

1 SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

2 CRIMINAL DIVISION

3 -----x  
4 UNITED STATES OF AMERICA :  
5 versus : Criminal Action Numbers  
6 ARTURO VASQUEZ, : 2017 CF2 1369  
7 PHILLIP GLASER, : 2017 CF2 1368  
8 CHRISTIAN VALENCIA, : 2017 CF2 1203  
9 MOLLY CARTER, : 2017 CF2 1380  
Defendants. :  
-----x

10 Washington, D.C.  
11 Tuesday, May 29th, 2018

12 The above-entitled action came on for motions  
13 before the Honorable ROBERT MORIN, Associate Judge, in  
Courtroom Number 312.

14 THIS TRANSCRIPT REPRESENTS THE PRODUCT  
15 OF AN OFFICIAL REPORTER, ENGAGED BY THE  
16 COURT, WHO HAS PERSONALLY CERTIFIED THAT  
IT REPRESENTS TESTIMONY AND PROCEEDINGS OF  
THE CASE AS RECORDED.  
APPEARANCES:

17 On behalf of the Government:

18 BRITTANY KEIL, Esquire  
19 AHMED BASET, Esquire  
Assistant United States Attorney

20 On behalf of the Defendants:

21 PATRICK LINEHAN, Esq. (Defendant VASQUEZ)  
22 DAVID FRAGALE, Esq. (Defendant VASQUEZ)  
MICHAEL BRUCKHEIM, Esq. (Defendant GLASER)  
23 JON FELLNER, Esq. (Defendant GLASER)  
PATRICK LINEHAN, Esq. (Defendant VALENCIA)  
24 DAVID FRAGALE, Esq. (Defendant VALENCIA)  
WILLIAM COFFIELD, Esq. (Defendant CARTER)

25 Stephanie M. Austin, RPR, CRR  
Official Court Reporter

(202) 879-1289

1 MR. LINEHAN: There should not be a problem with  
2 us getting those videos by this afternoon.

3 THE COURT: Okay. Thank you.

4 And then we have all defendants adopting a  
5 previously-filed *Brady* and Rule 16 motion.

6 Who's arguing that?

7 MR. COFFIELD: I got the short straw, Your  
8 Honor.

9 THE COURT: It may be the long straw. You never  
10 know.

11 MR. COFFIELD: Your Honor, I appreciate --

12 THE COURT: If you could just announce your  
13 name.

14 MR. COFFIELD: It's Bill Coffield on behalf of  
15 Ms. Carter, and I'm opening on behalf of all of the  
16 defendants on this point, Your Honor.

17 Your Honor, we filed the motion for joinder.  
18 I'm not going to repeat what's said in the written papers.  
19 I will say that sometime between 6:30 and 7 on Friday we  
20 got an invitation from the Government to join the current  
21 trial group and the June 4th trial group to sit down with  
22 the individual who, at the time, had been working for  
23 Project Veritas to talk about the two -- to talk to --

24 THE COURT: Is this the so-called Matt?

25 MR. COFFIELD: We're not naming any names, Your

1 Honor, simply -- I'm very conscious of the protective  
2 order, Your Honor.

3 But yes, it was the person --

4 THE COURT: I know. I named the name.

5 MR. COFFIELD: Yes, Your Honor.

6 THE COURT: You didn't name it.

7 MR. COFFIELD: Yes, Your Honor.

8 And we sat down with him and his attorney. We  
9 had a short --

10 THE COURT: Who did?

11 MR. COFFIELD: Representatives of the June 14th  
12 trial group and representatives of the current trial group  
13 and I sat down on behalf of the May 29th trial group.

14 THE COURT: Okay.

15 MR. COFFIELD: We had a short window. He had  
16 counsel. Counsel had come in and was scheduled to leave.  
17 We were told we had about an hour. We actually got about  
18 an hour and 20 minutes before counsel had to leave.

19 THE COURT: Uh-huh.

20 MR. COFFIELD: What we found out in that  
21 interview, Your Honor, was that at least two other  
22 individuals from Project Veritas were at the January 8th,  
23 2017 meeting. The individual who Your Honor has  
24 identified earlier as Matt, recorded -- who recorded the  
25 January 8th video that we've seen, attended at least four

1 other meetings with regard to J20.

2 The protocol for all of the individuals from  
3 Project Veritas who would attend these meetings was to  
4 record the meetings. They recorded them with a button  
5 camera, with a separate audio device, and sometimes added  
6 recording with their camera. But at every meeting,  
7 recorded with a button camera and with a separate audio  
8 recording device.

9 After each meeting, they would view the  
10 recordings or listen to the recordings and make notes.  
11 And then they would go to the Project Veritas operations  
12 and turn over the recordings and their notes.

13 In January of 2017, Project Veritas had rented a  
14 house to use as an operations center here in D.C. There  
15 were eight undercover individuals and members of  
16 management living and working out of that house covering  
17 the J20 events.

18 Between January the 8th of 2017 and January the  
19 20th of 2017, individuals with Project Veritas had at  
20 least two meetings with the FBI; between January the 8th  
21 and January the 20th, had two meetings with the FBI. One  
22 at the house that was used as their operations center, and  
23 one at the Washington Field Office.

24 They were provided recordings from at least some  
25 of the meetings, the four meetings, that this individual

1 had recorded beyond the January 8th meeting.  
2 Significantly, he did not recall anyone talking about  
3 property destruction in any of the meetings that he  
4 attended.

5 Your Honor, I've -- I've been doing this for  
6 about 30 years, and I'm not very good at it, but the one  
7 thing that I've learned over time is, is that when the  
8 FBI's involved in something, there's always a 302  
9 somewhere. There's always notes somewhere.

10 It's our understanding that the only way that  
11 this January 8th video came up is because apparently --  
12 and, Your Honor, I am not as steeped in all of the facts  
13 as Your Honor most likely is, or some others that are in  
14 this room.

15 But in review -- the brief review of the record  
16 that I've been able to do in just the last 24 hours, it's  
17 my understanding that this January 8th video apparently  
18 came to light because Detective Pemberton saw it online,  
19 reached out to Project Veritas, got a copy of it.

20 There's all sorts of questions that are now  
21 created as to -- and his testimony was, was that he got it  
22 in some time late February or early March.

23 The obvious question is: No one from Project  
24 Veritas told him that they turned over these tapes to the  
25 FBI? There was no communication between the FBI and MPD?

1 I mean, more and more questions are being raised about  
2 these video recordings and why they were or were not  
3 presented.

4           Significantly, we've got testimony that's been  
5 in two trials so far about what was said in one of the  
6 videos that we now -- in one of the meetings that we now  
7 understand was recorded and Project Veritas has that we've  
8 never seen.

9           So what has happened from this meeting has just  
10 exacerbated the issues that we have talked about in our  
11 joinder and in the underlying motion.

12           Thank you, Your Honor.

13           THE COURT: No. No. No.

14           So what are you requesting?

15           MR. COFFIELD: We're requesting dismissal of the  
16 indictment, Your Honor.

17           THE COURT: Okay. Assuming that -- I'll take  
18 that under advisement.

19           What are you requesting --

20           MR. COFFIELD: Then we would request that any  
21 videos associated -- any of the planning meetings  
22 videos --

23           THE COURT: I'm sorry. You said your  
24 information is that the FBI was in possession of other  
25 meeting videos?

1 MR. COFFIELD: Yes, Your Honor. The individual  
2 was asked specifically about recordings he made of  
3 meetings other than the January 8th meeting.

4 THE COURT: Would that include the January 14th  
5 meeting?

6 MR. COFFIELD: Correct, Your Honor.

7 THE COURT: And the January 18th meeting?

8 MR. COFFIELD: Correct, Your Honor.

9 And he said that he had taken -- he had gone to  
10 at least four other meetings, had recorded them. He  
11 specifically remembered American University, he remembered  
12 Columbia Heights, he remembered a meeting at 16th Street,  
13 and he remembered another meeting at the Episcopal church.

14 Significantly, we've had testimony about that,  
15 that seems to conflict with his recollection of what was  
16 done at those meetings.

17 THE COURT: You mean a statement by the  
18 undercover officer --

19 MR. COFFIELD: Correct, Your Honor.

20 THE COURT: -- that would be property damage?

21 MR. COFFIELD: Correct, Your Honor.

22 THE COURT: And the January 14th meeting?

23 MR. COFFIELD: Correct, Your Honor.

24 THE COURT: And the January 18th meeting as  
25 well?

1 MR. COFFIELD: Correct, Your Honor.

2 So, to answer your question, Your Honor, if the  
3 Court will not entertain dismissing the indictment, the  
4 superseding indictments, then we would respectfully  
5 request that all of these videos go out, that the  
6 Government not be allowed to use them.

7 THE COURT: Uh-huh. Hold on one second.

8 MS. LEGRAND: Just because we haven't gotten to  
9 argue any of these *Brady* issues before you at all, I do  
10 want to point out how troubling it is to me, having -- I  
11 was in court on April 6th when the Government represented  
12 that the videos from June 8th had been provided with only  
13 two edits, and that there was nothing else out there. And  
14 then you ordered them, just in the interest of -- to be  
15 sure, produce unedited copies.

16 Let me be clear. There were two things that got  
17 produced after that. There was an additional statement at  
18 the end that I know you've seen heavy briefing on, about  
19 upper echelons not knowing what's going on. There was  
20 also 50 minutes, 50 minutes of video from the same  
21 meeting, from the same day, that was produced only after  
22 April 6th. And that was not flagged for defense counsel.  
23 It was put in a folder called "preplanning meeting  
24 videos."

25 Now we know it was the same --

1           THE COURT: I'm sorry. It was there, but it  
2 wasn't flagged, is what you're saying?

3           MS. LEGRAND: It was not produced until after  
4 the April 6th motions hearing. So it was only made  
5 available in response to your order saying, just make sure  
6 they've got everything. And when everything was provided,  
7 it turned out not only that -- a segment at the end where  
8 Project Veritas undercover operative is talking to someone  
9 else, not only had that been excised, but these three  
10 other videos that immediately -- they flow into the first  
11 planning meeting video, all three of those, 50 minutes of  
12 video, had never been produced before.

13           THE COURT: Can I ask you just a generally --

14           MS. LEGRAND: Yes.

15           THE COURT: And this isn't a comment on the  
16 work, but with regard to any defense counsel, Project  
17 Veritas is subject to subpoena. You have the right, or  
18 have had the right to subpoena.

19           MS. LEGRAND: So two --

20           THE COURT: I'm -- the information that I've  
21 just been provided of the Government in terms of the FBI  
22 may have been in possession of videos is one thing.

23           MS. LEGRAND: Right.

24           THE COURT: But complaints about Project Veritas  
25 and their role, I mean, it's subject to investigation and

1 subpoena.

2 MS. LEGRAND: So if I may, Your Honor.

3 First of all, we have now subpoenaed Matt. We  
4 didn't know Matt's name until Friday.

5 So we had suspicions that Project Veritas was  
6 involved in the planning meeting video, but we had no idea  
7 that they had eight people going to all these different  
8 meetings, that those people were going to meetings after  
9 meeting with the FBI. And I should add, I believe, based  
10 on records I've seen, that there were meetings with MPD as  
11 well between --

12 THE COURT: I'm sorry. That's a very important  
13 representation.

14 Where does that come from?

15 MS. LEGRAND: It's coming from James -- so I'm a  
16 little embarrassed to do this, Your Honor, but I was  
17 forced to purchase James O'Keefe's book.

18 And what -- so here's the bigger story, as I dig  
19 for the book. We were -- there were thousands and  
20 thousands of files produced by the Government. Not a  
21 single one of them was labeled "Project Veritas."

22 People -- we asked repeatedly, who made these  
23 videos, tell us who made these videos so that we can  
24 contact them.

25 THE COURT: I got all that.

1 MS. LEGRAND: All right. We didn't know. We  
2 didn't know, because they hid it. They hid how many  
3 people --

4 THE COURT: Okay. I asked you about the  
5 representation that MPD --

6 MS. LEGRAND: James O'Keefe's book came out just  
7 this year. So I just ordered and didn't realize I needed  
8 it until this happened.

9 He says -- James O'Keefe, the head of Project  
10 Veritas.

11 "As the inauguration approached, we had gathered  
12 a ton of material, disturbing enough to warrant sharing it  
13 with the authorities. Our attorney, Ben Barr, set up a  
14 meeting in Washington with the FBI for January 13th.  
15 Tyler, Adam and Max went with him."

16 Those are all -- I can't subpoena those people,  
17 because those aren't their real names.

18 "In the past, our engagement with law  
19 enforcement has not always been congenial, but these guys  
20 were an exception. There were four of them; three FBI and  
21 one D.C. Metro, all casually dressed. They had done a  
22 fair share of undercover work as well, but we had the  
23 goods, the video, and they greeted us like brothers in  
24 arms. Three days later, on January 16th, we went public  
25 with our first published video."

1 We would need some more discovery.

2 THE COURT: Uh-huh. Yes.

3 MS. LEGRAND: If I can briefly just address what  
4 I think will be an argument the Government makes.

5 My client wasn't at the planning meetings.  
6 These videos are, nonetheless, getting used against him.  
7 And for my purposes, perhaps more importantly, I keep  
8 learning more.

9 We got *Jencks* material a week ago, as well,  
10 which included grand jury testimony. A grand juror asked  
11 specifically: Why aren't you investigating Project  
12 Veritas. I saw them online inciting these riots. A grand  
13 juror asked that. That's *Brady*. That was not disclosed  
14 to us.

15 I care about that because of more I learn, now  
16 that I know, which I didn't before, how much the videos at  
17 issue here were either created by Project Veritas or in  
18 the presence of Project Veritas, I started looking for, is  
19 this -- first of all, I found this grand juror's  
20 testimony. A random grand juror witness said: Hey, I  
21 know they were incited riots. Then I bought  
22 James O'Keefe's book. It basically says, we offered to  
23 pay people to engage in rioting.

24 So I now have reason to believe, not fully  
25 investigated yet, because I just found it all out, that