOIA request is for any and all e-mails, faxes, letters and notes mentioning either Groenendal or Case Nos. 1:11-cr-260 & 1:07-cr-93 sent to or received from the following individuals:

- a) Attorney Deno Fotieo, original court appointed public defender
- b) Computer investigator Adam Kelly, court appointed forensic expert
- c) Attorney Peter Samouris, paid attorney for Jack Groenendal
- d) Investigator JD Gifford, JD Gifford & Associates - paid expert
- e) Investigator Gary Wake, Associate, - paid forensic computer expert
- f) Attorney Sharon Turek, court appointed public defender
- g) Investigator Carlos Clay, Public Defender's Office investigator
- h) Co-investigator Rhonda Wallock, USPO Agent, West Michigan Office
- i) Co-investigator Blair Babcock, computer expert (DHS, ICE, HSI)
- j) Judy Hogaboom, owner/manager computer monitoring software company
- k) David Berghuis, court mandated therapist for Jack Groenendal
- l) Leah Groenendal, ex-wife of defendant, Jack Groenendal (witness)
- m) Any/all outside vendors regarding computer examination
- n) All letters sent "from" defendant Jack Groenendal

4) Any and all electronic communications, faxes, & letters mentioning Jack Groenendal and/or Case Nos. 1:11-cr-260 & 1:07-cr-93 including all items received or sent by former U.S. Attorney Patrick Miles Jr. or any of his legal secretaries at the Western District of Michigan Office including letters sent to Mr. Miles "from" Jack Groenendal from August 10, 2011 through when he resigned.

5) Any and all electronic communications, faxes & letters mentioning Jack Groenendal and/or Case Nos. 1:11-cr-260 & 1:07-cr-93 including all items sent or received by "Acting" U.S. Attorney Andrew B. Birge and his legal secretaries, Western District of Michigan Office including letters sent to Mr. Birge "from" Jack Groenendal from January 4, 2016 and Nov 20, 2018.

Case Nos. 18-00135, 18-01115, & 18-01684 - OGIS

Per OGIS, Groenendal's requests for FOIA-2014-04282 is pending review, FOIA-2015-02528 - office awaits receipt of records (three year wait?), FOIA-2016-000285 is also pending review! (two year review?) Please note that per 5 U.S.C. § 522(a)(3) FOIA requests made of the EOUSA should be "promptly available", Groenendal is STILL waiting!

Case 1:20-cv-01030-UNA Document 1-1 Filed 04/16/20 Page 31 of 105
I sent the above exhibits to the Office of Professional Responsibility, to the Admin Office for U.S. Courts, to the Department of Homeland Security, (Office of Integrity & Oversight), and to acting U.S. Attorney, Andrew Birge, (U.S. Attorneys Office, Western District of Michigan. They all have the latest exhibits and concerns. 15-E

Incredibly, The CPR's response to my detailed letter dated 8/2/18 said, "We regret we are unable to be of further assistance to you and consider the matter closed." This reply was "prior" to the 40+ page affidavit that will be used in my lawsuit in U.S. District Court for denied and redacted FOIA requests. Note: I also sent the above 40+ pages of exhibits to support my affidavit. If my file doesn't already include this detailed affidavit, you may want to read it "prior" to replying to this letter. (will send it to the media)

To make it easier for you to respond to this letter, also enclosed are two additional exhibits, Exhibit 4, page 105 of 217, the redacted email dated Aug 31, 2011 (nine days after Groenendal's arrest) and Exhibit 16, the redacted email dated Aug 21, 2012 (Page 55 of 217 of the redacted ICE FOIA request) which states, "In a separate email, I will be posing some specific questions [from both experts] that by extension, I need answers to but I will send you another e-mail later today or tomorrow at the latest." This email and the answers to the questions are being withheld!

I am giving every government agency one last chance to do the right thing and correct the miscarriage of justice that happened in my case. If upper management is not aware of my issues, now is the time to pass it "up" the ladder. If not, expect to hear from the media and expect my concerns to be addressed in U.S. District Court. Hope to hear from your office soon.

Cc: Office of Professional Responsibility
Cc: DHS, Investigations, Dept of Integrity & Oversight
Cc: Acting U.S. Attorney Andrew Birge
Cc: Reporter John Agar, M-live.com, GR Press (if needed)
Cc: Investigative Reporter, Wood-TV 8 (if needed)
Cc: Investigative Reporter, Fox-17 TV (if needed)
Cc: Investigative Reporter, Channel 3 TV K-zoo (if needed)

Sincerely,

Jack Groenendal #13243-040
FCI-Sandstone
P.O. Box 1000 Unit B
Sandstone MN 55072

Jack Groenendal 11/8/18



Re: U.S. v Jack Groenendal, Case No. 1:11-cr-260

To Whom It May Concern:

Because my "Limited Injunction" (ECF No. 164) bans me from sending any addendum, motion or letter on the above case to the U.S. District Court, this letter is needed to make your office aware of some major concerns regarding the continued denial of my FOIA requests. I need the November 19, 2012 e-mail of the "reduced" plea offer of Obscenity and need the Nov. 19, 2012 e-mail from attorney Samouris accepting the government's reduced offer of a MAXIMUM of 60 months.

What the media will find newsworthy (collusion?) is that even Peter Samouris (Groenendal's paid lawyer) is refusing to send him a copy of the Nov. 19, 2012 plea offer and the e-mail accepting that offer. He claims to have sent it to Public Defender Sharon Turek but it was not forwarded even though requested multiple times. So what?

It takes a while to update the law library computers at FCI-Sandstone. Recently added was a case decided on August 29, 2019, three years "after" being banned from sending any addendum, letter, or motion to the court. I will also ask the media to review U.S. v Keogh, 2019 U.S. Dist LEXIS 14276 (10th Cir. 2019), Case No. CR-17-290-D that discusses plea agreements as it relates to contract law. (quote) "In most cases [] neither side should be able, any more than would be private contracting parties, unilaterally to renege or seek modification simply because of uniduced mistake or change of mind." I don't have a printed copy of the government's offer and I don't have a copy of our acceptance of that offer. Why not?

The Sixth Circuit held in U.S. v Brunsman, 2016 U.S. Dist LEXIS 68573 (6th Cir. 2016) that plea agreements are contractual in nature and are to be interpreted according to "traditional principles of contract law." They quoted U.S. v Robison 924 F.2d 612, 613-14 (6th Cir. 1991) and Baker v U.S. 781 F.2d 85 (6th Cir. 1986). Also, "Plea bargaining 'is an essential component of the administration of justice. Properly administered, it is to be encouraged.'" (quoting Santobello v New York 404 U.S. 257, 260 92 S. Ct. 495 (1971) See U.S. v Brunsman id.

If I weren't "banned", I would share with the U.S. District Court another 2019 case, U.S. v Singh, 2019 U.S. Dist LEXIS 41535 (6th Cir. 2019) that states, "Plea agreements are contractual in nature, so we use traditional contract law principles in interpreting and enforcing them. (U.S. v Bowman 634 F.3d 357, 361 (6th Cir. 2011) ... the government, as the drafter of the agreement, is held to a greater degree of responsibility than the defendant ... for imprecisions or ambiguities in the plea agreement. (quoting U.S. v Harris 473 F.3d 222 (6th Cir. 2006) at 225. If any ambiguity in a plea agreement exists, the court is to construe the ambiguity against the government. See U.S. v Freeman 640 F.3d 180, 194 (6th Cir. 2011).

Please review a copy of my January 27, 2014 sentencing transcript. Judge Maloney asked me why I didn't accept the government's plea offer. I told the judge that an offer was made and that I did accept it. He asked, "Then why did we go to trial?" This issue is part of my "pending" §2255 motion. I was sentenced to 15 years, triple the offered AND ACCEPTED plea offer.

Yet another Sixth Circuit ruling "after" I was banned from writing the U.S. District Court is U.S. v Brumley, 2017 U.S. Dist LEXIS 222232 (6th Cir. 2017). If you (or the media) need to find it, the defendant is Johnny Brumley, Case No. 14-32-GFVT-CJS-1, Civil Case No. 16-157-GFVT-CJS decided August 9, 2017 that stated, "Judge Ingram then confirmed Brumley understood the plea agreement is a contract that, while binding on Defendant and the United States, is not binding on the Court."

As an inmate, I am indigent and was denied a free copy of my November 19, 2012 pretrial transcript. On Nov 18, 2012, AUSA Daniel Mekarú sent attorney Samouris an e-mail (denied FOIA request) that admitted zero illegal images were captured by my computer's paid monitor. NOTE: The monitor can only capture images actually viewed on the computer screen. Neither my attorney (ineffective assistance) nor the prosecutor (AUSA Mekarú) shared with Judge Maloney that the evidence used to arrest me, to obtain a search warrant, to indict me, and to deny me bond was, in fact, false. I was talked into accepting the government's plea by my hired lawyer expecting "time served" the 15 months held in county jail based on false evidence & false testimony.

At an expected evidentiary hearing or new trial, I will share trial testimony of the government's expert (Blair Babcock, ICE/HSI) that confirms he could only be 100% confident that my confiscated computer viewed one (1) of the seven illegal images. The media will share with their readers and viewers that this one small thumbnail image was not saved, not downloaded, not "captured" as viewed by my computer's monitor, not "enlarged" to view better, not copied, not "controlled" and was a "past trigger" search term that wasn't even on Babcock's list of a "possible" child pornography search term.

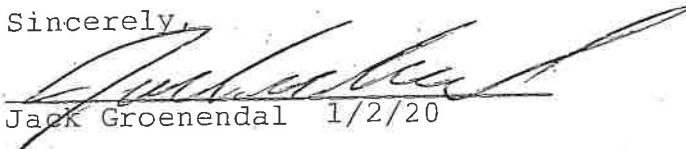
The whole reason I share the above is to state the obvious. The only number less than one is zero. If I looked at each tiny thumbnail shown on the "past trigger" (post where I could see every day), that one (1) illegal images would have been viewed for 3 or 4 seconds yet I was expecting to be sentenced to time served. One or "zero" should result in the lowest sentence range. Even if Judge Maloney felt that one image should result in the ~~MAXIMUM~~ 60 months per the government's offer that I accepted, my "out" date would have been Dec 30, 2015, less 4 months of local halfway house. I have been locked up four (4) years longer than the offered and accepted plea that continues to be withheld.

In the case of U.S. v Vargas-Martinez, 2015 U.S. Dist LEXIS 177033 (6th Cir. 2015) it states, "The Government correctly states in its response that the plea, a binding contract that applied with equal force to both parties, who are REQUIRED to honor its terms." In the case of Cuero v Cate 827 F.3d 879 (9th Cir. 2015) his "minimum" sentence of 25 years was dropped to the binding plea agreement of 14 years, 4 months when remanded by the appeals court. I was sentenced to a "mandatory minimum" 15 years for "intending" to view child porn (no attempts made) instead of the MAXIMUM sentence of 5 years on the government's offer.

I am open to settling "out" of court. Let me know.

Cc: Attorney Grievance Commission
Cc: Executive Office for U.S. Attorneys, Washington
Cc: Reporter John Agar (Mlive Media Group, GR Press)

Sincerely,


Jack Groenendal 1/2/20

Jack Groenendal #13243-040
FCI-Sandstone
P.O. Box 1000 Unit B
Sandstone MN 55072

EOUSA, Department of Justice
 FOIA/DC Room 7300 BICN
 600 E. St. NW
 Washington DC 20530

12/13/17



EXHIBIT 17

USA v Groenendal Case No 1:11-cr-260
 Tracking Number: EOUSA-2018-000633

1 of 5

Attention Kevin Krebs: (Assistant Director)

Enclosed is a signed copy where I agree to pay up to \$1,000 (or more if needed?) for copies regarding the above mentioned FOIA request. Because some of my requests stem from FOIA requests dated in 2015 and 2016 (denied request even though I sent examples of over 30 items that the EOUSA claimed they couldn't find) I am asking that you change the status of my FOIA request from "complex" to that of an EXPEDITED track.

A careful review of my multiple FOIA requests (see enclosed recap) will confirm I was "first in". I am waiting confirmation if I was denied my previous FOIA requests because the requested items were lost, were destroyed, or if it was just because there was not an adequate search. If the requests were denied for any of the five allowed reasons under 5 U.S.C. § 522, please send me a detailed Vaughn index that I can send to the U.S. District Court. (See enclosed request)

In *Houser v United States*, 2017 U.S. Dist LEXIS 150559 (D.C. Cir. 2017) it shares a recent request for an expedited FOIA request. In the case of *USA v Groenendal*, urgency is requested because they repeatedly denied FOIA requests (lack of withheld favorable evidence) caused the U.S. Court of Appeals for the Sixth Circuit to make errors of fact leading to the denial of my Rule 33 appeal. (see enclosed) The denied FOIA requests will confirm that the reasons for denying Groenendal's appeal were based on incorrect evidence that will be exposed upon receiving the FOIA requests. (Writ of Certiorari pending needed FOIA requests)

USA v Groenendal also has a § 2255 motion that has been pending for over one year that needs the items requested in the multiple FOIA requests. One reason they are being denied is because they will expose prosecutorial misconduct. The likelihood of irreparable harm exists (denied § 2255) if the multiple FOIA requests remain on the slow "complex" track. See *Washington Post v Dep't of Homeland Security* 459 F. Supp. 2d 61, 75 (D.D.C. 2006).

The case, Protect Democracy Project, Inc., v United States D.O.D. 2017 U.S. Dist LEXIS 108567 (D.C. Cir. 2017) states, "... but FOIA's expedited processing provision recognizes that some requests are urgent enough to warrant a spot towards the front of the line." 5 U.S.C. § 522(a)(6)(E)... [] requests **SHOULD BE EXPEDITED** where the requester shows a "compelling need" for the records sought. id. § 522(a)(6)(E)(i)(1) [] once expedited, requests must be process[ed] as soon as practical." § 522(a)(6)(E)(iii).

If needed, the U.S. District Court will agree a more than two year wait does not comply with 5 U.S.C. § 522(a)(3) that requires agencies to make records available promptly, id. § 522(a)(4)(D) (requiring District Courts to assign FOIA cases to be heard on the "earliest practical date") FOIA cases "take precedence on the docket over all cases." (waiting permission to file a lawsuit) Can this letter avoid court action?

Per the U.S. Supreme Court, aggrieved citizens are to be provided "a speedy remedy in district courts." See EPA v Mink 410 U.S. 93 S. Ct. 827 (1973) If no reply to this letter or my "pending" FOIA requests prior to my 90 day deadline for a Writ of Certiorari, a copy of this letter will be sent as an attachment. A court will want to know "why" my FOIA requests are repeatedly being denied. (overturned conviction?)

In Cleaver v Kelley 427 F. Supp. 80 (D.D.C. 1976) the U.S. District Court granted the motion and ordered the FOIA request expedited because "[the plaintiff] faces criminal prosecution, which in the end could mean loss of freedom..." One of the denied FOIA requests is the email from AUSA Mekaru (Western Michigan U.S. Attorneys Office) to attorney Peter Samouris on November 19, 2012, one day after admitting the evidence used to obtain an arrest warrant, the evidence used to obtain a search warrant, the evidence used in two different grand jury indictments, and the evidence used to deny Groenendal bond was false.

Also missing is the November 19, 2012 email acceptance of this government offer of a maximum sentence of 60 months for the reduced charge of obscenity. The harm? If Judge Maloney gave Groenendal the "maximum" sentence for one "possible" three second view of a small thumbnail (not clicked to enlarge, not "hovered" over to slightly enlarge) the Bureau of Prisons has confirmed Groenendal's out date would have been December of 2015 (two years ago) meaning every day they continue to withhold the plea offer and acceptance adds to the loss of freedom!

3 of 5

In *Cleaver v. Kelley* 427 F. Supp. 80 (D.D.C. 1976) "There is a reason to believe information will be produced to aid in the individual's defense." That satisfied the court that it was an exceptional and urgent need. The Department of Homeland Security sent a redacted FOIA request that mentioned, "same violator, different file". It is most likely the actual screen captures from the paid monitor required by the U.S. Probation Office.

Those actual screen captures were withheld (Rule 16 evidence) and if disclosed at Groenendal's request at his January 17, 2012 pre-trial would have resulted in both government witnesses (USPO Agent Wallock and I.C.E. Special Agent Babcock) to be impeached. Both testified that the seven illegal images shown the court, shown to ~~seven~~ ^{two} different grand juries were actual captures by a paid monitor, a lie. If disclosed, no waiver of his speedy trial right, no need to hire a different lawyer, no need to hire a different forensic investigator. NOTE: Illegal images shown to the replacement defense team who were informed they were actual screen captures from Groenendal's paid monitor, a lie!

The government must disclose Rule 16 evidence "only if it enable[s] the defendant significantly to alter the quantum of proof in his favor." *United States v Graham* 83 F.3d 1466, 1474 (D.C. Cir. 1996); *United States v Marshall* 132 F.3d 63, 67 (D.C. Cir. 1998) In yet another case, *United States v Caro* 597 F.3d 608, 621-22 (4th Cir. 2010) the denied FOIA requests will confirm that if the requested items were disclosed, they "would [] actually help [] prove his defense." *id.* at 621. The denied FOIA requests will make a prima facie showing of "materiality" to obtain who knew what and when did they know. 15 months after Groenendal's arrest the U.S. Attorneys Office admitted they have zero screen captures of illegal images. See *United States v Buckley* 586 F.2d 498, 506 (5th Cir. 1978).

Withheld favorable fact: Zero of the images captured from Groenendal's paid monitor matched the seven charged illegal images. There was a Rule 16 violation as those images were from Groenendal's computer, not reports or internal government documents by anyone associated with the prosecution of Groenendal's case. If the expedited FOIA request(s) are granted the pre-trial disclosure of the disputed evidence would have enabled the defendant to significantly alter the quantum of proof in his favor. See *United States v Jordan* 316 F.3d 1215 (11th Cir. 2003) (at 1251). What is being withheld is what "different" file from the same violator 11 days after his arrest?

The § 2255 motion is still pending, the denied Rule 33 appeal is waiting for the FOIA requests to prove zero of the seven illegal images mentioned at Groenendal's trial were captured by his paid monitor thus zero proof that any of the seven "charged" images were enlarged to view better on his screen. (see enclosed exhibits)

Yet another case to consider prior to denying a request to expedite the FOIA request (the 2015 FOIA request still remains unanswered, first in?) is the case of *Aguilera v FBI* 941 F. Supp. 144 (D.C. Cir. 1996). Here, the Court agreed that the FBI was wrong! The Court ruled that the FBI's decision to deny expedition was erroneous and ruled an exceptional and urgent need was shown by defendant.

Mr. Krebs, your December 7, 2017 letter stated that "at this time" my request has been assigned the "complex" track. Can you write me back to inform me if my request to expedite this (and all my outstanding FOIA requests) request is either granted or denied. This letter and your reply will be used (if needed) in the next step, a lawsuit in U.S. District Court.

Please alert me if the cost to process my FOIA request will amount to more than \$25.00 so I can also include any "extra" costs when I present my issues to my multiple denied FOIA requests in U.S. District Court. Loss of freedom? I spent 25 months in a county jail (denied bond based on false evidence) Agent Wallock showed illegal images to the magistrate and told him they were captured by my paid monitor, a lie. Those actual screen captures were withheld from two different lawyers and two different forensic investigators. If anyone compared the actual screen captures to the original seven charged images, none matched. MY new ICE FOIA request and my new EOUSA FOIA request asks what "different file" was evaluated in August 2011, just days after my arrest, the actual screen captures sent to co-investigator USPO Agent Wallock? Special Agent Babcock quoted those actual screen captures multiple times in his September 8, 2011 grand jury testimony so we know Agent Wallock shared them with Special Agent Babcock so most likely it was the actual screen captures being evaluated by "government specialists"

If the Government never compared the actual images with those printed after visiting "live" links on Agent Wallock's work computer, that is reckless disregard of the truth. If the examination confirmed none matched the seven charged images, both Wallock and Babcock committed perjury and if known by the U.S. Attorneys Office, prosecutorial misconduct for failing to correct

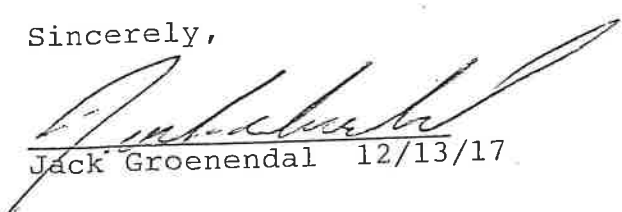
known false testimony at both the September 8, 2011 grand jury and the July 18, 2012 grand jury. What if the magistrate judge was told that none of the actual screen captures matched the seven charged images that were only found on Agent Wallock's work computer? No search warrant? No risk of flight thus most likely bond would have been offered. If disclosed, likely acquittal of the "charged" crime of attempting to possess illegal porn. Zero illegal porn was saved or downloaded and zero attempts to possess was made on the unblocked home computer. How likely? After twice telling Judge Maloney he was "ready for trial" on the charged crime of attempting to possess child pornography, AUSA Mekaru "dropped" that charge as co-investigators Wallock and Babcock were preparing for Groenendal's August 14, 2012 trial.

Sadly, the government didn't admit to zero "captures" of illegal porn until 15 months after Groenendal's arrest and the very next day offered a reduced plea of obscenity and a maximum of 60 months. If Judge Maloney was told that oops, we made a mistake, he could have sentenced Groenendal to the 15 months spent in county jail waiting for his "speedy" trial as time served for using false evidence and false testimony to deny his freedom.

I have written the "acting" U.S. Attorney (Birge) at the U.S. Attorneys Office, Western District of Michigan multiple letters offering to settle "out of court". I am waiting permission from Judge Maloney to file a lawsuit for my denied FOIA requests in U.S. District Court. Because the withheld FOIA requests will most likely enable me to win my § 2255 motion and also overturn my denied Rule 33 appeal, The EOUSA will continue to deny me my FOIA requests as long as they can? (until court ordered to do so?)

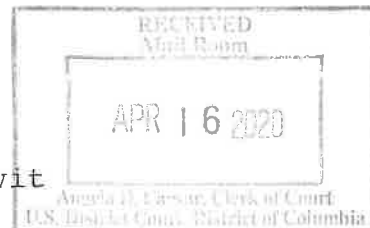
Cc: FOIA Public Liaison, Laurie Day (OIP)
Cc: OGIS - National Archives & Records
Cc: Judge Maloney, Clerk of U.S. District Court
Cc: Office of Professional Responsibility
Cc: Andrew B. Birge, U.S. Attorney (Grand Rapids)

Sincerely,


Jack Groenendal 12/13/17

Jack Groenendal #13243-040
FCI-Sandstone
P.O. Box 1000 Unit B
Sandstone MN 55072

- Exhibit 1 - August 31, 2011 email, "Same violator, different file"
- Exhibit 2 - Doc #74-3 Page ID# 410 (Bacock's perjury under oath)
- Exhibit 3 - Five page letter to Magistrate Scoville "denied transcripts"
- Exhibit 4 - November 18, 2012 email to Samouris from AUSA Mekarū
- Exhibit 5 - Jan 11, 2012 email to Fotieo "discovery matters"
- Exhibit 6 - Jan 13, 2012 email from Fotieo "questions on porn blocker"
- Exhibit 7 - Oct 11, 2012 email "to" Samouris re: "other detailed reports"
- Exhibit 8 - Oct 4, 2011 email re: Groenendal's work computer
- Exhibit 9 - Nov 8, 2012 email "to" Samouris re: Kelly's work product
- Exhibit 10 - Dec 19, 2011 email re: rejected plea offer
- Exhibit 11 Jun 29, 2012 email re: "Revised plea agreement"
- Exhibit 12 Undated "BINDING PLEA AGREEMENT" pages one and seven
- Exhibit 13 Nov 21, 2012 email "from" Samouris re: 5 year plea deal
- Exhibit 14 Jan 28, 2014 email re: Preserve Groenendal Evidence
- Exhibit 15 Partial report of Gary Wake, paid computer investigator
- Exhibit 16 Aug 21, 2012 email "from" Samouris re: "Questions from experts"
- Exhibit 17 Oct 11, 2011 (4 page) discovery request of Mr. Fotieo
- Exhibit 18 Page 166 of 217 ICE FOIA response "typed list of search terms"
- Exhibit 19 Page 173 of 217 ICE FOIA response "hand printed search terms"
- Exhibit 20 ECF No. 116 (page ID# 713) homework explaining "post" daily
- Exhibit 21 ECF No. 116 (page ID# 721) homework, "write down past triggers"
- Exhibit 22 May 16, 2013 email from prosecutor "to" Samouris re: discovery
- Exhibit 23 Jan 31, 2013 email "meritless theories or questions" - MISSING?
IN LEGAL BOX....
- Exhibit 24 Jan 4, 2013 email re: \$7,500 to cover expert witness fees
- Exhibit 25 Feb 4, 2013 email "Lost expert witness" another continuance
- Exhibit 26 Sept 1, 2016, copy of motion to seek leave for discovery



- ✕ Exhibit 27 Dec 19, 2016 3 page letter to Clerk of Court re: transcripts
- Exhibit 28 Aug 18, 2011 email re: Last homework was Chapter 4 (book 3)
- ⊖ Exhibit 29 May 31, 2018 letter from outside law firm, missing audio +
- Exhibit 30 June 29, 2012 letter "from" Samouris, duty to present plea deal
- Exhibit 31 Feb 23, 2017 FOIA _reply re: FOIA-2016-01954 (plus others)
- Exhibit 32 Typed list of FOIA requests and FOIA appeals
- Exhibit 33 Oct 29, 2015 FOIA reply (FOIA-2015-03260) Nothing found!
- Exhibit 34 Oct 8, 2015 FOIA request (three pages)
- Exhibit 35 Jan 12, 2012 email "to" Fotieo re: information he requested!
- Exhibit 36 Jan 11, 2012 email "from" AUSA Mekar (denied FOIA request)
- Exhibit 37 Sept 6, 2012 email "to" Samouris re: forensic examination +
- Exhibit 38 July 17, 2012 email re: uncertain of the law, new grand jury
- Exhibit 39 Dec 22, 2011 letter to Fotieo re: other weekly reports
- Exhibit 40 Nov 20, 2012 email "to" Samouris re: Obscenity plea offer
- Exhibit 41 Mar 8, 2016 letter "from" Attorney Turek - zero audio of trial
- Exhibit 42 May 13, 2013 (2 pages) sample of discovery from Turek's office
- Exhibit 43 Copy of reasons appeals court denied affiant's direct appeal
- Exhibit 44 Copy of reasons mentioning "screenshots" re: denied appeal

11 45 U.S. v. EYCHNER (8 PAGES)

2nd copy

EXHIBIT 1

From: (b)(6),(b)(7)(C)
Sent: Wednesday, August 31, 2011 9:12 AM
To: (b)(6),(b)(7)(C)
Subject: RE: (b)(7)(E) (GROENENDAL, Jack)

(b)(6),
(b)(7)(C)

ME

ACTUAL SCREEN CAPTURES SENT TO USPO WALLOCK?
NOT SHOWN TO ME OR MY DEFENSE - WHAT FILE? (RULE 16)

Same violator, different file. (b)(7)(E)

I ask that you please advise by the end of next week so that the import specialists have adequate time to conduct an appraisal.

↳ SEPT 8, 2011 GRAND JURY

Thank you.

BABCOCK QUOTED FROM ACTUAL SCREEN CAPTURES

(b)(6), (

* NOT DISCLOSED!

PAGE 31

YOUR HONOR, "IF" AGAIN --- EXHIBIT 2

1 Q And in terms of your review of those depictions what
2 would you characterize those depictions as being of?

3 A Well, I can be specific actually.

4 Q All right.

5 A The first one, thumbnail CA2AN9CA.jpg is the one we
6 talked about where the adult hand is pulling down the little
7 girl's underwear so you could see her vagina. That's number
8 one that's on Government Exhibit 3 that says child
9 pornography under the yellow sticky note. That's number one
10 there.

11 Q And when we have the word thumbnail what does that
12 mean?

IF

13 A Well, it means that it's a smaller representation.
14 Because keep in mind "if he had downloaded the picture then
15 it would have set another trigger. So a thumbnail is what
16 you see on the screen when you bring it up. So when you
17 bring up the screen and there are six pictures across there
18 those are each called a thumbnail.

KEY

FALSE TESTIMONY

19 Q I'm going to ask one more question before I let you
20 describe the rest of them.

NOTE - TESTIMONY

21 A Okay.

BOTH SEPT 8, 2011 AND JULY 18, 2012

22 Q All for four of those images, and any additional images
23 over and above those, did the monitoring equipment capture
24 those images?

25 A Yes.

WHY LIE? - ALIB IS ALIB OVER ->

WHY ALLOW LIE TO REMAIN UNCORRECTED?

IF KNOWN AND LEFT UNCORRECTED?

U.S. District Court
399 Federal Building
110 Michigan St NW
Grand Rapids MI 49503

EXHIBIT 3

3-A

Re: USA v Jack Groenendal
Case nos. 1:07-cr-93 & 1:11-cr-260

Dear Magistrate Scoville:

I just finished reading "A Higher Loyalty" by former FBI Director James Comey. On page 62, explaining the case made against Martha Stewart led to this paragraph. "The Stewart experience reminded me that the justice system is an honor system. We really can't always tell when people are lying or hiding documents, so when we are able to prove it, we simply must do so as a message to everyone. People must fear the consequences of lying in the justice system or the system can't work."

Our paths have crossed and my multiple requests for your contact information have been denied. I had incorrectly assumed the "justice system" would have corrected the miscarriage of justice that happened in my case by now but it hasn't. What I read on page 71 of "A Higher Loyalty" (Truth Lies and Leadership) prompted this detailed letter. (quote)

"The credibility of the Department of Justice is its bedrock. The American people must see the administration of justice as independent of politics, race, class, religion or any of the many other things that divide humans into tribes. We had to do everything we could to protect the department's reputation for fairness and impartiality, its reservoir of trust and credibility." This statement was written when he was working for the United States Attorneys Office in New York.

I am sending a copy of this letter to the Administration Office for U.S. Courts (Washington DC) because I sent them a detailed complaint asking for an investigation. United States Magistrate Judge Phillip J. Green sent me ECF No. 211 filed on July 2, 2018 the following items I sent in to the U.S. District Court, Western District of Michigan returning:

- 1) Letter to the Clerk of Court dated 11/1/17
- 2) Letter to the Clerk of Court dated 11/8/17
- 3) Letter to the Clerk of Court dated 11/20/17
- 4) Letter to the Clerk of Court dated 12/15/17
- 5) Letter to the Clerk of Court dated 12/21/17
- 6) Letter to the Clerk of Court dated 4/9/18
- 7) Letter to Judge Paul L. Maloney dated 5/7/18
- 8) Letter to Judge Paul L. Maloney dated 5/14/18
- 9) Letter to Judge Paul L. Maloney dated 6/6/18
- 10) Letter to the Clerk of Court dated 6/11/18
- 11) Letter to Court Reporter Kathleen Thomas dated 6/11/18
- 12) Letter to Judge Paul L. Maloney dated 6/19/18

IS THE JUSTICE SYSTEM AN HONOR SYSTEM? IS CREDIBILITY BEDROCK?

Because Groenendal is being denied "digitally recorded" transcripts from court appearances with U.S. Magistrate Judges Scoville & U.S. Magistrate Judge Brenneman, this detailed letter is now being sent because someone sent me a copy of your mailing address.

Oct 31, 2017 - Letter to Clerk of Court asking for transcripts

Nov 7, 2017 - Letter to Court Reporter Kathleen Thomas with a Cc: to Clerk of the Court. Please review the content contained.

- 1) Doc #94 (1:07-cr-93) dated 1/17/14 Cost = \$65.70
- 2) Doc #54 (1:11-cr-260) dated 11/19/12 Cost = \$109.50
- 3) Doc #38 (1:11-cr-260) dated 3/5/12 Cost = \$43.80
- 4) Doc #72 (1:11-cr-260) dated 5/28/13 Cost = \$109.50
- 5) Doc #97 (1:11-cr-260) dated 9/30/13 Cost = \$36.50

Because I am indigent, I didn't have the \$365.00 quoted for 100 pages. The reason I am including this exhibit is because it is proof I asked for contact ~~contact~~ information of the U.S. Magistrate Judges re: "digitally recorded" transcripts including my September of 2011 Detention Hearing where co-investigator Rhonda Wallock committed perjury which resulted in Groenendal being denied bond for 25 months. (Speedy trial?)

Nov 7, 2017 - Letter to the Clerk of the Court, Kalamazoo MI

(quote) "Ms. Thomas stated six hearings held before Magistrate Judges (Docket #'s 64, 72, 75, & 88 from 1:07-cr-93 and Docket #'s 50 & 91 from 1:11-cr-260) need to be requested from the Magistrates offices, help?" (no reply given)

** THIS LETTER/REQUEST WAS SENT BACK - NOT ADDRESSED!*

(quote) "Even though I have asked multiple times, I am being denied an opportunity to obtain the Sept of 2011 Detention Hearing transcripts where USPO Agent Wallock lied under oath." → REASON FOR DENIAL?

(quote) "Especially if I am forced to file a lawsuit in U.S. District Court, my motion for permission to do this is pending..."

(quote) "If I am granted permission to file a lawsuit to compel the U.S. Attorneys Office to send me my multiple [denied] FOIA requests... if I am denied in forma pauperis status if I can't find anyone, I can ask the media to assist?"

Nov 19, 2017 - Letter to the Clerk of the Court, Kalamazoo MI

(quote) "I cannot afford the hundreds of dollars needed for the transcripts to use in my § 2255 motion no longer on hold in the District Court."

(quote) "Please submit my request for in forma pauperis status and provide me the requested transcripts. Thank you. "

The reason for this letter is because Magistrate Green sent back all of the above including my in forma pauperis request items when he sent Groenendal ECF No. 211. All items were returned to Groenendal on July 5, 2018 without being added to the docket? Without even the common courtesy of a reply or response? Judicial integrity? Will this letter be ignored too? What is the U.S. Department of Justice, what is the U.S. Court trying to hide? Does the media need to get involved? When we are able to prove lies, ignore and hide them?

** MAGISTRATE RAY KENT SENT THIS LETTER BACK TOO!*

Dec 15, 2017 - Motion to expedite request to file a lawsuit to obtain denied FOIA requests. The response was received on July 5, 2018. What would have the response been if Groenendal didn't ask to have it expedited? More judicial bias?

3-C

Dec 20, 2017 - Reply letter sent to Clerk of Court, Lansing MI

(Quote) "Also, is my in forma pauperis status approved? to allow for transcripts at no cost? I was informed that my request was forwarded to the Judge's chambers. Sadly, almost two months later, still no reply?"

↳ STILL IGNORING MY TRANSCRIPT REQUESTS.

Please note that ECF No. 211 states, "He continued to file and mail myriad letters and documents in violation of the injunction. Ironically, his actions in this regard has served only to undermine his own interests." ASKING FOR TRANSCRIPTS THAT SHOW PERJURY?

If the Clerk of Court, if the court reporter, if the U.S. District Court would have properly responded to a simple request, no need to keep reasking the same denied questions. I am still waiting for the cost and availability of the "digitally recorded" transcripts from court appearances with the U.S. Magistrate Judges in the aforementioned cases.

UNDERMINING MY OWN INTERESTS?

Is our justice system an honor system? Does my ordeal need to be exposed in the media? Is Mr. Comey correct, do people need to fear the consequences of lying in the justice system for it to work? (read on)

Mar 29, 2018 - Letter to the Clerk of Court, Kalamazoo MI

(quote) "Also, I have still not heard back from either U.S. Magistrate Office regarding the "digitally recorded" court proceedings on the above mentioned case ... [] ...please respond to this request."

(quote) "Lastly, if denied my "in forma pauperis" request, I can ask my family to pay for the needed transcripts from the U.S. Magistrates Office like the September 2011 Detention Hearing where USPO Agent [Wallock] committed perjury." Also, "As a courtesy, you may want to reask the U.S. Magistrates Office to contact me?" ~ RETURNED LATEST LETTER TOO...

April 8, 2018 - Letter to Clerk of the Court, Kalamazoo MI

(quote) "... asking the status of my request to get written permission to file a lawsuit to obtain denied FOIA requests, asking for contact information to obtain "digitally recorded" visits in front of the U.S. Magistrate Judges, asking for multiple pretrial transcripts, and asking for the status of my 'in forma pauperis' request..."

I finally got a response back from the court on July 5, 2018 only to be told my requests, months apart, undermined my efforts? Is it because of my crime? (intending to view illegal pornography?) What about the quote from "A Higher Loyalty" ... American people must see the administration of justice independent of "other things"?

May 4, 2018 - Letter to Judge Paul L. Maloney, Kalamazoo MI

(quote) "I sent two additional denied FOIA requests to the attention of the Clerk of the Court and included an ask of the status of my request to file a lawsuit in U.S. District Court to obtain denied FOIA requests..."

(quote) "I had yet another FOIA request denied (different reason this time) and am still waiting on my October 2017 request to file a lawsuit in U.S. District Court to obtain denied FOIA requests."

This is noteworthy because ECF No 211 filed July 2, 2018 states, "Groenendal misperceives the scope of the injunction against filing matters. That order limits his filings in the above mentioned case." I am not a lawyer. ECF No. 198 filed on August 14, 2017 clearly stated, "Jack Groenendal is **HEREBY ENJOINED** from filing any letter, document, supplement, or motion attendant to his criminal convictions in Case No. 1:11-cr-260 until the Court orders otherwise." I didn't want ADDITIONAL bias so I tried unsuccessfully to ask the Court's permission to file a lawsuit that every denied FOIA request indicated I could do.

June 5, 2018 - Hand written letter to Judge Paul L. Maloney

It shared a very disturbing letter from the law office of Goodman, Hurwitz & James out of Detroit Michigan. The last paragraph states, "I know I have written a lot of letters and motions to your court. That's what innocent people do, complain, hoping for an unbiased and honest judge. Do you want to take care of my mess or do I need to go public."

One month later, Groenendal received all his requests back and is still looking for answers including how to get copies of the "digitally recorded" transcripts when appearing in front of the U.S. Magistrate Judges.

Hopefully your clerk will scan this letter into the docket and allow you to read this quote, "Upon researching your case, we were unable to determine where the original shorthand notes are kept in order for them to be re-transcribed. [] ... and the court clerk stated that the court does not keep the shorthand notes, only the audio. Supposedly, if the court reporter can be believed, there isn't an audio of my October 8, 9, & 10 2013 trial and zero "original" shorthand notes? I keep thinking of the quote from former FBI Director Comey's new book, "A Higher Loyalty", The justice system is an honor system? Lying and hiding documents so it can't be proven? If the Administration Office for the U.S. Courts, if the Office of Professional Responsibility, if the U.S. Magistrates Office refuse to do anything, ~~want~~ ^{WHAT} message will be sent by the media?

As a reminder, co-investigator Rhonda Wallock showed the court seven (7) illegal images of child pornography printed from her work computer ~~after~~ found after clicking to visit "live" porn links telling the court that they were captured by Groenendal's computer monitor, a lie! The other co-investigator, ICE Special Agent Blair Babcock showed the Sept 8, 2011 grand jury seven (7) illegal images of child porn printed from Agent Wallock's work computer and told the grand jury that they were captured by Groenendal's computer monitor, a lie.

The denied and redacted FOIA requests are needed to expose that the government had actual screen captures from Groenendal's paid monitor sent for an appraisal nine (9) days after his arrest and withheld the actual screen captures from Groenendal and his defense. Zero of the seven "charged" illegal images were captured. If disclosed, both Agent Wallock and Special Agent Babcock would have been impeached. When the U.S. Attorneys Office admitted false testimony, they failed to correct the grand jury testimony and even offered Groenendal a reduced plea offer of "obscenity" and a MAXIMUM sentence of 60 months. That offer and the email acceptance of that offer are denied FOIA requests!

June 10, 2018 Letter to the Clerk of the Court, Kalamazoo MI
(quote) "Enclosed is a copy of a detailed letter sent to Kathleen Thomas, court reporter... you may want to read the letter from Goodman, Hurwitz & James who declined to represent me...."

(quote) "Can you send me a copy of the address of the U.S. Magistrate Judge(s) who have my digitally recorded transcripts re: 1:07-cr-93?"

June 18, 2018 - Letter to Judge Paul L. Maloney, Kalamazoo MI

(quote) "Enclosed is a June 15, 2018 letter to the Attorney Grievance Commission (Michigan)..." Was this the letter that finally triggered a response from the U.S. District Court?

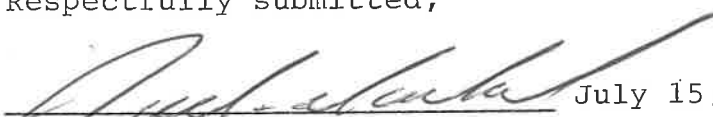
(quote) "I have sent this same letter to all the parties listed on page 11 on the letter with the exception of reporter John Agar (The Grand Rapids Press) and Congressman Justin Amash."

CONCLUSION

With this letter, defendant Jack Groenendal is seeking all six transcripts mentioned by court reporter Kathleen Thomas mentioned on page two (Nov 7, 2017 letter to Clerk of the Court). If they are not available for free (in forma pauperis status) what is the cost of all six and who can be contacted for payment?

Cc: Reporter John Agar, The Grand Rapids Press (if needed)
Cc: Congressman Justin Amash (if needed)
Cc: Administration Office for U.S. Courts

Respectfully submitted,


July 15, 2018
Jack Groenendal

Contact information:
Jack Groenendal #13243-040
FCI-Sandstone
P.O. Box 1000 Unit B
Sandstone MN 55072



PLW
DENIED FOIA
REQUEST!

Patrick A. Miles, Jr. EXHIBIT 4
United States Attorney
Western District of Michigan

The Law Building, 5th Floor
330 Ionia Avenue, N.W.
Grand Rapids, Michigan 49503

Mailing Address: (616) 456-2404
United States Attorneys Office Facsimile (616) 456-2517
Post Office Box 208
Grand Rapids, Michigan 49501-0208

18

VIA E-MAIL

November 18, 2012

Mr. Peter C. Samouris
120 N. Washington Sq. Ste. 805
Lansing, MI 48933
e-Mail: psamouris@comcast.net

Re: United States v. Jack Groenendal
No. 1:11-CR-260-PLM

NEW INFORMATION
* TRYING TO HIDE IT FROM
THE COURT? NOT FILED
AS DOC # 29-2 UNTIL
AFTER 3RD GRAND JURY, WHY?

NOT DISCLOSED IN 2011!
NOT ALL DISCLOSED AT NOV 9, 2012 HEARING

Dear Mr. Samouris:

Please permit me to confirm our conversation on Thursday, November 15, 2012. As I understand, you asked Agent Babcock to see if we could get more information from the computer monitoring company. Officer Wallock went back to the computer monitoring company in an attempt to get more information about what additional screen shots were available. In the course of that discussion, Officer Wallock discovered that we were operating under a misimpression as to the nature and scope of material available from the computer monitoring company. There are no more screen shot available. The company only had a limited number of screen shots and those have been disclosed. The company has the full list of web-searches entered by Mr. Groenendal, which was previously provided, but does not have images of what was on Mr. Groenendal's computer screen at the time.

DEFENSE WAS PROVIDED SEARCH TERMS ONLY!

AGENT WALLOCK DID SHOW BABCOCK

SEARCHED
DISCLOSED
TO AGENT WALLOCK ONLY
WITH HELD

When Officer Wallock and Agent Babcock reviewed Mr. Groenendal's Internet activity back in August 2011, they clicked on the links that Mr. Groenendal had generated. At the time, Officer Wallock and Agent Babcock believed that the links produced copies of screen shots of Mr. Groenendal's activities. We have since discovered that the links were "live" - that is, the links accessed the Internet and produced responsive material on the day of their search. At most, Officer Wallock and Agent Babcock were only able to replicate his search activity, albeit, approximately one week later. Please note that the affidavit and the Government's trial brief include the incorrect information and belief that we had more screen shots of Mr. Groenendal's activities. I intend to file a superseding trial brief, which will state the facts as we now know them and will address the change in the superseding indictment.

NOT GIVEN ATTORNEY FBIED OR INVESTIGATOR KEY!

EXHIBIT 5

(b)(6),(b)(7)(C),(b)

From: (b)(6),(b)(7)(C),(b)(7)(E)
Sent: Wednesday, January 11, 2012 6:18 PM
To: (b)(6),(b)(7)(C),(b)(7)(E)
Cc:
Subject: US v Groenendal
Attachments: Groenendal Trial matters Ltr3wpd.pdf; (b)(7)(E).pdf; (b)(7)(E).pdf; Groenendal Lease Info.pdf

Attached are additional discovery matters.

WHERE ARE THEY NOW?
→ DENIED MY DISCOVERY REQUESTS
→ (SEE MOTION TO COURT!)

EXHIBIT 6

(b)(6),(b)(7)(C),(b)(7)(E)

From: (b)(6),(b)(7)(C),(b)(7)(E)
 Sent: Friday, January 13, 2012 12:42 PM
 To: (b)(6),(b)(7)(C),(b)(7)(E)
 Subject: FW: United States v Jack Groenendal
 Attachments: Book.PDF; Search terms.PDF

FYI – Information from the defense.

From: (b)(6),(b)(7)(C),(b)(7)(E)
 Sent: Friday, January 13, 2012 11:24 AM
 To: (b)(6),(b)(7)(C),(b)(7)(E)
 Cc: (b)(6),(b)(7)(C),(b)(7)(E)
 Subject: United States v Jack Groenendal

Mr. (b)(6),(b)(7)(C)

To follow are proposed exhibits of Mr. Groenendal:

- The book "Why Did I do It Again & How Can I Stop." Mr. (b)(6),(b)(7)(C) has the original book. The relevant pages are attached.
- Seven (7) pages of search terms. → *POST PARTURICER, MORE IS BETTER!*

Please provide any documents you have evidencing blockers or filters on Mr. Groenendal's computer.

(b)(6),(b)(7)(C),(b)(7)(E)
 Legal Assistant
 Law Office of Deno Fotieo
 146 Monroe Center, NW, (b)(6),(b)(7)(C)
 Grand Rapids, MI 49503
 (616) 459-(b)(6)

*I TOLD ATTORNEY FOTIEO THAT IT WAS IMPOSSIBLE TO BE GUILTY, PORN BLOCKER ON MY COMPUTER!
 FACT → ZERO ATTEMPT TO POSSESS ---
 ZERO ATTEMPTS BLOCKED ---
 NO PORN BLOCKER INSTALLED - ENTRAPMENT*

XFINITY Connect

psamouris@comcast.net

± Font Size ±

Fwd: Hogaboom and Kelly Calls

EXHIBIT 7
7-A →

From : JD Gifford <jdgexfed@gmail.com>
Subject : Fwd: Hogaboom and Kelly Calls
To : Peter Samouris <psamouris@comcast.net>

Thu, Oct 11, 2012 08:51 PM

Pete,

Gary Wake spoke with Ms. Hogaboom yesterday afternoon and she gave him an overview of the monitoring system used at her company IPPC. Basically, it is almost exactly as we had surmised prior to calling her. The system is very similar to a common software program that is commercially available called SpectorPro aka SpectorSoft.

She explained her program is set up to monitor "high risk" offenders, and it gathers certain activity and usage data. The data is stored at a remote server and is accessible by the monitoring agent or probation officer. Every phrase typed into a search engine is captured and screenshots (pictures of the users monitor) are taken at predetermined intervals (what ever time period between screen shots is deemed appropriate).

→ ZERO SCREENSHOTS MATCH 7 ILEGAL THUMBNAIIS!

Neither Ms. Hogaboom nor her employees monitor the data.

* BACK-UP TAPE? DENIED MY ASK FOR THIS!

The monitoring agent is sent weekly auto-generated summary reports consisting of user initiated web searches and other similar data. Information can be saved by the monitoring agent and that saved information is saved for five years. Information that is not saved is purged from the system. The information that is store or saved is burned to tape backup. This is why pulling up the saved data would be expensive as someone would need to recover it from the backup tapes manually.

SAVED DATA EXPENSIVE TO RECOVER?

The monitoring agent can check in and review data at any time via the Internet. The data is kept on a server at their remote location. The monitoring agent logs in with user ID and password.

Neither she nor her company keeps a "Mirror Hard Drive".

I ASKED FOR THESE REPORTS!
- DENIED
WHAT REPORTS?

As is stated in, Case 1:11-cr-00260-PLM Doc#25 Filed 01/16/12 Page 4 of 19 Page ID#73, "the company can generate other more detailed reports if requested."

E-MAILS?

Ms. Hogaboom said she did send the information requested by Probation Officer Rhonda Wallock detailed in Case 1:11-cr-00260-PLM Doc#25 Filed 01/16/12 Page 4 of 19 Page ID#73, being web search reports and screen captures.

WEEKLY REPORTS?

ACTUAL CAPTURES?

HOW OFTEN BING.COM ISSUED WARNINGS?

NOT DISCLOSED!

1. DATE
2. TIME
3. TERM ENTERED?

Gary was also able to speak with Adam Kelly yesterday.

OVER →

EXHIBIT 8

(b)(6), (b)(7)(C), (b)

From: (b)(6), (b)(7)(C)
Sent: Tuesday, October 04, 2011 1:49 PM
To: (b)(6), (b)(7)(C), (b)(7)(E)
Subject: FW: Groenendal hard drive, etc from your IT Department
Attachments: Computer Forensics Consent.pdf

DREW DYESTRA - GRAND JUROR!

(18)

Wow

FYI

From: (b)(6), (b)(7)(C)
Sent: Tuesday, October 04, 2011 1:48 PM
To: (b)(6), (b)(7)(C), (b)(7)(E)
Subject: Groenendal hard drive, etc from your IT Department

CHECK DATE! THIS IS NOT THE 2ND FILE MENTIONED PRIOR TO GRAND JURY TESTIMONY ON SEPT 8, 2011

Mr. (b)(6), (b)(7)(C)

I am sending this to request that you complete and return a signed original of the attached Consent Form, so that I may begin the forensic exams on the computer hardware previously turned over to us by your company. WORK P.C.

I need the signed consent so that I may proceed and return the equipment to you, should it prove to be non-evidentiary.

Thank you,

Special Agent (b)(6), (b)(7)(C)
ICE/HSI
161 Ottawa NW (b)(6), (b)(7)(C)
Grand Rapids MI 49503

Cell 616-318 (b)(6), (b)(7)(C)
Office 616-2 (b)(6), (b)(7)(E)

PROVE THE SAME VIOLATOR, DIFFERENT FILE WAS NOT WORK COMPUTER'S CONFISCATED HARD DRIVE!

WHAT ARE THEY WITHHOLDING? THAT THE NOTED "DIFFERENT FILE" WERE THE ACTUAL SCREEN CAPTURES FROM MY PAID MONITOR?

NOTE: IMAGES USED TO ARREST ME, TO INDICT ME, TO DENY ME BOND WERE FROM USPO AGENT WALLOCK'S WORK COMPUTER! NONE MATCHED MY ACTUAL CAPTURES

KEY

GOVERNMENT WITHHELD GIVING ME OR MY DEFENSE THE ACTUAL SCREEN CAPTURES!

XFINITY Connect

* DUTY TO LEARN ABOUT INFORMATION FROM INVESTIGATORS?
FIND

Redacted?

MISSING?

XFINITY Connect

EXHIBIT 9 | 9

psamouris@comcast.net

± Font Size :

wow!

Meeting w Jack Groenendal

ADAM KELLY'S WORK PRODUCT SEIZED?

From : Gary Wake <spyguy007@wowway.com>
Subject : Meeting w Jack Groenendal

NO WRITTEN REPORT

Thu, Nov 08, 2012 07:15 PM

To : Peter Samouris <psamouris@comcast.net>, john gifford <jdgxfed@att.net>
Cc : blair a babcock <blair.a.babcock@ice.dhs.gov>

→ DENIED THIS FOIA REQUEST

* MR. KELLY'S WORK PRODUCT NOT WRITTEN - IN A COMPUTER FILE? wow!

Dear Sirs:

I have spoken with Agent Babcock and have learned the following:
We will meet with Agent Babcock and he will present the evidence from the monitoring program.
He will have his Laptop, set up with EnCase and review the evidence found on the seized JAG drive.
He will allow for questions and answer time.
He will burn to DVD any non-protected data (Porn Images) that we request.

Wow

He will have the JAG seized drive Efiles on a USB portable drive that will connect to my Laptop and available for us, In private, to review. Mr. Kellys work product is also In a folder on that drive and available for review.

→ WHY PRIVATE?

I must, and am now preparing, a hard drive installed within my Laptop that can be wiped clean after our (if necessary) private meeting.

The seized JAG drive was write protected at the time of acquisition. The acqulred JAG Efiles, while In Efile format, will also remaini write protected.

If JAG, Attny Samouris or myself have further work to be done or items examined beyond what Is covered during our time together, Mr. Babcock will make the same drive and Efiles available at later dates.

As per Agent Babcock, any later reviews will not be done with JAG present.

— WHAT LATER REVIEWS?

If there any questions please feel free to contact me, 734-231-5243

→ WHAT WERE THEY TRYING TO HIDE?

NOTE: I HAVE NEVER REVIEWED

THIS "ELECTRONIC" WORK PRODUCT!

FACT - WAS "TOLD" NO WRITTEN REPORT!

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

EXHIBIT 10

(b)(6),(b)(7)(C),(b)(7)(E)

From: (b)(6),(b)(7)(E)
Sent: Monday, December 19, 2011 4:46 PM → DEC 19, 2011
To: (b)(6),(b)(7)(C),(b)(7)(E)
Subject: Re: US v Groenendal

He r genius.

WHY THIS COMMENT ?

2011 PLEA OFFER !

Sent using BlackBerry

From: (b)(6),(b)(7)(C),(b)(7)(E)
Sent: Monday, December 19, 2011 04:42 PM
To: (b)(6),(b)(7)(C),(b)(7)(E)
Cc: (b)(6),(b)(7)(C),(b)(7)(E)
Subject: US v Groenendal

WHAT IS REDACTED ?

Spoke with (b)(6) Groenendal rejected the plea agreement. He also rejected all of the proposed stipulations.

DENIED THIS FOIA REQUEST !

WHAT PLEA ?

X WHERE IS THIS 2011 PLEA OFFER ? NOTE: IT IS ILLEGAL TO OFFER A PLEA BASED ON FALSE EVIDENCE ! SHOWED ATTORNEY FOTTEO ILLEGAL FURN, TOLD MY LAWYER THAT MY MONITOR CAPTURED THOSE IMAGES. (A LIE) SURELY, MR FOTTEO BELIEVED THE GOVERNMENT, TRIED TO MAKE ME ACCEPT A PLEA TO SOMETHING I DIDN'T DO !

SEE LAST LINE!

EXHIBIT 11

(b)(6),(b)(7)(C),(b)

From: (b)(6),(b)(7)(C)
Sent: Tuesday, July 10, 2012 10:42 AM
To: (b)(6),(b)(7)(C),(b)(7)(E)
Subject: RE: US v Groenendal

LOST? DESTROYED?
CAN'T FIND?

ugh.

WHY THIS COMMENT?

JUNE 29, 2012

I will need to meet the week of the 23rd to prep for the Final Pre-Trial. I will be unavailable the week of the 30th-3rd. I would like to have everything ready so I only have to work the 6th and 7th of August and can have some kind of (short) vacation that week.

(b)(6),(

From: (b)(6),(b)(7)(C),(b)(7)(E)
Sent: Monday, July 09, 2012 12:11 PM
To: (b)(6),(b)(7)(C),(b)(7)(E)
Subject: FW: US v Groenendal

&@%\$!!

WHY THIS REPLY?

From: (b)(6),(b)(7)(C),(b)(7)(E)
Sent: Monday, July 09, 2012 11:29 AM
To: (b)(6),(b)(7)(C),(b)(7)(E)
Subject: Re: US v Groenendal

DID NOT WANT TO GO TO TRIAL?
WHY - THEY THEN NEEDED TO ADMIT
THEY DO NOT HAVE CAPTURE
OF ILLEGAL PORN?

Dear (b)(6),(b)(7)(C),(b)(7)(E)

Please be advised that Mr. Groenendal maintains his innocence and wants to proceed w/ trial. Thank you. Sent on the Sprint@ Now Network from my BlackBerry@

From: (b)(6),(b)(7)(C),(b)(7)(E)
Date: Fri, 29 Jun 2012 15:47:20 +0000

(b)(6),(b)(7)(C),(b)(7)(E)

WHAT IS REDACTED?

Subject: US v Groenendal

Mr. (b)(6),(b)(7)(C)

Attached please find the Government's acceptance of Mr. Groenendal's plea proposal and the revised plea agreement.

Thank you,

DENIED THIS FOIA REQUEST!

(b)(6),(b)(7)

NOTE: PRIOR TO KNOWING UNVIEWED THUMBNAILS WERE ALL AUTOMATICALLY SENT TO UNVIEWED TEMPORARY CACHE FILE.

DENIED FOIA REQUEST

EXHIBIT 12-A

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN

PAGE 1 OF 7

SOUTHERN DIVISION

* **ATTEMPT TO POSSESS - DROPPED AUG 3**

* **THEY DROPPED ATTEMPTED POSSESSION AUG 3, 2012**

UNITED STATES OF AMERICA,

Plaintiff,

No. 1:11-CR-260

WHY?

v.

HON. PAUL L. MALONEY
Chief U.S. District Judge

LIKELY ACQUITTAL!

JACK ALAN GROENENDAL,

Defendant.

BINDING PLEA AGREEMENT

10 YRS + LIFETIME PROBATION

This constitutes the plea agreement between Jack Alan Groenendal and the United States Attorney's Office for the Western District of Michigan. The terms of the agreement are as follows:

1. The Defendant Agrees to Plead Guilty. The Defendant agrees to plead guilty to Count Two of the Indictment. The Defendant also agrees to forfeit the property listed in the Forfeiture Allegation. * **DROPPED ATTEMPT TO POSSESS C-P.**

a. Count Two charges the Defendant with attempted possession of images of minors engaging in sexually explicit conduct, in violation of Title 18, United States Code, Section 2252(a)(4)(B) and (b)(2). **NO BLOCKER - NO ATTEMPT MADE!**

b. The Forfeiture Allegation provides for the forfeiture of visual depictions and matter containing such visual depictions; and any property, real or personal, used

NO PORN BLOCKER TO STOP ANY ATTEMPT - IF TRIAL AUG 14, 2012, ACQUITTAL!

WHAT ATTEMPT?

EXHIBIT 12-B

7CF?

United States v. Jack Alan Groenendal
Case No. 1:11-CR-260
Plea Agreement

16. This is the Complete Agreement. This agreement has been entered into by both sides freely, knowingly, and voluntarily, and it incorporates the complete understanding between the parties. No other promises have been made, nor may any additional agreements, understandings, or conditions be entered into unless in a writing signed by all parties or on the record in open court.

MY NOV 19, 2012 OFFER WAS NOT
TYPED - E-MAIL OFFER TO
DONALD A. DAVIS SAMOURIS WAS
United States Attorney ACCEPTED VIA

Date

DANIEL Y. MEKARU
Assistant United States Attorney

E-MAIL -
THEN IT WAS
WITHDRAWN.

I have read this agreement and carefully discussed every part of it with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. My attorney has advised me of my rights, of possible defenses, of the sentencing provisions, and of the consequences of entering into this agreement. No promises or inducements have been made to me other than those contained in this agreement. No one has threatened or forced me in any way to enter into this agreement. Finally, I am satisfied with the representation of my attorney in this matter.

↓
WHY?

Date

JACK ALAN GROENENDAL
Defendant

I HAD AN
ACCEPTED
OFFER

I am Mr. Groenendal's attorney. I have carefully discussed every part of this agreement with my client. Further, I have fully advised my client of his rights, of possible defenses, of the sentencing provisions, and of the consequences of entering into this agreement. To my knowledge, my client's decision to enter into this agreement is an informed and voluntary one.

↓
LOST IT!

Date

PETER C. SAMOURIS
Attorney for Defendant

From: Peter Samouris <psamouris@comcast.net>
Subject: Fwd: US v Groenendal
Date: November 2, 2016 at 11:45 PM
To: psamouris <psamouris@comcast.net>

EXHIBIT # 13

From: "Peter Samouris" <psamouris@comcast.net>
To: "Gary Wake" <gwake@wakeagency.com>
Cc: "JD Gifford" <jdgexfed@gmail.com>
Sent: Wednesday, November 21, 2012 4:46:34 AM
Subject: Fwd: US v Groenendal

Hi Gary & JD --

Looks like the trial is back on. Long story short, the gov't made me an offer (5 year deal), Jack accepted, then after business hours yesterday, I get the e-mail from Daniel Mekaru that I am forwarding here below. Anyway, unless I can get get out of it, Jury Trial is set for **Tuesday, November 27, 2012 at 9:00 a.m.**

Peter C. Samouris, Esq.
Peter C. Samouris, P.C.
120 N. Washington Square, Suite 805
Lansing, MI 48933
E-Mail: psamouris@comcast.net
(517) 347-7047 (Office)
(517) 482-9006 (Facsimile)
(517) 336-7371 (Home Facsimile)
(517) 410-4966 (Mobile)

AFTER HOURS?

From: "Daniel Y. Mekaru (USAMIW)" <Daniel.Mekaru@usdoj.gov>
To: psamouris@comcast.net
Sent: Tuesday, November 20, 2012 4:49:22 PM
Subject: US v Groenendal

WHO ALTERED THIS E-MAIL?

Pete,

My management has rejected the plea proposal. We cannot accept a plea to obscenity. Please call me when you get a moment.

Dan

EXHIBIT 14

117

(b)(6),(b)(7)(C)

DENIED F.O.I.A. REQUESTS, NONE EXIST

From: (b)(6),(b)(7)(C)
Sent: Tuesday, January 28, 2014 4:05 PM
To: (b)(6),(b)(7)(C)
Subject: RE: Preserve Groenendal Evidence

WITH HELD IN FULL?

What did he get?

RULE 16 EVIDENCE?

-----Original Message-----

From: (b)(6),(b)(7)(C)
Sent: Tuesday, January 28, 2014 07:14 AM Eastern Standard Time
To: (b)(6),(b)(7)(C)
Subject: Preserve Groenendal Evidence

(b)(6),

ACTUAL SCREEN CAPTURES?

(b)(5)

WHAT IS REDACTED?

→ IS THE EVIDENCE STILL PRESERVED?

Please give me a call with any questions.

Great job!

→ ILL INVITE ANY IN CAMERA REVIEW

(b)(6),(b)(7)(C)
Assistant United States Attorney
Western District of Michigan
616-808-(b)(6)

* GARY WAKE'S TYPED REPORT TO ATTORNEY SAMOUELS
OF NOV 9, 2012 EVIDENCE HEARING

- JAG wanted to scrutinize, to the nanosecond, how much time was allowed for viewing for different numbers of images.
- JAG wanted a copy of his favorite's folder to show that he did not intentionally bookmark any of the offending searches or corresponding sites returned.
- JAG said that when he looked at the pictures he saw 6 pictures across in each row and that the PDF's now showed 5 images across in each row.
- Babcock explained that the original PNG pictures are available. — NEVER SHOWED US !
- He said that when he went to collect some examples he used Adobe Acrobat to print them to files.
- It appeared as though he wanted to show that the government manipulated (falsified) the screenshots. * NOT ACTUAL CAPTURES ! REPLICATED !
- He thinks by showing that the images are not exactly as he saw them that they were fabricated or altered to now be false evidence. * ONLY FOUND IN UNVIEWED TEMPORARY FILE.
- JAG tried to make the objection that he did not personally save the images, but that the computer did. * I DID NOT KNOW OF AUTOMATIC CACHING !
- This is a common argument I have heard before.
- To my understanding this has been challenged and it is held that the images are saved into a folder on the hard drive.
- That the user is responsible for those images being on their system.
- Babcock sighted a case by Judge Bell in GR holding that not knowing data is saved by the system is not a defense. — SEE ENCLOSED CASE ! (WRICHT V. U.S.)

* THEY DID !
* THEY DID !

The Warrant

- The Warrant was discussed and showed evidence used to execute the Warrant.
- There were seven images used in the warrant. > NONE MATCHED ACTUAL CAPTURES !
- JAG used up much time going over, in detail, the chain of development for those seven pieces of evidence. → I DID NOT VIEW THEM ! → I TRIED TO EXPLAIN !
- The images showed naked children with one being erotic.
- The images were not being used in any charges against JAG.
- The images were in support of the charge that JAG knowingly made searches that would result in producing pornographic images. * MUST DO HOMEWORK, MOST DANGEROUS LAST ACT JUST BEFORE RE-OFFENDING

Note: I won't detail those discussions at this time. If they are requested to research I will put them into Excel Spreadsheet format and forward them to you. I think the detail we went into about those items was only, possibly, useful in showing JAG the high level of detailed evidence that exists against him. It did not appear to have any effect on his thought process. * I KNEW I DIDN'T VIEW THE CHARGED IMAGES !

I tried to show JAG the amount of time and work that he was requesting to be preformed in gathering information related to his requests. That effort (in my opinion) would only serve to re-enforce the government's case against him. → WRONG OPINION !

* WHY ? FAVORABLE EVIDENCE WITH THEM !

Note:

- It is my understanding that JAG is not being charged with viewing or possessing child pornographic images. * ATTEMPTING TO POSSESS UNBLOCKED AND UNVIEWED IMAGES NOT PROVEN AS VIEWED SCAN AUTOMATICALLY TO MY UNVIEWED TEMPORARY CACHE FILE

ib

EXHIBIT 10 3/10

(b)(6),(b)(7)(C),(b)(7)(E)

From: (b)(6),(b)(7)(C),(b)(7)(E)
Sent: Tuesday, August 21, 2012 6:24 PM
To: (b)(6),(b)(7)(C),(b)(7)(E)
Subject: Fw: USA vs Jack A. Groenendal / Expert (b)(6),(b)(7)(E) CV Attached
Attachments: GROENENDAL (b)(6) V.doc

(b)(6),(b)(7)(C),(b)(7)(E)
(b)(5)

Sent using BlackBerry

From: (b)(6),(b)(7)(C),(b)(7)(E)
Sent: Monday, August 20, 2012 05:40 PM
To: (b)(6),(b)(7)(C),(b)(7)(E)
Subject: FW: USA vs Jack A. Groenendal / Expert (b)(6),(b)(7)(E) CV Attached

FYI -

From: (b)(6),(b)(7)(C),(b)(7)(E)
Sent: Monday, August 20, 2012 3:57 PM
To: (b)(6),(b)(7)(C),(b)(7)(E)
Cc: psamouris; jdqexfed@gmail.com
Subject: USA vs Jack A. Groenendal / Expert (b)(6),(b)(7)(E) CV Attached

J-D's EMAIL

MISSING DATA

WHAT SEPARATE E-MAIL?

Dear Mr. (b)(6),(b)(7)(C),(b)(7)(E)

Please be advised that Mr. Groenendal has, through our firm, retained the services of two experts: (1) (b)(6) (b)(6),(b)(7)(C),(b)(7)(E) work together, so I am listing both as experts, since I anticipate that both will be involved. Attached is Mr. (b)(6) resume or curriculum vitae. In a separate e-mail, I will be posing some specific questions that both of these gentlemen and, by extension, I, need answers to. I have to tend to something else at this very moment, but I will send you another e-mail later today or tomorrow at the latest.

WHAT QUESTIONS?

MISSING

MISSING

Also, per earlier discussions, I will be e-mailing you all of the reports I have received from Mr. (b)(6),(b)(7)(C). Today, I spent too much time in court, but tomorrow I have a great office day in which to get things done and communicate with opposing counsel as needed. Talk to you soon.

(b)(6),(b)(7)(C),(b)(7)(E)

120 N. Washington Square (b)(6),(b)(7)(E)
Lansing, MI 48933
(b)(6),(b)(7)(C),(b)(7)(E)
(517) 347 (b)(6) (Office)
(517) 482-9006 (Facsimile)
(517) 336-7371 (Home Facsimile)
(517) 410 (b)(6) (Mobile)

GOVERNMENT'S REPLY ALSO MISSING

**DENO P. FOTIEO
ATTORNEY AT LAW**

606 ~~1125~~ McKay Tower
146 Monroe Center, NW
Grand Rapids, MI 49503
denofotieo@sbcglobal.net

EXHIBIT 17-A

Telephone: (616) 459-4279

Fax: (616) 451-1950

October 11, 2011

Mr. Daniel Y. Mekaru
UNITED STATES ATTORNEY
330 Ionia, NW
Grand Rapids, Michigan 49503

RE: United States v. Jack Alan Groenendal
Case no. 1:11-CR-260

*ASAP?
GIVEN FRIDAY PRIOR
TO JAN 17, 2012
PRETRIAL

Dear Mr. Mekaru:

Please be advised that I represent Jack Groenendal in the above referenced matter. According to the Court's Order, I am required to make written request of the government for desired discovery, disclosure, or production. I also make this request pursuant to Fed. R. Crim. P. 16 and all other applicable rules and statutes; I request that you provide the following discovery to me as soon as possible, if such materials have not already been provided.

(1) The Defendant's Statements. Under Fed. R. Crim. P. 16(a)(1)(A), the defendant is entitled to disclosure of all copies of any written or recorded statements made by the defendant; the substance of any statements made by the defendant which the government intends to offer in evidence at trial; any response by the defendant to interrogation; the substance of any oral statements which the government intends to introduce at trial, and any written summaries of the defendant's oral statements contained in the handwritten notes of the government agent; any response to any Miranda warnings which may have been given to the defendant that are discoverable under Fed. R. Crim. P. 16 (a)(1)(A). The Advisory Committee Notes as well as the 1991 amendments to Rule 16 make it clear that the government must reveal all the defendant's statements, whether oral or written regardless of whether the government intends to introduce those statements.

(2) Arrest Reports, Notes and Dispatch Tapes. The defendant also specifically requests that all arrest reports, notes and dispatch or any other tapes that relate to the circumstances surrounding his arrest or any questioning, if such reports have not already been produced in their entity, be turned over to him. This request includes, but is not limited to, any rough notes, records, reports, transcripts or other documents in which statements of the defendant or any other discoverable material is contained. This is all discoverable under Fed. R. Crim. P. 16(a)(1)(A) and Brady v Maryland, 373 US 83 (1963). See also United States v Johnson, 525 F2d 999 (2d Cir. 1975); United States v Lewis, 511 F2d 798 (D.C. Cir. 1975); United States v Pilnick, 267 F Supp 791 (S.D.N.Y. 1967); Loux v United States, 389 F2d 911 (9th Cir. 1968). Arrest reports, investigator's notes, memos from arresting officers, dispatch tapes, sworn statements,

* (USPO WALLACK'S SWORN STATEMENT INCLUDES THAT I "POSSESSED" CHILD PORN, A LIE!)
* OTHER DOCUMENTS -> " SAME VIOLATOR, DIFFERENT FILE " !

DENO P. FOTIEO

October 11, 2011

Page 2

17-B

→ SAME VIOLATOR, DIFFERENT FILE ??
RESULT OF APPRAISAL ??

and prosecution reports pertaining to the defendant are available under Fed. R. Crim. P. 16(a)(1)(B) and (C), Fed. R. Crim. P. 26.2 and 12(i);

* (3) Reports of Scientific Tests or Examinations. Pursuant to Fed. R. Crim. P. 16(a)(1)(D), Mr. Groenendal requests the reports of all tests and examinations conducted upon the evidence in this case, including but not limited to and fingerprints analysis, that is within the possession, custody, or control of the government, the existence of which is known, or by the exercise due diligence may become known, to the attorney for the government, and which are material to the preparation of the defendant or which are intended for use by the government as evidence in chief at the trial;

GOVERNMENT DIDNT WANT TO USE "DIFFERENT FILE" WE DID!

(4) Brady material. The defendant requests all documents, statements, agents' reports and tangible evidence favorable to the defendant on the issue of guilty and/or which affects the credibility of the government's case. Impeachment as well as exculpatory evidence falls within Brady's definition of evidence favorable to the accused. United States v Bagley, 473 US 667 (1985); United States v Agurs, 427 US 97 (1976). This request specifically includes any information about out-of-court identifications of Mr. Groenendal by percipient witnesses to the offense that may cast doubt of their reliability;

(5) Evidence Seized. Evidence seized as a result of any search, either warrantless or with a warrant, is discoverable under Fed. R. Crim. P. 16(a)(1)(C);

(6) Request for Preservation of Evidence. * ACTUAL SCREEN CAPTURES - The defendant specifically requests that all dispatch tapes, or any other physical evidence that may be destroyed, lost, or otherwise put out of the possession, custody, or care of the government and which relate to the arrest or the events leading to the arrest in this case be preserved. This request includes, but is not limited to, any samples used to run any scientific tests and any evidence seized from any third party. It is requested that the government be ordered to question all the agencies and individuals involved in the prosecution and investigation of this case to determine if such evidence exists, and if it does exist, to inform those parties to preserve any such evidence; * "DIFFERENT FILE" ?

(7) Tangible Objects. The defendant requests, under Fed. R. Crim. P. 16(a)(2)(C), the opportunity to inspect and copy as well as test, if necessary, all physical evidence, other documents and tangible objects, including photographs, books, papers, documents, photographs, of building or places or copies of portions thereof which are material to the defense or intended for use in the government's case-in-chief, or were obtained from or belong to the defendant; * ACTUAL SCREEN CAPTURES FROM PAID MONITOR

(8) Evidence of Bias or Motive to Lie. The defendant requests any evidence that any prospective government witness is biased or prejudiced against the defendant, or has a motive to falsify or distort his testimony. Pennsylvania v Ritchie, 480 US 39 (1987); United States v Strifler, 851 F2d 1197 (9th Cir. 1988);

(9) Impeachment Evidence. The defendant requests any evidence that any prospective government witness has engaged in any criminal act, whether or not resulting in a conviction, and whether any witness has made a statement favorable to the defendant. See Fed. R. Evid. 608, 609 and 613. Such evidence is discoverable under Brady v Maryland. See United States v Strifler, 851 F2d 1197 (9th Cir. 1988) (witness' prior record); Thomas v United States.

DENO P. FOTIEO

October 11, 2011

Page 3

17-C

(10) Evidence of Criminal Investigation of Any Government Witness. The defendant requests any evidence that any prospective witness under investigation by federal, state or local authorities for any criminal conduct. United States v Chitty, 760 F2d 425 (2d Cir.), cert. denied, 474 US 945 (1985).

(11) Evidence Affecting Perception, Recollection, Ability to Communicate, or Truth Telling. The defense requests any evidence, including any medical or psychiatric report or evaluation, tending to show that any prospective witness' ability to perceive, remember, communicate, or tell the truth is impaired; and any evidence that a witness has ever used narcotics or other controlled substance, or has ever been an alcoholic. United States v Strifler, 851 F2d 1197 (9th Cir. 1988); Chavis v North Carolina, 637 F2d 213, 224 (4th Cir. 1980);

(12) Name of Witnesses Favorable to the Defendant. The defendant requests the name of any witness who made an arguable favorable statement concerning the defendant. Jackson v Wainwright, 390 F2d 288 (5th Cir. 1968); Chavis v North Carolina, 637 F2d 213, 223 (4th Cir. 1980); Jones v Jago, 575 F2d 1164, 1168 (6th Cir.), cert. denied, 439 US 883 (1978); Hudson v Blackburn, 601 F2d 785 (5th Cir. 1979), cert. denied, 444 US 1086 (1980);

* UNVIEWED IMAGES CANNOT BE KNOWINGLY RECEIVED!

(13) Statements Relevant to the Defense. The defendant requests disclosure of any statement that may be relevant to any possible defense or contention that he might assert. United States v Bailleaux, 685 F2d 1105 (9th Cir. 1982). This includes in particular any statements made by percipient witnesses about identifications or perpetrators of this offense in general and about Mr. Groenendal in particular;

(14) Jencks Act Material. The defense requests all material to which defendant is entitled pursuant to the Jencks Act, 18 U.S.C. §3500, and Fed. R. Crim. P. 26.2. These materials are producible after a witness testifies at a pretrial motion to suppress, Fed. R. Crim. P. 12(i), and after a witness testifies at trial. 18 U.S.C. §3500. Mr. Groenendal specifically requests pretrial production of these statements so that the court may avoid unnecessary recesses and delays for defense counsel to properly use any Jencks statements and prepare for cross-examination;

(15) Giglio Information. Pursuant to Giglio v United States, 405 US 150 (1972), the defendant requests all statements and/or promises, express or implied, made to any government witnesses, in exchange for their testimony in this case, and all other information which could arguably be used for the impeachment of any government witnesses;

(16) Government Examination of Law Enforcement Personnel Files. Mr. Groenendal requests that the government examine the personnel files and any other files within its custody, care or control, or which could be obtained by the government, for all testifying witnesses, including testifying officers and agents who may have been controlling or contacting the confidential informant in this case. Mr. Groenendal requests that these files be reviewed by the government attorney for evidence or perjurious conduct or other like dishonesty, or any other material relevant to impeachment, or any information that is exculpatory, pursuant to its duty under United States v Henthorn, 931 F2d 29 (9th Cir. 1991). The obligation to examine files arises by virtue of the defense making a demand for their review: the Ninth Circuit in Henthorn remanded for *in camera* review of the agents' files because the government failed to examine the files of agents who testified at trial. This Court should therefore order the government to review

↳ HOW OFTEN HAS BABCOCK USED "REPLICATED" ILLEGAL IMAGES?

DENO P. FOTIEO

October 11, 2011

Page 4

17-D

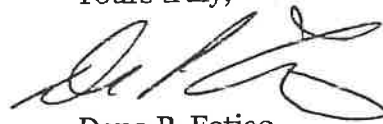
all such files for all testifying witnesses and turn over any material relevant to impeachment for that is exculpatory to Mr. Groenendal prior to trial. Mr. Groenendal also notes that although the Ninth Circuit in United States v Jennings, 960 F2d 1488, 1492 (9th Cir. 1992), refused to require the prosecutor to personally review each file, the court reaffirmed the government's duty to inspect files.

DUTY TO INSPECT ACTUAL SCREEN CAPTURES?

Thank you for your assistance in this matter.

WHAT "DIFFERENT FILE"?

Yours truly,



Deno P. Fotieo

DPF/mh

* I NEED THE ANSWERS TO THE QUESTIONS ASKED BY MR. FOTIEO!

* WHAT DISCOVERY, RULE 16, BRADY, GIGLIO, OR JENCKS ACT ITEMS WERE SUPPLIED BY THE GOVERNMENT?

A. DIFFERENT FILE?

B. ACTUAL SCREEN CAPTURES?

C. FAVORABLE EVIDENCE?

Data Sorted By Date

(k)(2),(b)(7)(E)

EXHIBIT 18

ASK -

WHY IS " I WERE A SLUT " MISSING?

NOTE: THE ONLY TERM ONE THUMB NAIL COULD BE VIEWED? (3 SECONDS)

SEE C/D FOR UN-REDACTED LIST!

(b)(6),(b)(7)(C),(b)(7)(E)

3

SEARCH TERMS

SAMPLE

(b)(2), (b)(7)(E)

EXHIBIT 19

ASK —

WHY IS " I WERE A SLUT " MISSING?

NOTE -

THIS MISSING TERM IS THE ONLY ONE THAT
BABCOCK ADMITTED (UNDER OATH) THAT COULD
PROVE A POSSIBLE 3 SECOND VIEW OF
AN ILLEGAL TRUMBULL - 15 YRS.?

SEE - C/D FOR
UN-REDACTED LIST

COURT MANDATED
WORK BOOK

EXHIBIT 20

SEARCH TERMS
reoffense." The more judgment you use about your situation, the less likely you will decide to reoffend.

To establish your DeW Line you need to define a set of behavioral warning flags - concrete behaviors that show you are in danger. When you ask yourself if you have or have not done them, you must be able to say yes or no. You must set these behavioral flags for any area you feel has been a problem, including:

- using alcohol
- yelling
- isolating yourself
- driving
- being around women or children
- masturbating

PORN!

- using pornography
- having idle time
- eating
- hanging out with drug friends
- going into taverns and bars
- seeing movies
- walking
- following a potential victim
- drinking and trying to pick up a woman
- agreeing to babysit
- picking up a hitch-hiker

Divide a piece of paper in half vertically. On the left, list 10 early warning signs (the first behavior that shows you have a problem). Your early warning signs might be: stepping into an adult bookstore, buying a copy of Penthouse or True Detective, or taking second looks at the centerfolds at

work. On the right, list 10 DeW Line signs (your last behavior before you self-destruct by reoffending). Your DeW Line signs might be: buying a bondage magazine, getting some handcuffs, masturbating in your car, or showing pornography to a child. All your last and most dangerous behaviors before reoffending make up your DeW Line. Once you have figured yours out, write it down and post it where you can see and read it every day. Later, if you find yourself crossing this line, you will know that you need to take desperate measures. Consider Leon's and Denny's cases:

POSTED ON MY "BLOCKED" COMPUTER'S SEARCH BAR

I'm Leon and I've been a cocaine addict and sex offender. I was in a residential treatment program and got chemically clean and sexually controlled. I did really well in the program and thought I'd never start using again. I just knew it so strong that when I got out of the program I said to myself, "There's no need to keep doing all that garbage. It's unnecessary. I'm going to do okay on my own." And I did fine for about a year. But then I started hanging out with my old drug buddies. A few months later I got desperate, lapsed, and I felt so bad about lapsing, I went on a cocaine run. I lost my sobriety, my wife, my job, and my freedom all at the same time.

Denny is my name. I've been addicted to methamphetamines. I was in treatment in the same program as "Leon." We helped each other in there sometimes, gave each other support. I did pretty well. While in therapy I couldn't imagine returning to my old ways, just like Leon. After I left, I lost track of him. But I said to myself, "just in case." So, I made up a DeW Line for myself that included: seeing an illegal drug, being around when someone was buying drugs, and calling to set up a drug deal. I did okay in the community for months. Then I started seeing some old friends and enjoyed it. About a month ago I was with a friend who stopped to make a drug deal. I wasn't using or buying right then, but I remembered my DeW Line. I had to ask myself if I was at risk to use again. In all hon-

EXHIBIT 21

Chapter Four Assignments

• Do Not Write In This Workbook •

* TOLD TO USE MY PLANS - ARRESTED - ENTRAPMENT!

22 Where did Otis first go wrong? Write down some thinking defects he might have used to give himself permission to lapse and take the next step toward relapse.

23 While thinking about avoidance as a strategy, review your past offenses. Write down the risk factors or triggers that were present before you acted out. Focus on both little and big triggers. (Remember, it is better to identify too many triggers than not enough. The more triggers you know you must avoid, the safer you will be.)

24 Now think about the plans you will make to avoid your risk situations. Write them out and share them with your group or a friend, if you are working alone. USE THESE PLANS!

* WHAT PLANS? - USE THESE PLANS!

25 Write down three situations you can think of where avoidance is not the best strategy.

Review your answers to these assignments with your therapist and your group. If you are working on your own, share your answers with a friend or person you trust.

ZERO PREDISPOSITION FROM 2003 UNTIL TASKED TO POST "PAST TRIGGERS" MY MOST DANGEROUS LAST ACTS JUST BEFORE REDEPENDANCE IN JULY OF 2011.

I DIDNT KNOW. POSTING "PAST TRIGGERS" ON MY BLOCKED AND MODERATED INTERNET COMMUNITY WAS ILLEGAL THERAPIST BELIEVES THAT THE MANDATED WORK BOOK, IN PART, CAUSED ILLEGAL CONDUCT.

SEE US. V. LUISI 482 F.3d 43 55 (1st CIR 2007)

PEL JACOBSON V. U.S. 503 US 540 112 S. CT. 1535

(1992) I WAS NOT DISPOSED TO COMMIT ANY CRIMINAL ACT -

17



U.S. Department of Justice

Patrick A. Miles, Jr.
United States Attorney
Western District of Michigan

EXHIBIT 22
(Babcock)

5th Floor, The Law Building
330 Ionia Avenue, NW
Grand Rapids, Michigan 49503

Mailing Address:
United States Attorney's Office
Post Office Box 208
Grand Rapids, Michigan 49501-0208

Telephone (616) 456-2404
Facsimile (616) 456-2408

VIA U.S. MAIL

May 16, 2013

Mr. Peter C. Samouris
120 N. Washington Sq. Ste. 805
Lansing, MI 48933
psamouris@comcast.net

* NOT DISCLOSED -- UNVIEWED
SEARCH RESULTS ARE ALL
AUTOMATICALLY SENT TO A
COMPUTER'S TEMPORARY CACHE FILE!

Re: United States v. Jack Groenendal
Docket No. 1:11-cr-00260-PLM

Dear Mr. Samouris:

FOIA REQUEST DENIED!
WHY THE NEED TO
SUPPLEMENT?

I am writing to supplement the discovery provided to you in this case.

As disclosed in a previous letter, we discovered that the defendant was searching for child pornography prior to the dates charged in the Superseding Indictment. We previously provided you with records documenting those searches. We intend to introduce this evidence at trial pursuant to Rule 404(b). This evidence includes, but is not limited to, searches the defendant conducted between July 2, 2011, and July 18, 2011. We may also introduce evidence regarding the defendant's searches prior to July 2, 2011. As a courtesy, I have enclosed another copy of the records documenting these searches. These records are enclosed on a CD labeled, "Discovery May 15, 2013."

→ ANY OF THE ACTUAL SCREEN CAPTURES? IF NO, WHY NOT?

As you are aware, SA Babcock located both pornographic and non-pornographic images of minors on the defendant's computer. We intend to introduce both as evidence at trial. We also intend to introduce evidence that contains (or may contain) adult pornography. This evidence includes, but is not limited to, (1) the website replication results and (2) the screen shots from the audit report. I understand you have previously inspected these materials, and they remain available for further inspection.

* REPLICATION RESULTS?

As noted above, you previously inspected the website replication results SA Babcock preserved on August 16, 2011. You may recall that those results consist of 31 PDF documents. I have enclosed printouts of nine of those documents with this letter. The remaining documents contain pornographic material, and they remain available for your inspection. Please note that the result page(s) for the search term "+ourlittleflowers," as well as the result page(s) for the search term "ourlittleflowers," appear to feature adult pornography only. The result page(s) for

XFINITY Connect

3

EXHIBIT 24

psamouris@comcast.net

XFINITY Connect

± Font Size ±

Jack G

From : Peter Samouris <psamouris@comcast.net>

Fri, Jan 04, 2013 08:57 PM

Subject : Jack G

To : Winnie <winr@charter.net>

Cc : GRABELLAW <GRABELLAW@aol.com>

Just so there is no mistake, I believe this \$7,500.00 is to be applied toward costs, the majority of which will go toward expert witness fees. In fact, to date, neither Gary Wake nor JD Gifford (our experts) have gotten back to me in what they will charge.

Peter C. Samouris, Esq.
Peter C. Samouris, P.C.
120 N. Washington Square, Suite 805
Lansing, MI 48933
E-Mail: psamouris@comcast.net
(517) 347-7047 (Office)
(517) 482-9006 (Facsimile)
(517) 336-7371 (Home Facsimile)
(517) 410-4966 (Mobile)

NO REFUND GIVEN
BOTH EXPERTS QUIT!

From: "Winnie" <winr@charter.net>

To: GRABELLAW@aol.com, "Peter Samouris" <psamouris@comcast.net>

Cc: drosales2@cox.net

Sent: Friday, January 4, 2013 12:39:32 PM

HERE IS THE RECEIPT FOR \$7500 TO COVER EXPERT WITNESS FEES

AS ALWAYS AT YOUR SERVICE

WINNIE RICHE
CASE MANAGER
SCOTT GRABEL AND ASSOCIATES
616-835-1806

* AFTER BEING TOLD
NO MORE \$\$\$

EXHIBIT 25

(b)(6),(b)(7)(C)

From: (b)(6),(b)(7)(C)
Sent: Monday, February 04, 2013 12:54 PM
To: (b)(6),(b)(7)(C)
Cc:
Subject: RE: Groenendal

Not yet. Nothing since November.

From: (b)(6),(b)(7)(C)
Sent: Monday, February 04, 2013 12:50 PM
To: (b)(6),(b)(7)(C)
Cc:
Subject: RE: Groenendal

Has he filed anything yet?

From: (b)(6),(b)(7)(C)
Sent: Monday, February 04, 2013 12:02 PM
To: (b)(6),(b)(7)(C)
Cc:
Subject: RE: Groenendal

Def. Atty moving for an adjournment. Lost his expert witness.

*RIGHT TO SPEEDY TRIAL!
IF FAVORABLE EVIDENCE
WASNT WITHHELD, DIFFERENT
RESULT? GARY WALK
WOUDNT HAVE QUIT?*

From: (b)(6),(b)(7)(C)
Sent: Monday, February 04, 2013 12:00 PM
To: (b)(6),(b)(7)(C)
Subject: FW: Groenendal

Is Groenendal's trial still going on 2/12?

60 ORDER granting motion for ends of justice continuance 55 as to Jack Alan Groenendal (1); jury trial set for 2/12/2013 at 08:45 AM at 174 Federal Building, Kalamazoo, MI before Chief Judge Paul L. Maloney; signed by Chief Judge Paul L. Maloney (Chief Judge Paul L. Maloney, acr) (Entered: 11/26/2012)

ECF NO 168 8-2-16

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

OF DOCKET 1

EXHIBIT 26-A

SEPT 1, 2016

* STARTS OF THIS MOTION?

IS IT ON DOCKET?

JACK ALAN GROENENDAL
Petitioner

-v-

UNITED STATES OF AMERICA
Respondent

USDC No. 1:11-cr-00260-PLM-1

Honorable Paul L. Maloney

NOT ON DOCKET?
WHY NOT?

MOTION TO SEEK LEAVE OF COURT FOR DISCOVERY

DENIED!

Petitioner, Jack Alan Groenendal, received ECF No. 164 that was dated 8/25/16 after he sent the enclosed petition for discovery and transcripts to the United States Court of Appeals for the Sixth Circuit and to the U.S. Attorneys Office, Western District of Michigan. This request is to be used on Petitioner's appeal of being denied his Rule 33 motion if his motion to reconsider is denied.

Also enclosed are exhibits 1,2, and 48 (exhibits 3 through 47 were sent to the appeals court and U.S. Attorney on Appeal No. 16-2178) The same documents are also needed for Petitioner's § 2255 motion and even though the Court sent an order of limited injunction, petitioner is asking permission to file a Motion for Discovery and transcripts by way of an addendum to his § 2255 motion.

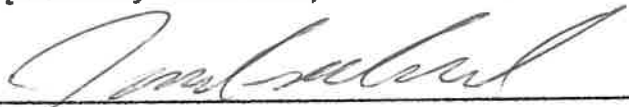
Exhibit 1-B is a certificate of filing and service dated 8/26/16 "prior" to being notified of being enjoined from filing any letter document, supplement or motion other than a single reply to the Government's response to his § 2255 motion. This document is supported by the enclosed brief. Petitioner seeks leave of the notice given in ECF No. 164 for multiple reasons. One reason is listed on Page ID # 1891 "...until the Court orders otherwise." Petitioner is disputing some of the facts listed in ECF No. 164. On Page ID # 1889 it states "Groenendal filed three separate post-trial motions -- all meritless (see ECF No. 152): he has since filed a motion for reconsideration and four (yes four) purported "supplements" to the

CERTIFICATION

EXHIBIT 26-B

I, Jack Alan Groenendal, Petitioner, pro se, certify under penalty of perjury that this petition is brought in good faith and is true and correct to the best of my understanding and belief. I did ask the Clerk of the Court for an updated docket sheet, and am still missing items from my legal file. It is not intended to mislead. Petitioner is again asking for a court appointed public defender to assist with his discovery, Rule 16, transcript, and FOIA requests to be able to reply to the government's response to his § 2255 motion. Executed in accordance with 28 U.S.C. § 1746 and Lack 487 U.S. at 266 on this 31st day of August, 2016

Respectfully submitted,



Jack Groenendal, Petitioner, pro se

September 1, 2016

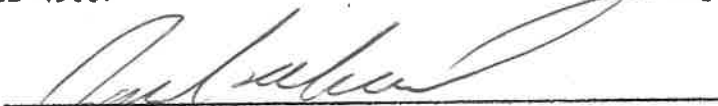
CERTIFICATE OF SERVICE

I, Jack Alan Groenendal, certify that I have mailed by way of U.S. Mail with postage prepaid a copy to the clerk of the court and U.S. Attorney listed below. This is dated prior to the 14 days as stated by the enclosed Exhibit 2.

Clerk of U.S. Court
107 Federal Building
410 W. Michigan Ave
Kalamazoo MI 49007

Sean Lewis / Daniel Mokuu AUSA
U.S. Attorneys Office
P.O. Box 208
Grand Rapids MI 49501

Petitioner



(printed name) JACK GROENENDAL

September 1, 2016

my copy

12/19/16

Clerk of the Court
U.S. District Court
Western District of Michigan
107 Federal Building
Kalamazoo MI 49007

21
EXHIBIT ~~XXXXXX~~

USA v GROENENDAL Case No. 1:11-cr-00260-PLM

CAN YOU GET THESE FOR ME?

Dear Clerk:

I did write you a short letter and included a letter to my Case Manager, Michelle M. Davis, United States Court of Appeals for the Sixth Circuit on 12/14/16. Because my November 30, 2016 deadline was moved to January 24, 2017 (see enclosed), I wanted to alert you to this update, give you some support cases to share (if my request is set for being denied) and list "specific" items I am still being denied.

A very recent case, Rachel v Troutt 820 F.3d 390 (10th Cir. 2016) was initially denied his request for an extension so he appealed and won. He quoted a Sixth Circuit case and was granted his extension. Cf. Centra, Inc. v Estrin 538 f.3d 402, 420 (6th Cir. 2008). The appeals court in Rachel stated, "Mr. Rachel filed his initial motion to obtain an extension of time both because of the limitation on his use of the prison's law library, and the earlier prohibition on discovery." id Racheal v Troutt 820 F.3d 390. Also, "The Court grants the motion for leave to proceed in forma pauperis." What is my status?

Being denied an extension of time can be reviewed for abuse of discretion. See Ellis v Univ. of Kan. Med. Ctr 163 F.3d 1186, 1193 (10th Cir. 1999). "For good cause" an extension is allowed under Fed. R. Civ. P. 6(b)(1). When Mr. Rachel was granted an extension, the court mentioned he had to review over 40 cases. The prosecutor sent Groenendal an 81 page response that included 106 cases for him to review. Enclosed are additional support documents, including the reply from FCI Sandstone's Education Department. Even with the few extra hours granted, still not enough time to even read all 106 cases and support cases listed on the issues presented.

As on Monday, December 19, 2016, I have not heard back on "if" my request for an extension is granted. If denied, when can I expect a reply on my in forma pauperis status as I do not have funds to pay for the following requested transcripts and court items:

- * 1) Doc # 38 - March 5, 2012 transcript - cost \$43.80 needed to confirm AUSA Mekarū was ready for trial on the charge of attempting to possess child pornography. If proper Rule 16 discovery, if items asked for at my January 17, 2012 pretrial were not withheld (see Doc # 59) likely acquittal. Why is this transcript being denied?
 → STILL MISSING
- N/A 2) September 8, 2011 Grand Jury transcript. I was originally arrested for possession of child pornography yet the grand jury ruled "no true bill". USPO Agent Wallock's "revised" affidavit still claims I possess child pornography. AUSA Mekarū "dropped" attempting to possess child pornography on August 3, 2012. Was it because of a likely acquittal?
 → MISSING PART OF IT (NO TRUE BILL ON POSSESSION)

(1)

OVER →

EXHIBIT 27-B

my coty

→ STILL MISSING

* 3) Doc # 88, cost \$58.40 for a 16 page transcript? I don't have \$58.40.

→ STILL MISSING - NOT ON C/O

* 4) My November 19, 2012 pre-trial transcript. Cost \$109.50. The e-mail that proved the last homework reported was from chapter four (email dated August 18, 2011) was given my attorney on November 19, 2012. AUSA Lewis was in reckless disregard of the truth for failure to read that e-mail. Of an even bigger concern, Doc # 59, my January 17, 2012 pretrial confirms AUSA Mearu stating he gave attorney Fotieo all requested e-mails. An evidentiary hearing will prove this was also not true.

→ MISSING

* 5) Doc # 72, MAY 28, 2013 Omnibus hearing - Cost \$109.50 needed to show ineffective assistance of attorney Peter Samouris.

→ MISSING

* 6) Doc # 97 - September 30, 2013 Pretrial - Cost \$36.50

→ HAVE ON C/O ONLY

7) July 18, 2012 Grand Jury transcript. Cost _____?

8) June 13, 2013 Grand Jury transcript. Cost _____? Both are needed because both Mr. Babcock and AUSA Lewis misspoke the truth about the charges from the grand jury. From a "redacted" FOIA request (all FOIA requests from the U.S. Attorney's Office have been denied, the included exhibit is from the ICE FOIA from Mr. Babcock) quotes, "...obtained a superseding indictment for the same counts as the prior indictment. Why lie to the jury? Reasons the jury should have known which would cause them to doubt both AUSA Lewis and the "Expert" witness, Mr. Babcock.

→ 4 VISITS REQUESTED - I HAVE ZERO!

→ STILL BEING DENIED - COME IN TO LISTEN TO THEM?

* 9) All pretrial "digitally recorded" court proceedings from case no. 1:07-cr-00093-PLM that I already requested. Six weeks later, neither Magistrate Brenneman and Magistrate Kent have not gotten back to me regarding availability or cost. If granted in forma pauperis status, no charge? One will show me telling the Magistrate that it is impossible to be guilty of possession of illegal porn because my computer blocked any attempt to possess it. Another is my detention hearing where USPO Wallock showed false evidence and then used false testimony to deny me bond. Had the actual ^{screen} captures been disclosed (Rule 16 discovery violation) I would have demanded my right to a speedy trial and have been likely acquitted of my "charged" crime.

10) **NEW REQUEST!** Enclosed is a partial sample of a detailed letter just sent out to three Government agencies; 1) Office of Professional Responsibility, 2) Executive Office for United States Attorneys, and 3) Administrative Office of the United States Courts. (Pages 11-14 and pages 23-26)

I did send my court appointed public defender (Mr. Neel) five written requests to add being falsely accused of being a liar about chapter five in my court mandated workbook quoted at trial. It is against the law to alter trial transcripts. In reviewing case laws to include in my reply brief, one case said, "...these original records must be available for inspection by any person without charge in the Office of Clerk." (see enclosed support cases) Do you have the original shorthand notes from both July 1, 2009 and from my October 2013 trial? If yes, I would like to know how I can get my own court reporter to review "...a court reporter's notes (meaning marks produced by the reporter's machine that are not readable by a lay person) ... [] but that a duplicate or the unedited version can still be produced [] whether the court reporter altered something between when it was initially recorded and when it became final."

* NO REPLY!

EXHIBIT 27-C

What will an evidentiary hearing expose? One of the most important questions in the "lost" appeal of 2015-ICFO-80026 are those from the Wednesday, August 31, 2011 "redacted" e-mail from ICE Special Agent Babcock. What is being redacted? It mentions, "Same violator, different file." Groenendal was arrested August 22, 2011, and his computer's were confiscated at that time. What different file nine days later, the actual screen captures sent to USPO Agent Wallock by the computer monitoring company?

As a reminder, the court mandated monitor can only "capture" images actually viewed on the computer's screen. Whether it was willfully or innocently withheld, incurable prejudice resulted. Groenendal told his lawyers and investigators he never viewed the images being shown in court, never viewed the images that denied him bond. Had the actual screen captures been disclosed (Rule 16 violation) his lawyers and investigators could have developed his theory of the case. Groenendal would have demanded a speedy trial, AUSA Mekaru even asked for an immediate trial March 5, 2012 on the charged crime of "attempt" to possess child pornography. Likely acquittal. No illegal pornography was saved or downloaded, no attempt to save or download could have been easily shown when my "charged" crime was attempt to possess child pornography. * DENIED TRANSCRIPT OF MARCH 5, 2012


What is being redacted? What is being withheld? Why the need to go to a second grand jury on July 18, 2012? Why wasn't Groenendal or his multiple lawyers and multiple investigators given the actual screen captures? If the actual screen captures were not even requested by his lawyers, that is a clear case for ineffective assistance. If they are proven as requested and were shown "REPLICATED" images and told incorrectly (a lie) that the illegal images were captured by his paid monitor, take your pick on what constitutional rights were violated.

The withholding of favorable evidence, no matter what the reason violates Groenendal's constitutional rights. Denying him his appeal of his severely redacted FOIA request is an egregious miscarriage of justice. An investigation will confirm Groenendal sent out his February 2, 2016 appeal within the 60 days allowed and waited until the November 10, 2016 letter to hear back on the status of that appeal. His FOIA request made in November of 2015 is now over 13 months old and he still has not heard back on that request. (see enclosed)

Please reply to this letter in a timely manner. Do I need to ask the court to get involved? Do I need to involve the media? Thank you.

Cc: Judge Maloney
 Cc: Patrick A. Miles, U.S. Attorney
 Cc: Office of Professional Responsibility
 Cc: Michelle M. Davis, Case Manager
 U.S. Appeals Court (Sixth Circuit)

Sincerely,


 Jack Groenendal 12/13/16

Jack Groenendal #13243-040
 FCI Sandstone
 P.O. Box 1000 Unit B
 Sandstone MN 55072

PART OF PENDING 2255 MOTION

EXHIBIT 28

From: "Jack Groenendal [jackgroenendal@grandaufamily.com]"
[jackgroenendal@grandaufamily.com]
Sent: 08/18/2011 07:58 PM GMT
To: Rhonda Wallock
Subject: Jack Groenendal

THURS →

Rhonda:

You are welcome. (I will continue to keep you in the loop until off probation)

I did attend Wednesday's AM Sex offenders meeting and did present my homework – Book 3 chapter 4 on Avoidance Strategies Question 25 asked Write down three situations where avoidance is not the best strategy:

1. Can't "never" use a computer (unrealistic – mentioned monitored home computer and white listed work computer)
2. Stay celibate for the rest of my life (I am committed to refrain from even dating until my divorce is two years old – not rush into a relationship – get healthy first – if it is God's will, remarry – sex only with wife)
3. Not attend family functions if booze is served (Brother Tom just finished 2 yrs of sobriety – we will both go to an AA meeting Friday am and hold each other accountable at my daughter's reception – beer and wine will be there)
(Step 9 – opportunity to make direct amends and future reconciliation with family and friends overrides avoiding attending) * didn't attend company party where they bought everyone their first drink (People, places, things)

I will take Monday Aug 22nd and Tuesday Aug 23rd off

Am scheduled to attend a seminar Monday am for Servant Keepers (see below) and will still volunteer at UCOM Tuesday. (pick up and deliver food)

My 25 yr old son (Zachary) is also in town (moved to Colorado in April – took a full time job at WAYFM as program director at a Xion radio station) so I plan to spend time with him and my folks verses working till 8:00 pm Monday, 6:00 pm Tuesday and an SA meeting till 8:00 PM

One additional question I should have asked you at our last face to face visit. My daughter Danielle (age 22) is getting married to Aaron Veldheer – he owns a home at 830 Den Hertog Wyoming Mi 49509 His cell # is 616-298-6699 Danielle's cell number is 616-485-6950 My question is this: Aaron has a 4 yr old son and an almost one year old son he shares custody with. Aaron invited me to Corinth Reformed in Byron Center to witness his public profession of faith next month. *If I am invited to their home after the Sunday service or just to visit in the future, do I need to get pre-approval each invite?* Danielle obviously knows all the details and Aaron invited me out to dinner along with his dad last week where we had a good conversation (He knows everything too) I understand I am never to be alone with anyone under age 18 but it just dawned on me I am going to become a "step" grandpa Friday. Prior to my offence, we were a close knit family spending holidays and birthdays with each other. Being divorced and previously estranged with my daughter, I don't expect to spend every holiday with Danielle and Aaron obviously, but am curious what I should do if invited over or even if I could invite

EXHIBIT 30

FROM THE DESK OF:
PETER C. SAMOURIS, ESQ.

GRABEL & ASSOCIATES
ATTORNEYS AT LAW

PNC BANK BUILDING
120 N. WASHINGTON SQUARE, SUITE 805
LANSING, MICHIGAN 48933

TELEPHONE: (517) 347-7047
FACSIMILE: (517) 336-7371
E-MAIL: psamouris@comcast.net

June 29, 2012

Mr. Jack A. Groenendal, Inmate
Newaygo County Jail
1035 E. James Street
P.O. Box 845
White Cloud, MI 49349

Re: *USA vs Jack Alan Groenendal, Case No. 1:11-CR-260*
Proposed Plea Agreement and Letter dated 06/29/12 from AUSA, Daniel Y. Mekaru

Dear Mr. Groenendal:

→ DENIED FOIA REQUEST!

Enclosed please find the above-referenced material. Please carefully read and review the same. I will be in to see you at some point during the work week beginning Monday, July 2, 2012, and if I do not make it by Friday, July 6th, I will then be in to see you on Saturday, July 7th.

As you can see, this proposed resolution is a binding plea agreement, capping your incarceration exposure to 10 years. Also, please note that during the discussion I had with Mr. Mekaru on June 21, 2012, I simply indicated that one obstacle to any potential plea agreement, was a concern that you would end up doing far more than 10 years. He then asked if you would accept a "10-year cap," to which I responded "perhaps" and that a 10-year cap is something you would "consider."

I did not, in any way, tell him that I had authority to accept this offer, but only that I am duty-bound to present the same to you, in the event it were formally offered. I imagine that his wording is some sort of "face-saving" technique he has developed over the years. Whatever the case, it is not anything I wish to call him on, since he already has stated that he is "negotiating against myself."

I have also contacted or attempted to contact many of the witness. By now, you should have received a Release of Information; do not wait for me to arrive at the jail. As previously advised, please sign the Release form return to me in the enclosed self-addressed stamped envelope that was included in said previous mailing.

I have received your most recent letters and have researched the "attempt vs intent" issue, and yes, your "intent" is very much in trial. Our next discussion will also focus on this issue as well, and I will explain, in detail, the AUSA's position, which is, your "intent" can be proven by circumstantial

→ PAGE 109 + AA DAILY DEVOTIONALS + PRAYER JOURNAL, NOTEBOOKS BIBLES
E-MARKS ETC



U.S. Department of Justice
Executive Office for United States Attorneys

EXHIBIT 31

Freedom of Information and Privacy Staff

Suite 7300, Bicentennial Building
600 E Street, NW
Washington, DC 20530

FAX: (202) 616-0041

February 23, 2017

Jack Groenendal
#13243-040
FCI Sandstone
POB 1000 Unit B
Sandstone, Minnesota 55072

Handwritten notes:
* ~~...~~
30 days under the law
LACK OF MY APPEARANCE

Re: Request Number: FOIA-2016-01954
Date of Receipt: March 24, 2016
Subject: Jack Groenendal (Self)/(Specific Records)/USAO Western District of Michigan

ONE OF MULTIPLE DENIED REQUESTS!

Dear Mr. Groenendal:

In response to your Freedom of Information Act and/or Privacy Act request, the paragraph(s) checked below apply:

- 1. [] A search for records located in EOUSA-_____ has revealed no responsive records regarding the above subject.
- 2. [x] A search for records located in the United States Attorney's Office(s) for the Western District of Michigan has revealed no responsive records regarding the above specific subject.(s)(audios etc.) See previous responses to: 14-4282, 15-2537, 15-2528, 16-285, 16-286.
- 3. [] After an extensive search, the records which you have requested cannot be located. *NOT FOR LACK OF DUE DILIGENCE...*
- 4. [] Your records have been destroyed pursuant to Department of Justice guidelines.
- 5. [] Please note that your original letter was split into separate files ("requests"), for processing purposes, based on the nature of what you sought. Each file was given a separate Request Number (listed below), for which you will receive a separate response:



This is the final action on this above-numbered request. If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following web site: <https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of my response to your request. If

FOIA REQUESTS MADE BY JACK GROENENDAL
Re: USA v Jack Groenendal 1:11-cr-260

EXHIBIT 33

- 1) FOIA-2014-04282 - Received 9/22/14?
- 2) FOIA-2014-04283 - Received 9/22/14?
- 3) FOIA-2015-03260 - Received 7/31/15?
- 4) FOIA-2015-0257 - Received _____?
- 5) FOIA-2015-02528 - Received _____?
- 6) FOIA-2015-ICFO-80026 (ICE)
- 7) FOIA-2016-01068
- 8) FOIA-2016-0286
- 9) FOIA-2016-00552 (BOP)
- 10) FOIA-2016-00285
- 11) FOIA-2016-01954 - Received 3/24/16
- 12) FOIA-2017-006672 - Received 9/25/17
- 13) FOIA-18-OIG-060
- 14) FOIA-2018-000046
- 15) FOIA-2018-000633
- 16) FOIA-2018-001242
- 17) FOIA-2018-IGPA-00008 - APPEALED
- 18) FOIA-2018-002605
- 19) EOUSA-2018-002003

PLUS MORE

FOIA Appeals re: USA v Jack Groenendal

- DOJ-AP-2018-001180
- DOJ-AP-2018 _____?
- DOJ-AP-2018-001865
- DOJ-AP-2017-005475
- DOJ-AP-2018 _____?
- DOJ-AP- 005004
- DOJ-AP- _____?
- 2017-ICAP-00091
- DOJ-AP-2018-001215? (two?)
- DOJ-AP-2018-001204
- DOJ-AP-2018-000522
- DOJ-AP-2016-01143
- DOJ-AP-2018-005776
- DOJ-AP-2018-005809
- DOJ-AP-2018-006203
- DOJ-AP-2018-004253

- F-18-00010
- OPR-FOIA-F18-00096
- EOUSA-2018-000633
- FOIA-2016-001954
- 18-OIG-060
- FOIA-2016-01954
- DOJ-2017-006772
- 2015-ICFO-80026
- EOUSA-2018-000633
- DOJ-2017-006772
- FOIA-2016-00286
- FOIA-2016-03260 & DOJ-2017-006772

PLUS MORE

OIP-FOIA - 2018-003379 (JUNE 1, 2018)
 REQUEST NO. F18-00096 (JUNE 1, 2018)
 (2018-16 PA-00008) (OIG) JUNE 21, 2018
 EOUSA-2018-002605 DENIED



U.S. Department of Justice

Executive Office for United States Attorneys
Freedom of Information & Privacy Staff

600 E Street, N.W.
Suite 7300, Bicentennial Building
Washington, DC 20530-0001
(202) 252-6020 FAX: 252-6047

EXHIBIT 33

(www.usdoj.gov/usao)

October 29, 2015

Jack Groenendal
#13243-040
FCI Sandstone
P.O. Box 1000 Unit B
Sandstone, Minnesota 55072

Re: Request Number: FOIA-2015-03260 Date of Receipt: July 31, 2015
Subject of Request: Self (Specific Records)

Dear Mr. Groenendal:

In response to your Freedom of Information Act and/or Privacy Act request, the paragraph(s) checked below apply:

1. [] A search for records located in EOUSA-_____ has revealed no responsive records regarding the above subject.
2. [x] A search for records located in the United States Attorney's Office(s) for the Western District of Michigan has revealed no responsive records regarding the above subject.
3. [] After an extensive search, the records which you have requested cannot be located. *↳ WHERE ARE THEY?*
4. [] Your records have been destroyed pursuant to Department of Justice guidelines.

This is the final action on this above-numbered request. If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy, United States Department of Justice, Suite 11050, 1425 New York Avenue, Washington, DC 20530-0001, or you may submit an appeal through this Office's eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Your appeal must be received within sixty days from the date of this letter. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

Susan B. Gerson
Assistant Director

FREEDOM OF INFORMATION ACT REQUEST

DATE: 10-8-15
2015 OCT 25 PM 3:57
ED/VE/USA/FOIA STAFF

TO: U.S. DEPT OF JUSTICE
600 E. STREET NW
SUITE 7300 BILLETENIA BLDG
WASHINGTON D.C. 20530

EXHIBIT 34 - A

Handwritten initials

RE: F.O.I.A. Request per 5 U.S.C. 552 a

Dear F.O.I.A. Officer:

This is a specific request under the Freedom of Information Act, 5 U.S.C. 552a et seq. I hereby request any and all records, documents, photographs, audio or video recordings or any other type of information that your agency has in its possession that is in any way connected to or related to, or even remotely in reference to the following:

- SEE ATTACHED SHEET -

In the event that you believe that some or all of the requested information is exempt from release, kindly advise me which exemptions you are relying on. Also please provide a Vaughn index for all items withheld, as well as detailed justification for any exemptions claimed, either specifically or implied.

As required by law, I anticipate a reply within ten (10) working days. If there is a cost for the copying of this information, kindly contact me for authorization.

Respectfully,

Jack Groenendal
Signature

JACK GROENENDAL
Printed Name

GRAND RAPIDS MICHIGAN 12-01-58
Place of Birth & Birthdate

386-70-1243
Social Security Number

DECLARATION

I, JACK GROENENDAL, hereby declare that the foregoing is true and correct according to the best of my information, knowledge, and belief.

Dated this 8TH day of OCT 2015.

Jack Groenendal
Signature

JACK GROENENDAL
Printed Name

EXHIBIT 34-B

Freedom of Information Act Request

Oct 8, 2015

Not enough room on form supplied by the law library at FCI Sandstone... Full request below.

Please send me any and all information noted below from the U.S. Attorney's office (AUSA Mekar and AUSA Lewis Western District of Michigan) to or from the following....

1. Any and all letters, emails or notes on case no. 1:11-cr-00260-PLM (Jack Groenendal) to or from Attorney Deno Fotieo (Year 2011 and 2012)
2. Any and all letters, emails or notes on case no. 1:11-cr-00260-PLM to or from investigator Adam Kelly
3. Any and all letters, emails or notes on case no. 1:11-cr-00260-PLM to or from Attorney Peter Samouris (2012 -2013)
4. Any and all letters, emails or notes on case no. 1:11-cr-00260-PLM to or from investigator Gary Wake.

Additionally, I request the initial plea offer given Deno Fotieo in December of ~~2012~~²⁰¹¹, the second plea offer given Attorney Peter Samouris in 201~~2~~²⁰¹¹, (which included a waiver of any FOIA request) the third plea offer of that removed, and the fourth plea offer emailed to Attorney Samouris November 19, 2012.

I would like a copy of the email sent by Samouris accepting this plea offer, (November 19, 2012) and a copy of the email from AUSA Mekar to Attorney Samouris withdrawing my email accepted plea deal. Who told Mekar to withdraw the accepted offer? Any notes as to why it was not withdrawn in court in front of defendant and judge?

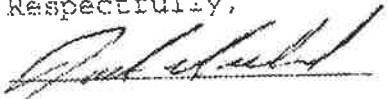
EXHIBIT 34-C

I do not need any CD's or DVD's and do not need any images redacted or otherwise. Do not need lists of search terms entered but do want any and all notes from the November 2012 evidence hearing plus any documents sent to any of the above regarding Jack Groenendal.

If any requested information is exempt from release, kindly advise me on which exemptions you are relying on. Also, please provide a Vaughn index for all items withheld, as well as detailed justification for any exemptions claimed, either specifically or implied.

As required by law, I anticipate a reply within ten (10) working days. If there is a cost for copying this information, kindly contact me for authorization.

Respectfully,



Date 10-8-15

Jack Groenendal #13243-040

FCI Sandstone

PO Box 1000 Unit B

Sandstone MN 55072

EXHIBIT 35



U.S. Department of Justice

Donald A. Davis
United States Attorney
Western District of Michigan

1 OF 2

The Law Building, 5th Floor
330 Ionia Avenue, N.W.
Grand Rapids, Michigan 49503

Mailing Address: (616) 456-2404
United States Attorneys Office Facsimile (616) 456-2517
Post Office Box 208
Grand Rapids, Michigan 49501-0208

VIA E-MAIL

January 12, 2012

Mr. Deno P. Fotieo
146 Monroe Center St NW
Suite 1125
Grand Rapids, MI 49503
denofotieo@sbcglobal.net

Re: United States v. Jack Groenendal
No. 1:11-CR-260-PLM

Dear Mr. Fotieo:

Please be advised of the following matters for trial:

* ON JAN 12, 2012, QUOTE: " WE ARE COPYING THE REPORTS OF COMPUTER ACTIVITY " - ANY OF THESE THE ACTUAL SCREEN CAPTURES SENT TO USPO AGENT WALLOCK AND QUOTED BY MR BABCOCK AT MY SEPT 8, 2011 GRAND JURY? - YES!
IF YES, WHY WERENT THEY GIVEN TO MR. FOTIEO? WHEN DID THEY GIVE THEM, FRIDAY JAN 13? NOTE: NOT SHARED WITH ME PRIOR TO JAN 17 TH

1. Agent Babcock prepared a list of search terms that are related to child pornography. Enclosed please find a copy of his list. Agent Babcock also included a sample of terms that are related to adult pornography.

* WHAT TERM IS MISSING?

2. I understand that you met with Agent Babcock today to review the evidence from the earlier case. I trust that Agent Babcock answered any and all of your questions. If you have any concerns or if you did not get all of your questions answered, please let me know.

MISSING MY 4 PAGES OF QUESTIONS!

* NOT ANSWERED

DID THIS HAPPEN? WHAT REPORTS?

3. As you requested, we obtained the earlier records of Mr. Groenendal's computer activity. It is quite voluminous and we are copying the reports of computer activity. We will have to make arrangements for delivery of the records. We discovered that Mr. Groenendal was searching for child pornography prior to the dates charged in the Indictment. Please be advised that we may seek to introduce that information as Rule 404(b) evidence to establish identity.

* WHEN DID FOTIEO GET THESE?

① *Handwritten notes:*
- *more*
- *copy Mr. Babcock*
- *copy of the reports of computer activity*
- *WHY DIDN'T FOTIEO GIVE THEM TO SAAROVAIS?*

OVER →

CC: WALLOCK + BABCOCK →

EXHIBIT 36

DENIED F.O.I.A. REQUEST ON
ALL ITEMS WITH LEAH GROENENDAL

Mr Deno P. Fotieo
Page 2
January 11, 2012

3. Enclosed please find a copy of travel documents from Ms. Leah Groenendal, your client's ex-wife. The documents will corroborate her testimony that she and her son were out of the state at the time that Mr. Groenendal was searching for child pornography on August 9, 2011.

If you have any questions, please call me.

→ AFF FOIA REQUESTS MISSING!

Very truly yours,

DONALD A. DAVIS
United States Attorney

/s/ Daniel Y. Mekar
DANIEL Y. MEKARU
Assistant United States Attorney

Enclosures

cc: Blair Babcock, HSI-ICE
Rhonda Wallock, US Probation

FACT:

LEAH (EX-WIFE) WAS IN COURT
AT THE START OF MY JUNE 11,
2013 TRIAL. WHAT WAS SHE
GOING TO TESTIFY? WHAT
WAS SHE TOLD? NOTE:

SEE HER LATER E-MAIL - WAS
LIED TO BY THE GOVERNMENT!

EXHIBIT 37



U.S. Department of Justice

Patrick A. Miles, Jr.
United States Attorney
Western District of Michigan

The Law Building, 5th Floor
330 Ionia Avenue, N.W.
Grand Rapids, Michigan 49503

Mailing Address: (616) 456-2404
United States Attorneys Office Facsimile (616) 456-2517
Post Office Box 208
Grand Rapids, Michigan 49501-0208

VIA E-MAIL

September 6, 2012

Mr. Peter C. Samouris
120 N. Washington Sq. Ste. 805
Lansing, MI 48933
e-Mail: psamouris@comcast.net

FOIA REQUEST DENIED!

Re: United States v. Jack Groenendal
No. 1:11-CR-260-PLM

Dear Mr. Samouris:

COPY OF ALL SAMOURIS' QUESTIONS?
COPY OF HIRED EXPERT'S QUESTIONS?

Enclosed please find the proposed stipulation and order for the computer forensic examination. I will try to address your questions as well. Forgive me for just cutting-and-pasting your questions, but it was just easier for me.

(1) How & what was set up on the government's monitoring system? Specifically, was it set up to monitor Mr. Groenendal's e-mails, IMs, key-stroke count, etc.; or was it only intended to monitor and block pornography?

* ONE YEAR AFTER MY ARREST, STILL ASSUMED BLOCKER!

I have a limited understanding of the monitoring software. It is a service that is provided by a private vendor that has a contract with the U.S. Probation Office. As I understand, the system can be configured to block certain websites, but is primarily designed to monitor all web activity. The system has a range of features and options, but it is the probation officer who decides which to activate based on each defendant. If you want more information, you can call the vendor directly. I previously provided the name of the witness, Judy Hogaboom. She can be reached at (610) 337-3964.

* NOTE: PROSECUTOR HAD HOGABOOM'S PHONE #

(2) Will your agents (or I suppose, your office) provide us with a forensic copy of the hard drive on DVD? If not, we would then like to provide to you and/or your agents and experts, a clean hard drive for cloning purposes. Basically, our experts advise they need a "clone of the Mr. Groenendal's hard drive for their examination purposes.

As stipulated in the proposed order, the Government will allow your forensic examiner access to an image of the hard drive. Your examiner should call Special

BARCORK - 616 - 235 - 2536 ?

OVER →

copy

*

EXHIBIT 38

(b)(6), (b)(7)(C), (b)

From:
Sent:
To:
Cc:
Subject:

(b)(6), (b)(7)(C)
Friday, July 20, 2012 1:23 PM
(b)(6), (b)(7)(C), (b)(7)(E) .gov; David Berghuis
daniel.mekaru@usdoj.gov
RE: Re:

→ DENIED THIS E-MAIL

Mr. (b)(6), (

Is there a mailing or street address to which I can get your trial subpoena? I would prefer to serve it in person, but do not have to...

Thanks,

(b)(6), (b)(7)(C), (b)(7)(E) SA ICE/HSI

* FROM SA BABCOCK
CC MEKARU ←

SUBJECT RE:

From: (b)(6), (b)(7)(C), (b)(7)(E)
Sent: Tuesday, July 17, 2012 10:59 AM
To: (b)(6), (b)(7)(C), (b)(7)(E)
Cc:
Subject: Re:

BEST GUESS
FROM AGENT WALLOCK
TO S.A. BABCOCK
CC: AUSA MEKARU

(b)(6), (b)(7)(C), (b)(7)(E) should be able to advise you on this. I am uncertain about the law on this.

(b)(6) can you give us guidance? WENT TO 2ND GRAND JURY NEXT DAY, JULY 18 --- WHY?

→ FOIA REQUESTS DENIED

Thanks

(b)(6), (b)(7)(C), (b)(7)(E)

From: (b)(6), (b)(7)(C), (b)(7)(E)
To:
Cc:
Date: 07/17/2012 10:48 AM
Subject: Re:

I have not seen the subpoena yet, but I will put it in my schedule now. I have a telephone interview with Jack's attorney, (b)(6), (b)(7)(C) scheduled for 10 AM on Thursday morning.

I just want to make sure that I have all my ducks in a row. (b)(6), (I have a Authorization to Release Confidential Information to talk to you/the probation department; do you know if a release has been executed for me to talk to the court/prosecutor?

(b)(6), (b)(7)(C), M.A., L.L.P.
Clinical Psychologist



U.S. Department of Justice

Donald A. Davis
United States Attorney
Western District of Michigan

EXHIBIT 39

SRD

The Law Building, 5th Floor
330 Ionia Avenue, N.W.
Grand Rapids, Michigan 49503

Mailing Address:
United States Attorneys Office
Post Office Box 208
Grand Rapids, Michigan 49501-0208

(616) 456-2404
Facsimile (616) 456-2517

December 22, 2011

MAY NOT E-MAIL?

Mr. Deno P. Fotieo
146 Monroe Center St NW
Suite 1125
Grand Rapids, MI 49503

ZERO ITEMS SENT TO
ZERO ITEMS RECEIVED FROM

ATTORNEY FOTIEO

Re: United States v. Jack Groenendal
No. 1:11-CR-260-PLM

WHY?

Dear Mr. Fotieo:

Please be advised of the following:

REMEMBER FOR LATER

1. Probation Officer Rhonda Wallock advised me that there were other weekly reports of Mr. Groenendal's monitored activity. Officer Wallock advised that she does not have the reports, but that they may be available through the vendor. We do not intend to use those other reports at trial. If you want the other reports, let me know and we will see what is available. - ALL REPORTS!
~~... DIDNT AVE - WHI ...~~

2. I understand that Mr. Groenendal is refuses to agree to the proposed stipulations; that, of course, is his right. We will proceed accordingly. ~~WHAT STIPULATIONS?~~

3. I will be filing a motion in limine to seek direction from the Court on how to handle Mr. Groenendal's prior conviction.

4. I anticipate that I will also file a motion in limine to limit the amount of information that is disclosed about the computer monitoring company and the program.

QUESTION FOR HEARING - ITEM #1
ADmits NOV 18 - NO MORE
INCONSISTENT STATEMENTS
LIE (LIE) IN DEC OF 2011
OR LIE NOV 2012? → OTHER REPORTS?
READ
SAVED?

psamouris@comcast.net

XFINITY Connect

EXHIBIT 40

US v Groenendal

Tue, Nov 20, 2012 09:49 PM

From : Daniel Y. Mearu (USAMIW) <Daniel.Mearu@usdoj.gov>

Subject : US v Groenendal

To : psamouris@comcast.net

Pete,

My management has rejected the plea proposal. We cannot accept a plea to obscenity. Please call me when you get a moment.

Dan

COMPARE TO EXHIBIT # 13 - wow!

FEDERAL PUBLIC DEFENDER
WESTERN DISTRICT OF MICHIGAN

EXHIBIT 41

50 Louis Street, NW, Ste. 300
Grand Rapids, Michigan 49503
Phone: 616.742.7420
Fax: 616.742.7430



925 W. Washington Street, Ste. 104
Marquette, Michigan 49855
Phone: 906.226.3050
Fax: 906.273.0070

March 8, 2016

SPECIAL MAIL - Open only in the Presence of the Inmate

Mr. Jack Alan Groenendal, Reg. #13243-040

FCI SANDSTONE

Federal Correctional Institution

Post Office Box 1000

Sandstone, MN 55072

RE: *United States of America v. Jack Groenendal*
Case No.: 14-1143 and 14-1148

Dear Mr. Groenendal:

I received your letter dated February 29, 2016. I checked with Kathleen Thomas, the court reporter for Judge Maloney. Unfortunately audio recordings are not kept or available.

* There were three transcripts produced from your trial. I see in volume two (page 421) where I object to Mr. Lewis badgering the witness (you) and the Court overruling our objection. His line of questioning surrounding that objection is most likely what you recall. This reflects my recollection as well.

* I am enclosing that portion of the transcript for you.

Sincerely,

Sharon A. Turek
Interim Federal Defender

SAT/jfw
Enclosure

* EXCEPT THE PRINTED TRANSCRIPT HAS BEEN ALTERED. OMITTED IS AUSA LEWIS REPEATEDLY ACCUSING ME OF LYING ABOUT MY COURT MANDATED WORKBOOK CAUSING INCURABLE JURY PREJUDICE!

JACK GROENENDAL

FEDERAL PUBLIC DEFENDER
WESTERN DISTRICT OF MICHIGAN

EXHIBIT 42-A

The Trade Center, Ste. 300
50 Louis Avenue, NW
Grand Rapids, Michigan 49503
Phone: 616.742.7420
Fax: 616.742.7430



iEconomy Building, Ste. 104
100 North Front Street
Marquette, Michigan 49855
Phone: 906.226.3050
Fax: 906.226.3499

May 13, 2013

United States Attorney's Office
Attn. Mr. Sean M. Lewis, Esq.
330 Ionia NW - Suite 501
Post Office Box 208
Grand Rapids, MI 49501-0208

WHERE IS MINE?

RE: *United States of America v. Timothy Phillip Burgess*
Case No.: 1:13-cr-3

Dear Mr. Lewis:

Pursuant to the court's initial discovery order, Federal Rule of Criminal Procedure 16, *Brady v. Maryland*, the Jencks Act and all other applicable sources of law, defendant respectfully requests that the government provide copies of, or make available for inspection and copying, the following documents and tangible evidence which are in the possession, custody or control of the government or, the existence of which is known or by the exercise of due diligence may become known, to your office.

1. Any written or recorded statements made by the defendant. >
2. The defendant's arrest and conviction record.
3. Results or reports of physical or mental examinations, and of any scientific test, including, without limitation, any handwriting analysis or experiments, which are material to the preparation of the defense or are intended for use by the government as evidence at trial.
4. The substance of any oral statement made by the defendant before or after his arrest in response to interrogation by a person then known to be a government agent which the government intends to offer in evidence at trial.

RULE 16 EVIDENCE!

PHONE CALL OR VISIT RECORDINGS

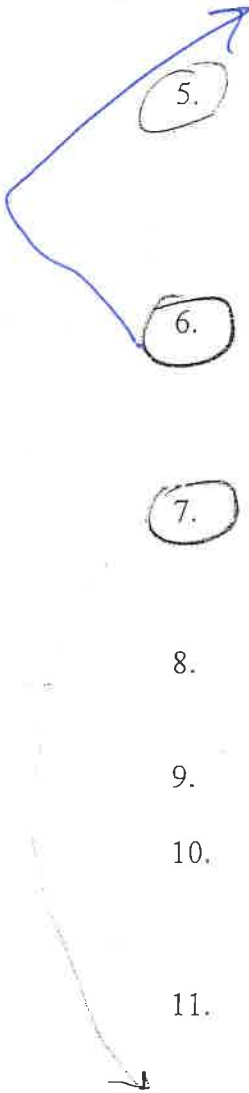
EXHIBIT 42-B

Page 2

CHARGED / CHECK IMAGE
NOT CAPTURED AS VIEWED
IS FAVORABLE TO THE
DEFENDANT
- WITHHELD!

Federal Public Defenders

ACTUAL
SCREEN
CAPTURES!



- 5. Books, records, papers, documents witness statements or testimony, photographs, audiotapes, videotapes, the results of electronic surveillance, search warrants, supporting affidavits and the fruits of any search warrants and any other document or tangible object which the government intends to use at trial or which was obtained from or belonged to the defendant.
- 6. Any and all information and material known to the government which may be favorable to the defendant on the issue of guilt or punishment within the scope of *Brady v. Maryland*, 373 U.S. 83 (1963) and *United States v. Agurs*, 427 U.S. 97 (1976). * ACTUAL SCREEN CAPTURES?
- 7. Any impeachment information relating to the government's witnesses that is within the ambit of the Jencks Act or *Brady v. Maryland*, including the criminal record of any alleged informant who will testify for the government at trial.
- 8. For independent expert examination, copies of all latent fingerprints or palm prints which have been identified by a government expert as those of the defendant.
- 9. Recorded grand jury testimony of the defendant relating to the offenses charged.
- 10. Please indicate whether the defendant was identified in any lineup, show up, photo spread or similar identification proceeding, and produce any pictures utilized therein or resulting therefrom.
- 11. Please indicate whether the defendant was an aggrieved person, as defined in 18 U.S.C. § 2510(11) of any electronic surveillance and, if so, set forth in detail the circumstances thereof.
- 12. Any other discoverable material to which defendant is entitled by law.

Your kind attention to these matters is greatly appreciated.

Sincerely,

DAVID L. KACZOR
Senior Litigation Counsel

DLK/jbf
cc: Timothy Burgess

EXHIBIT 43

U.S. V. GROENENDAL 2015 U.S. APP LEXIS 23381 (6TH CIR 2015)

Groenendal points us to the Second Circuit's recent decision in *United States v. Raymonda*, 780 F.3d 105 (2d Cir. 2015), but his reliance on that case is misplaced. *Raymonda* concerned a defendant's motion to suppress images of child pornography found on his computer. Like **Groenendal**, *Raymonda* had accessed thumbnail images of child pornography. He moved for suppression on the ground that evidence that he had accessed these images on one occasion approximately nine months prior to the search was too stale to create probable cause. The Second Circuit agreed, explaining that, under the circumstances, "it was not enough simply to show that the suspect had at some point accessed thumbnail images of child pornography." *Id.* at 117. Rather, "[i]t was necessary to show that he accessed them in circumstances sufficiently deliberate or willful to suggest that he was an intentional 'collector' of child pornography, likely to hoard those images-or acquire new ones-long after any automatic traces of that initial incident had cleared." *Id.*

Groenendal argues that, because he also was found to have accessed only thumbnail images of child pornography without downloading the images to his hard drive, *Raymonda* supports his case. But *Raymonda* is inapposite. Here, neither the staleness of the evidence nor the hoarding of child pornography is at issue. Moreover, the facts of the cases differ. Unlike in *Raymonda*, the evidence established that **Groenendal** accessed thumbnail images of child pornography on multiple occasions over a period of several weeks, searched for these images, and manipulated them to enable his viewing of the images on his computer screen.

*

UNVIEWED IMAGES CANNOT BE KNOWN

Groenendal's arguments concerning the sufficiency of the government's evidence are unavailing. In short, he has failed to establish that the district court plainly erred in denying his Rule 29 motion or that the record is "devoid of evidence pointing to guilt." *Tragas*, 727 F.3d at 618 (internal quotation marks omitted).

Groenendal next argues that the district court plainly erred when it allowed Agent Babcock to testify about issues concerning scientific, technical, or other specialized knowledge, specifically, search terms commonly used to find child pornography on the internet and the manner in which **Groenendal** went about finding pornography through use of a search engine. **Groenendal** does not argue that Babcock lacked the qualifications to testify as an expert; rather, he challenges the court's failure to qualify him as an expert witness. As **Groenendal** concedes, because he did not object to Babcock's testimony at trial, we review the admissibility of the testimony for plain error. See *United States v. Smith*, 601 F.3d 530, 538-39 (6th Cir. 2010). Federal Rule of Evidence 702 allows a witness with "specialized knowledge" to testify as an expert if his or her opinion "will help the trier of fact to understand the evidence or to determine a fact in issue." Fed. R. Evid. 702(a).

* NOT FULLY EXPLAINED AT TRIAL ...

UNVIEWED THUMBNAILS OF ALL SEARCH TERMS (PAST TRIGGERS) AUTOMATICALLY SENT TO UNVIEWED TEMPORARY CACHE FILE - NOT ON HARD DRIVE!

EXHIBIT 45

UNITED STATES OF AMERICA, v. Elmer Emmanuel Eychaner, Defendant.
UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA, NEWPORT NEWS DIVISION
2018 U.S. Dist. LEXIS 26128
Criminal Case No. 4:17cr76
February 15, 2018, Decided
February 16, 2018, Filed

45-A

Counsel For **Elmer Emmanuel Eychaner**, III, Defendant: Amanda Catherine Conner, LEAD ATTORNEY, Federal Public Defender's Office, Norfolk, VA.
 For USA, Plaintiff: Lisa Rae McKeel, LEAD ATTORNEY, United States Attorney's Office, Newport News, VA; Megan Cowles, United States Attorney Office - Newport News, Newport News, VA.

Judges: Mark S. Davis, UNITED STATES DISTRICT JUDGE.

Opinion

Opinion by: Mark S. Davis

Opinion

OPINION AND ORDER

This matter is before the Court on a motion to compel production of evidence filed by Defendant **Elmer Emmanuel Eychaner** ("Defendant"), requesting that the Court order the Government to transfer evidence of child pornography from Newport News, Virginia, to a Government facility in Spokane, Washington, where Defendant's expert can view the evidence. Def.'s Mot. Compel 1, ECF No. 14. Defendant argues that the Government has not made the evidence "reasonably available" to him as required by 18 U.S.C. § 3509(m)(2). Id. at 5. For the reasons noted below, Defendant's motion to compel production of evidence is **DENIED**.

I. Background

On August 16, 2017, Defendant was charged in an indictment with the following five counts: Access with Intent to View Visual Depictions of Minors Engaging in Sexually Explicit Conduct, in violation of 18 U.S.C. § 2252(a)(4)(B) (Count One); Attempted Receipt of Obscene Visual Representations of the Sexual Abuse of Children, in violation of 18 U.S.C. § 1466A(a)(1) (Count 2); Destruction of a Tangible Object to Impede a Federal Investigation, in violation of 18 U.S.C. § 1519 (Count Three); Obstruction of Justice - Attempted Evidence Tampering, in violation of 18 U.S.C. § 1512(c)(1) (Count Four); and Penalties for Registered Sex Offender, in violation of 18 U.S.C. § 2260A (Count Five). Indictment, ECF No. 1.

These charges arise from Defendant's alleged conduct while on lifetime supervision from a prior conviction for possession of material containing child pornography. Gov.'s Opp'n Br. 2, ECF No. 17. While on supervision, Defendant allegedly installed a program onto his laptop called "Cortona," which utilizes voice command technology to operate various computer programs. Id. This was allegedly done to thwart the U.S. Probation Office's computer monitoring software program, which operates by monitoring keystrokes. Id. Using Cortona, Defendant allegedly was able to view

45-B

numerous "anime" images of child pornography, as well as one or two images of child pornography involving actual children. Id. The Government claims that Defendant later broke his computer, removed the hard drive, and cleared his search history. Id.

The evidence at issue in the motion to compel consists of roughly 600 screenshots captured by the Probation Office's monitoring service, Remote.com, that purportedly show the search terms Defendant used, the images he viewed, and records his internet usage on the relevant date. Def.'s Mot. Compel 2, ECF No. 14. The Government argues that, by making the screenshots available to the Defendant for review at a facility in Newport News, the evidence is reasonably available to Defendant, satisfying the Government's statutory obligation. Gov. Opp'n Br. 5, ECF No. 17. Defendant, however, argues that the evidence is not reasonably available for review by Defendant's digital forensics expert. Def.'s Mot. Compel 8-9. The expert is located in Washington State, and Defendant asserts that it is unreasonable to require the expert to review the screenshots in Newport News because doing so would cost the defense \$5,470 more than it would to review the evidence in Washington. Id.

Defendant requests that the screenshots be sent either by mail or by password-protected, encrypted email from the Newport News facility to the Government facility in Spokane. Id. at 9. He notes that the U.S. Attorney's Offices in Norfolk, Richmond, and Alexandria have sent evidence containing child pornography in numerous other cases to Spokane for review by the very same expert. Id. at 3-4. He also notes that U.S. Attorney's Offices in several other districts have also permitted the transfer of evidence containing child pornography to Government facilities in Spokane. Peden Decl. 4, ECF No. 14-3. The Government replies that any such transfer will be of limited use to a digital forensics expert,¹ and that the reproduction of the child pornography is, in and of itself, a harm that § 3509(m) was designed to prevent. Gov.'s Opp'n Br. 9-10.

* **II. Applicable Law** — ASKED (TWICE) DENIED/WITHHELD!

In a criminal prosecution, Federal Rule of Criminal Procedure 16 requires that "the government must permit the defendant to inspect and to copy or photograph . . . data [] [and] photographs . . . if the item is within the government's possession, custody, or control and: (i) the item is material to preparing the defense; [or] (ii) the government intends to use the item in its case-in-chief at trial." Fed. R. Crim. Pro. 16(e).

In child pornography cases, discovery under Rule 16 is modified by 18 U.S.C. § 3509(m). This section provides that "[i]n any criminal proceeding, any property or material that constitutes child pornography . . . shall remain in the care, custody, and control of either the Government or the court." 18 U.S.C. § 3509(m)(1). The statute also provides that "[n]otwithstanding Rule 16 of the Federal Rules of Criminal Procedure, a court shall deny, in any criminal proceeding, any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any property or material that constitutes child pornography . . . so long as the Government makes the property or material **reasonably available** to the defendant." § 3509(m)(2)(A) (emphasis added). Evidence is reasonably available if "the Government provides ample opportunity for inspection, viewing, and examination at a Government facility of the property or material by the defendant, his or her attorney, and any individual the defendant may seek to qualify to furnish expert testimony at trial." § 3509(m)(2)(B) (emphasis added).

III. Discussion

Defendant's motion primarily relies upon United States v. Knellinger, 471 F. Supp. 2d 640 (E.D. Va. 2007) to argue that this Court has the authority to compel the Government to transfer the requested evidence to the Spokane facility. See Def.'s Mot. Compel 6-7. This reliance, however, is misplaced

because Knellinger involved facts establishing that analysis at a Government facility would be so costly as to make it infeasible. Id., 471 F. Supp. 2d at 648-49. In Knellinger, one defense expert stated that he would charge \$135,000 to analyze the child pornography evidence at his own facility, but would charge \$540,000 if forced to analyze the evidence at the Government's facility in Richmond, Virginia. Id. at 647. Moreover, the expert also expressed concerns that his equipment might not be reliable after moving it to Richmond, and stated that he would not agree to work on the case if forced to use the Government facility. Id. A second expert testified similarly, stating he would also refuse to work on the case if required to use the Richmond facility. Id. The court, noting that the expert analysis was required for the defendant's legal defense and that analyzing the evidence at the Government facility would be so prohibitively expensive as to preclude such analysis, found that the Government had not provided "ample opportunity" for the defendant's experts and counsel to review the evidence. Id. at 649. The court then ordered the Government to produce a copy of the hard drive and transfer it to defense counsel. Id. at 650.

Knellinger is inapposite to the instant case. In the Court's view, Knellinger stands for the proposition that, where the use of a particular Government facility would be so prohibitively expensive as to preclude expert analysis, a court may order the transfer of the evidence either directly to defense counsel or to another Government facility. Here, Defendant has not alleged that the additional cost of \$5,470 for the expert to examine the evidence in Newport News would make analysis infeasible. Additionally, numerous courts faced with facts similar to the instant case have held that the additional cost or inconvenience of traveling to examine evidence at a Government facility does not deny a defendant "ample opportunity" to review the evidence. See United States v. Hornback, No. CRIM.A. 3:10-13, 2010 U.S. Dist. LEXIS 118612, 2010 WL 4628944, at *3 (E.D. Ky. Nov. 8, 2010) (noting that "Knellinger is clearly distinguishable" and that the defendant "has not provided evidence that the costs are so high in this case as to make Lakes' analysis infeasible. To the contrary, he has merely said it would be difficult, require driving, and increase costs. Those factors do not deny 'ample opportunity.'"); United States v. Doane, 501 F. Supp. 2d 897, 902 (E.D. Ky. 2007) (noting that defense counsel conceded that requiring an expert to travel from Kentucky to Indianapolis, Indiana, to review the evidence would not be "unduly burdensome" and provided "ample opportunity" under the statute, and indicating that this understanding was supported by the court's view of Knellinger and other relevant caselaw); United States v. O'Rourke, 470 F. Supp. 2d 1049, 1058 (D. Ariz. 2007) (finding that the defendant was provided "ample opportunity" under the statute where his defense counsel and experts had to travel from Ohio to Arizona to examine the evidence); United States v. Burkhardt, No. CRIM. 06-14 Erie, 2006 U.S. Dist. LEXIS 58647, 2006 WL 2432919, at *1 (W.D. Pa. Aug. 21, 2006) ("Defendant also argues that the contents of the hard drive at issue cannot be made reasonably available to defendant because the defense expert is located far from this jurisdiction and thus will entail substantial, unreasonable, and undue expense. However, the relevant standard does not consider expense or location of the expert as factors to consider when determining whether the material is reasonably available to a defendant.").

The above-cited cases are persuasive for the proposition that a defendant is not denied "ample opportunity" under the statute when the Government insists on a review occurring at a particular Government facility, so long as the cost of such review does not preclude a necessary defense expert's analysis.

While the cases cited above do not explicitly address whether the Government can be required to transfer evidence to another Government facility that is more convenient for a defense expert, at least one court has found that the statute does not require such transfers. In United States v. Maness, No. 10-20348-SHM-DKV, 2012 U.S. Dist. LEXIS 92454, 2012 WL 2577531 (W.D. Tenn. May 25, 2012), R. & R. adopted, No. 10-20348, 2012 U.S. Dist. LEXIS 92238, 2012 WL 2577528 (W.D. Tenn. July 3, 2012), the court explained its view as follows:

45-D

At the hearing, the defendant claimed that it was burdensome for the defendant's expert to visit the Memphis FBI field office and that it would be much more economical to allow the defendant's expert to inspect the image at the Boston FBI field office. The image, however, is still reasonably available because the government has provided the defendant "ample opportunity" to inspect the image at the Memphis governmental facility. See 18 U.S.C. § 3509(m)(2)(B). The statute does not require the government to make the image available at whatever facility the defendant requests it to be, and this court believes that keeping the image in Memphis also prevents unnecessary exposure and dissemination of the photo. 2012 U.S. Dist. LEXIS 92454, 2012 WL 2577531, at *2. The Ninth Circuit also has noted that "[18 U.S.C. § 3509(m)] does not require the government to provide the defendant access [to the evidence] at multiple facilities." United States v. Wright, 625 F.3d 583, 618 (9th Cir. 2010). For similar reasons as those expressed by the Maness and Wright courts, this Court concludes that the statute - which only requires that "the Government provides ample opportunity for inspection, viewing, and examination at a Government facility" - plainly does not require the Government to provide the evidence at a particular Government facility just because it is more convenient for a defense expert. 18 U.S.C. § 3509(m) (emphasis added). Thus, the Court concludes that the facts before it do not establish that the Defendant would be denied "ample opportunity" to examine the evidence or that the Government would fail to make such evidence "reasonably available" by requiring the defense expert to travel to Newport News to examine the evidence.² The Court therefore **DENIES** Defendant's motion to compel production of evidence. ECF No. 14.

IV. Conclusion

For the reasons noted above, the Court **DENIES** Defendant's motion to compel production of evidence. ECF No. 14.

The Clerk is **DIRECTED** to forward a copy of this Opinion and Order to counsel for Defendant and to the United States Attorney's Office in Newport News, Virginia, as well as to the Managing Assistant United States Attorneys in the Norfolk and Newport News divisions of the Court, and to the Acting United States Attorney, Tracy Doherty-McCormick.

IT IS SO ORDERED.

/s/ Mark S. Davis

Mark S. Davis

UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

February 15, 2018

Footnotes

1

The Government's response is unclear as to why the instant case is different from other cases in which it has agreed to transfer evidence containing child pornography to Spokane. The Government simply notes that the other cases "involved the reproduction of a mirror image of a computer hard drive" and that this case involves screenshots of Defendant's computer activities. Gov.'s Opp'n Br. 9. As far as the Court can tell, the Government distinguishes this case solely on the ground that it

45 - E

believes that the defense expert will not be able to use the evidence as effectively as would experts in other cases. Id. Defense counsel claims that the Government initially refused to transfer the evidence because of concerns about the security of mailing images of child pornography. Def.'s Mot. Compel 3-4. Defendant has explained that the screenshots could alternatively be sent by secure email, id. at 9, but the Government has not responded to this suggestion.

2

While the Court finds that the Government makes the evidence "reasonably available" for review by the Defendant when it allows him "ample opportunity" to review the materials at a Government facility, the Court notes with interest the lack of consistency in the handling of this issue across the various U.S. Attorney's Offices in the Eastern District of Virginia. Defendant cites seven cases from the Norfolk, Richmond, and Alexandria Offices in which AUSAs permitted the transfer of evidence containing child pornography to Government facilities in Spokane, Washington. Peden Decl. 4, ECF No. 14-3. The approach in those cases conflicts with the Government's position here, which is that there is a harm any time child pornography evidence is reproduced in any form. The Government's distinguishing explanation - that in the Government's view the defense expert here will not be able to offer valuable analysis of the evidence - is not entirely convincing as to why a transfer is not warranted. Gov.'s Opp'n Br. 9, ECF No. 17. The Defendant clearly disagrees about the value of the defense expert's analysis and is intent on going forward with it regardless. In any case, the Court would appreciate greater consistency on this issue, as the Government confuses the Court when it fails, without adequate distinguishing explanation, to speak with one voice.

The Court also notes that transfer of the digital evidence to the Spokane facility by means of a password-protected encrypted email appears, at first blush, to be a slightly more reasonable way to handle this issue than insisting on the unnecessary costs of bringing the expert to Newport News. However, in the absence of a clear statutory basis for doing so, the Court will not substitute its own view of the merits of this approach in place of the Government's view by compelling such a transfer in this case. Notwithstanding the Court's ruling on this issue, it notes that the Government did not respond at all to Defendant's explanation of the feasibility of using encryption to mitigate any concerns about the possible accidental disclosure of evidence containing child pornography. See Def.'s Mot. Compel 9, ECF No. 14.

45-F

UNITED STATES OF AMERICA, v. ELMER EMMANUEL EYCHANER, III, Defendant.
UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA, NEWPORT
NEWS DIVISION
2018 U.S. Dist. LEXIS 139636
Criminal Case No. 4:17cr76
August 15, 2018, Decided
August 15, 2018, Filed

Editorial Information: Prior History

United States v. Eychaner, 2018 U.S. Dist. LEXIS 26128 (E.D. Va., Feb. 15, 2018)

Counsel For Elmer Emmanuel Eychaner, III, Defendant: Amanda Catherine Conner, LEAD ATTORNEY, Federal Public Defender's Office, Norfolk, VA; Andrew William Grindrod, Office of the Federal Public Defender - Norfolk, Norfolk, VA.
 For USA, Plaintiff: Lisa Rae McKeel, LEAD ATTORNEY, United States Attorney's Office, Newport News, VA; Kevin Patrick Hudson, U.S. Attorney's Office (Norfolk), Norfolk, VA; Megan Cowles, United States Attorney Office - Newport News, Newport News, VA.

Judges: Marks. Davis, UNITED STATES DISTRICT JUDGE.

Opinion

Opinion by: Marks. Davis

Opinion

OPINION AND ORDER

This matter is before the Court on a Renewed Motion for Judgment of Acquittal filed by Defendant Elmer Emmanuel Eychaner, III ("Defendant" or "Eychaner") pursuant to Federal Rule of Criminal Procedure 29(c)(1). ECF No. 90. For the reasons noted below, Defendant's Renewed Motion for Judgment of Acquittal is **DENIED** as to Counts Two, Three, and Four, but the Motion is **GRANTED** as to Count Five, and Defendant's conviction on Count Five is **VACATED**.

* The Court notes at the outset the striking similarities between the facts here and those presented in United States v. Groenendal, No. 14-1143/1148, 2015 U.S. App. LEXIS 23381 (6th Cir. Apr. 27, 2015) (unpublished order), in which the Sixth Circuit affirmed a conviction for attempted receipt of child pornography and attempted access with intent to view child pornography. [*16] Id. at *1-2. Like Eychaner, Groenendal was on supervision from a prior conviction for possession of child pornography. Id. While on supervision, he persuaded his probation officer to allow him to have a computer on the condition that he would agree to computer monitoring. Id. at *5. Groenendal later conducted image searches on Bing.com for child pornography, the evidence of which was logged by the monitoring software in the form of screenshots. Id. Groenendal's probation officer eventually received a report about his activities from the monitoring service, after which the defendant was prosecuted for the above-mentioned offenses. Id. at *5-6.

At trial and on appeal, Groenendal argued that the evidence was insufficient to show that he specifically intended to commit either of the charged offenses. Id. at *3. The district court denied the defendant's Rule 29 motion at trial, and the Sixth Circuit affirmed the conviction. Id. at *9-10. On plain error review, the Sixth Circuit found that the following evidence was sufficient to show the defendant's specific intent to receive the images: (1) evidence of numerous pages of search terms that Groenendal entered into the Bing.com search engine which yielded images of child pornography; (2) evidence showing [*17] that Groenendal had scrolled through multiple pages of results and moved his mouse over certain images to enlarge them; (3) evidence that the defendant had used suggested search results from Bing.com to find further images of child pornography; (4) evidence that images had been stored in the defendant's temporary cache files; (5) Groenendal's admission to having conducted the searches; (6) and Groenendal's prior conviction for possession of child pornography. Id.

The only meaningful difference between the above facts and those here is that Eychaner removed his hard drive and prevented any forensic analysis to determine whether his Internet cache file contained the images in question or whether he had actually affirmatively downloaded or saved the images.¹⁵ But because both this case and Groenendal involve the attempted receipt as opposed to actual receipt of these images, the Internet cache evidence is unnecessary to show that an attempted receipt of the images occurred. A review of the evidence here shows that every other category of evidence relied on by the Groenendal court for its finding of specific intent is present.

The starting point for the jury's consideration was Eychaner's [*18] admission that the evidence "certainly demonstrates that he had the specific intent to look at images on his screen." Def.'s Count Two Acquittal Br. 6, ECF No. 74. The jury thus only had to find that Eychaner's intent went beyond simply desiring to view the images to that of seeking to receive them.

Here, the jury had many pieces of evidence before them establishing Eychaner's specific intent to receive the images in question. First, the jury could infer Eychaner's specific intent from the evidence of the search terms he used on Bing.com. See Groenendal, 2015 U.S. App. LEXIS 23381, at *9 (noting the defendant's search terms among the items that reflected his specific intent to receive the images); see also United States v. Heiberg, No. NMCCA 20100668, 2011 CCA LEXIS 319, 2011 WL 5855535, at *4 (N-M. Ct. Crim. App. Nov. 22, 2011) (noting that an "intentional search for child pornography" can show a specific intent to receive such images). Examples of the terms he used include "Lolicon 3D images," "Shotacon 3d Little Girl," and "Toddlercon Sex," all of which returned explicit anime images. Second, the jury could find that the evidence, that Eychaner had used some of the suggested search terms generated by Bing.com to pursue more images, suggested his intent to receive such images. See Groenendal, 2015 U.S. App. LEXIS 23381, at *9 (noting that Groenendal used [*19] Bing.com's suggested search terms). Third, the jury could infer Eychaner's

45-H

specific intent from his admission to having searched for and viewed "anime child pornography" on his computer. See id. (noting Groenendal's admission to having conducted the searches among the evidence that showed his specific intent to receive the images). Fourth, the Government produced evidence showing that Eychaner's activities went beyond passive viewing. As noted above, several screenshots published to the jury showed that Eychaner had clicked on and enlarged the images. See Gov. Exs. 14a-4, 14a-16. While enlarging an image would not have been enough to show the receipt of such image, it does suggest that Eychaner's intent to interact with and control the images went beyond passive viewing. Cf. Groenendal, 2015 U.S. App. LEXIS 23381, at *10; Heiberg, 2011 CCA LEXIS 319, 2011 WL 5855535, at *4 (noting that the defendant had clicked on and enlarged images and that this supported a finding of his intent to receive such images).

Fifth, the jury could infer an intent to receive the images based on Eychaner's prior conviction for possession of child pornography. See Groenendal, 2015 U.S. App. LEXIS 23381, at *10 (noting that Groenendal's prior conviction for possession of child pornography supported an inference that he intended to receive the images [*20] in question). Because of this conviction, the jury could infer that Eychaner was a person who was not content to merely passively view explicit images of children on the Internet. Instead, they knew that his viewing activities had been accompanied in the past by the receiving and possessing of such images, and that he had a history of collecting sexually explicit images of children. Cf. United States v. Vosburgh, 602 F.3d 512, 528 (3d Cir. 2010) (noting in the context of a challenge to a search warrant that "persons with an interest in child pornography tend to hoard their materials and retain them for a long time. Child pornography is illegal, and therefore difficult and risky to obtain. Presumably, once a child pornography collector gets his hands on such material he will not be quick to discard it."). As a result, the jury could infer that, when Eychaner viewed the images in question here, he had that same intention to receive or collect these images that he had displayed in the past.