

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN – SOUTHERN DIVISION

THE UNITED STATES OF AMERICA,

Case No 1:20-CR-183-RJJ

Plaintiff,

HON. ROBERT J. JONKER

V

ADAM FOX,

Defendant.

DEFENDANT ADAM FOX'S MOTION PURSUANT TO LOCAL RULE 47.2 (c) TO FILE A
REPLY TO GOVERNMENT'S RESPONSE TO DEFENDANTS' MOTIONS TO COMPEL

Defendant Adam Fox, through Counsel, Gibbons & Boer, and requests that this Honorable Court permit him to reply to the Governments Response to the Defendants' Motion to Compel and states as follows:

Defendant Adam Fox filed a Motion for Joinder in motions made by co-defendants in the above referenced matter. ECF 251 Page ID 1373-1374. Specifically, Mr. Croft's *Motion for Early Designation of Exhibits*. ECF 216 Page ID 1163 ECF 217 Page ID 1164-1168. Mr. Caserta's *Motion to Compel Discovery* ECF 225 Page ID 1238 ECF 226 Page ID 1240-1251. Mr. Harris' *Motion to Compel Identification of Exculpatory Evidence*. ECF 234 Page ID 1288 ECF 235 Page ID 1289-1293. Mr. Harris' *Motion to Compel Prosecutor to Identify Co-Conspirator Statements* ECF 238 Page ID 1300 ECF 239 Page ID 1301-1304. Mr. Frank's *Motion for Disclosure of all records related to Confidential Human Sources*. ECF No. 248-1 Page ID 1351-1369.

The Government has responded to ECF 225 and ECF 248, specifically Frank's and Caserta's Motions to Compel materials and discovery regarding the Confidential Informants used by the Government. In the Response the Government argues that the defendants, particularly Adam Fox, were so predisposed to commit the underlying offenses that an entrapment defense is likely to fail. Because the Government has concluded that the defense is likely to fail, the materials and information regarding the informants should remain "privileged".

The discovery provided to date indicates strongly against the Government's argument. The discovery thus far shows Adam Fox's lack of predisposition to commit any crime. It also reveals that the actions and statements of the informants used in this case routinely utilize tactics recognized in the Sixth Circuit to be excessive. In addition, the underlying motions joined by Adam Fox did not address the issue of his individual predisposition, which was only raised by the Government in Response. As a result, Adam Fox should be permitted to Reply.

Wherefore, Adam Fox requests leave by this Honorable Court to file the attached Reply.

Dated August 12, 2021,

Respectfully Submitted,

Christopher M. Gibbons
GIBBONS & BOER
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