

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 59

THE PEOPLE OF THE STATE OF NEW YORK

- against -

DONALD J. TRUMP

Defendant

DECISION

Defendant's Motion for
Discovery Sanctions

Indictment No. 71543-23

JUAN M. MERCHAN, A.J.S.C.:

BACKGROUND

Defendant is charged with 34 counts of Falsifying Business Records in the First Degree in violation of Penal Law § 175.10. The charges arise from allegations that Defendant attempted to conceal an illegal scheme to influence the 2016 presidential election. Specifically, the People claim that Defendant directed an attorney who worked for his company to pay \$130,000 to an adult film actress shortly before the election to prevent her from publicizing an alleged sexual encounter with Defendant. It is further alleged that Defendant thereafter reimbursed the attorney for the payments through a series of checks and caused business records associated with the repayments to be falsified to conceal his criminal conduct. Trial commenced on April 15, 2024.¹

PROCEDURAL BACKGROUND

On March 8, 2024, the Defendant filed a pre-motion letter, with the motion attached thereto, seeking leave to file a motion for discovery sanctions based on the People's alleged violations of Criminal Procedure Law Article 245. The motion alleged that a recent production of documents from the United States Attorney's Office for the Southern District of New York (hereinafter "USAO-SDNY") to the People and thereafter turned over to the Defendant, evidenced serious discovery violations warranting dismissal of the indictment or, in the alternative, the preclusion of testimony from Michael Cohen, Stephanie Clifford and Adav Noti. The motion alleged that the People engaged in widespread misconduct including the suppression of evidence to obstruct the

¹ A hearing on this motion was conducted on March 25, 2024. A decision was rendered from the bench with notice that this written decision was to follow.

Defendant's efforts to obtain said evidence, to interfere in the 2024 Presidential Election, and the improper invoking of Federal law and Federal immunities and work product privileges. The motion also sought the adjournment of the trial by at least 90 days. On March 12, 2024, this Court informed counsel that it had accepted defendant's motion for discovery sanctions. On March 14, 2024, the People filed notice regarding the production of voluminous records by the USAO-SDNY beginning on March 4, 2024, and consented to an adjournment for up to 30 days for the Defendant to review the documents.² Later that same day, Defendant filed a response to the People's notice seeking an immediate adjournment of more than 30 days, and asked this Court to reject the People's arguments regarding the pending motion to dismiss until all discovery was produced and any factual disputes relating to the nature and scope of the discovery were resolved. Defendant also requested a hearing the week of March 25, 2024. The People filed an additional letter on March 15, 2024, and the Defendant filed a response later that same day. In his response, Defendant alleged that the People were attempting to make this Court complicit in what Defendant referred to as an "unethical strategy."

A hearing was conducted on March 25, 2024, to address the circumstances surrounding the document production to determine who, if anyone, was at fault for the late production of documents from USAO-SDNY, what prejudice, if any, was suffered by either party and what sanctions, if any were appropriate. The parties were directed to separately furnish the Court, no later than March 21, 2024, a detailed timeline, including all correspondence between and among the New York County District Attorney's Office, the Defendant and USAO-SDNY, of the events surrounding the requests and ultimate production of documents by USAO-SDNY that served as a basis for the People's March 14, 2024, notice. On March 18, 2024, the People filed a Memorandum of Law, together with exhibits, in which they offered two principal arguments in opposition to Defendant's motion: first, that there was no discovery violation because USAO-SDNY materials are not a part of the People's disclosure obligations, and second, that the People had engaged in good faith and diligent efforts to obtain relevant information from the USAO-SDNY. On March 21, 2024, the Defendant filed a response together with a timeline and exhibits, and on that same day the People submitted a timeline and exhibits.

² In all, USAO-SDNY produced well over 100,000 pages to the People between the dates of March 4, 2024, and March 15, 2024, all of which was turned over to the Defendant by March 15, 2024.

On March 25, 2024, a hearing was conducted during which the parties were given an opportunity to submit further relevant information or make oral argument on the pending motion. A decision was rendered from the bench with notice that a written decision would follow.

DECISION

Following review of the submissions from both parties, the timelines provided *in camera* because of their sensitive nature and reference to or inclusion of protected materials, and the arguments and clarifications made at the hearing on March 25, 2024, this Court found, to begin, that there was no coordinated, joint investigation being conducted by the New York County District Attorney's Office and USAO-SDNY.

This Court further held that the People did not violate their discovery obligations pursuant to Criminal Procedure Law Section 245.20 as, under § 245.20(1), USAO-SDNY is not under the People's direction or control, and under § 245.20(2), the People made diligent, good faith efforts to ascertain the existence of materials and information discoverable under § 245.20(1) and to cause such material or information to be made available for discovery where it exists.

Further, this Court found that the Defendant would not suffer any prejudice as a result of the document production at issue because the Defendant was given a reasonable amount of time to prepare and respond to the material.

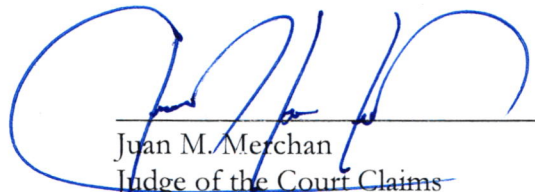
THEREFORE,

Defendant's motion for discovery sanctions is DENIED.

The foregoing constitutes the Decision of the Court.

Dated: May 23, 2024
New York, New York

MAY 23 2024



Juan M. Merchan
Judge of the Court Claims
Acting Justice of the Supreme Court

JUAN M. MERCHAN