

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 17-CR-20487-COOKE(COHN)(s)(s)(s)(s)

UNITED STATES OF AMERICA,	)
	)
v.	)
	)
JONATHAN CRUZ,	)
a/k/a “Big Man,”	)
a/k/a “Boss Man,”	)
a/k/a “Chico Li,”	)
ERIC ORTIZ MELENDEZ,	)
a/k/a “E,” and	)
JORGE APONTE FIGUEROA,	)
	)
Defendants.	)
_____ /	)

**UNITED STATES’ NOTICE OF A VIOLATION OF [ECF NO. 96] THE COURT’S PROTECTIVE ORDER OVER DISCOVERY AND MOTION FOR AN ORDER FOR REMOVAL OF A YOUTUBE URL AND OTHER RELIEF**

The United States of America, by and through the undersigned Assistant United States Attorney, hereby notifies this Honorable Court of a violation of the Court’s January 18, 2018, Protective Order over Discovery in this matter, (hereinafter, the “Order”), as required by said Order (ECF No. 96). Furthermore, in order to comply with the Court’s Order, the United States requests this Honorable Court enter an order requiring Google LLC to remove a YouTube<sup>1</sup> video uniform resource locator,<sup>2</sup> (hereinafter, “URL”), that contains a video whose dissemination on YouTube is in contravention of the Court’s Order.

As further explained below, based on the video contained on YouTube and filings made by third-party filer [REDACTED] (hereinafter, [REDACTED]) in this matter, [REDACTED] is the person who controls

<sup>1</sup> YouTube is an online video sharing and social media platform headquartered in San Francisco, California and owned by Google LLC.

<sup>2</sup> A uniform resource locator is the unique address on the internet for pages and sites located on the internet.

“The Investigation” YouTube channel and has violated the Court’s Order. Based on the fact ■■■ has never been a party to this matter, it is clear one of the defendants, most probably Cruz, has provided discovery to ■■■, and that ■■■ has posted content from discovery online, all in in contravention of that Order. Therefore, the Government respectfully requests the Court issue an order requiring Google LLC to remove said video contained at a particular YouTube URL, consistent with the Court’s Protective Order. In support thereof, the United States avers as follows:

**MEMORANDUM OF FACT**  
**AND**  
**NOTICE OF VIOLATION OF THE COURT’S ORDER**

1. On January 9, 2018, upon motion of the Government, the Court issued its Protective Order over Discovery. (ECF No. 95, 96). Said Order requires, amongst other things, that:

- a. Neither the Government nor the defense should provide materials responsive to the standard discovery order (hereinafter, “discovery”) to any person unless specified in the Order or who has received prior approve of the Court;
- b. Third parties contracted by the Government or defense could possess discovery to provide expert analysis or testimony only as necessary to prepare the case;  
and
- c. Employees of the government or defense could possess discovery only as necessary to prepare the case.

(ECF No. 96 at 1-2) (emphasis added).

2. Notably, the Order does not allow discovery to be given to third parties that are not (1) contracted by the attorneys for either side for expert opinions; (2) employees of the attorneys for either side; or (3) other third parties which the Court has approved prior to their receiving discovery. Additionally, any violation of the Order known to either party must be reported to the Court. (*Id.* at 3).

3. On September 16, 2021, the Court held a discovery conference. At that conference, the Government reported on the status of hard drives of discovery for the co-defendants the attorneys for the defense requested that the Court intervene with the Bureau of Prisons (hereinafter, “BOP”). Other issues dealing with the availability of attorney conference rooms were also discussed. (ECF No. 615).

4. Additionally, given the fact the Defendants would possess complete digital copies of their discovery in FDC Miami, at the same hearing the Government also reiterated the parameters of the Court’s Order and requested the Court re-admonish the co-defendants about the Order and their responsibilities under the Order. The Government and the Court did so in open court when all co-defendants were present, and all co-defendants acknowledged they understood the Court’s Order. A copy of the portion of the record of the September 16, 2021 hearing containing that re-admonishment is attached to this pleading as Exhibit A.

5. Per BOP, the co-defendants received the hard drives prepared by the Government of all the discovery in this matter on the following dates:

- a. Cruz: September 30, 2021;
- b. Gonzalez: September 1, 2021;
- c. Ortiz: September 7, 2021 and November 11, 2021; and
- d. Aponte: October 11, 2021.

6. After the March 15, 2022 trial on Counts 19 and 20 of the Third Superseding Indictment against Aponte, [REDACTED] (also known as “Alex” and “[REDACTED]”) sent an email to the undersigned Assistant United States Attorney (hereinafter, “AUSA”). At various points throughout that email, [REDACTED] discussed his “investigation” into various topics and people.<sup>3</sup> In support

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<sup>3</sup> Email from [REDACTED] to AUSA Alejandra López, (Apr. 14, 2022, 02:13 A.M. EST).

of the various statements ■ made in his email about his investigations, he provided numerous hyperlinked<sup>4</sup> internet URLs on YouTube. All the hyperlinks, except for one, take the user to YouTube videos on the YouTube channel named, “The Investigation.”

7. Additionally, the jail phone calls also revealed that Cruz routinely shared or attempted to share information or items with ■ that were received at trial or in discovery:

**a. Names of Jurors**

i. October 5, 2022 at 08:20:15:

I. At 10:00 (discussing jurors and jury selection):

**Cruz:** There’s one guy on there that don’t even speak English right. He doesn’t understand. He told the Judge, “but Judge, I don’t understand nothing here.” He said, and uh, he [Court] still kept him on the jury. This is shit that I uh...”

■ (unintelligible)

**Cruz:** This is the shit that I uh, I could have all their [jurors’s] names for you if you need the names. And I can tell you the individuals who are the problem, which ones are the ones that they don’t understand the law, they don’t understand nothing they saying there.

b. October 21, 2022 at 13:52:31

i. At 15:53:

I. **Cruz:** That’s why you need David Gonzalez’s cell phone dump. That shit is all in there.

■ Yeah well (unintelligible) yeah, I need that **too**.

(emphasis added).

8. On Friday, October 28, 2022 at 8:18 p.m., during the fifth week of the 6-week Cruz

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<sup>4</sup> A hyperlink is a digital reference (usually text) to data that can be obtained or viewed by clicking on or tapping the hyperlink. In this context, they are YouTube addresses that takes the user directly to the videos referenced.

et al. trial, counsel for a past co-defendant in this matter informed the Government via text message of the existence of a video on YouTube that contained portions of his client's initial post-arrest statement to FBI agents in 2017 (hereinafter, the "Video"). The Video's YouTube URL is "https://m.youtube.com/watch?v=rotCVN7AnNg&feature=youtu.be". The Government viewed the Video and confirmed it: (1) was posted on YouTube by "The Investigation" channel and, (2) in fact, contain items covered by the Court's Order at ECF No. 96.

9. The Video was initially provided on February 20, 2018 in the Second Response to the Standard Discovery Order, Bates-stamp "NELUS\_261," and "NELUS\_262" (ECF No. 112), and, therefore, is subject to the provisions of the Court's Order, on which the Court re-admonished Cruz on September 16, 2021. (ECF No. 96; Exhibit A).

10. The Government conducted further investigation into "The Investigation" YouTube channel. That channel is mentioned by █████ in a non-interested third-party motion he authored and filed in this matter on October 6, 2022. (ECF No. 651). Specifically, he included URLs to videos at the "The Investigation" channel as examples of the kinds of surreptitious recordings he makes of others. (*Id.* at ¶¶ 21, 22, 27, 28). He also specifically referenced the Video in his filing and provided a URL to the Video. (*Id.* at ¶ 25).<sup>5</sup>

11. The Government contacted YouTube's legal department on October 31, 2022, regarding the removal of the Video consistent with the Court's protective Order. YouTube finally responded to the Government on November 15, 2022. YouTube's legal department explained that the Court's Order was not specific enough, and they would need an order from the Court for the removal of the specific URL of the Video in question in order to begin consideration of removal of the Video from YouTube.

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<sup>5</sup> In November of 2022, the Government subpoenaed Google LLC for records providing proof of the person/user who controls "The Investigation" YouTube channel. As of the date of this filing, Google LLC has not complied with the subpoena.

**GOVERNMENT’S MOTION**

The Government respectfully requests this Court first issue an order directing Google LLC to remove the Video from the YouTube platform. A proposed Order is attached to this pleading. The Video’s dissemination to a third party, and that third party’s posting of the Video on a social media platform, is in contravention of the Court’s January 9, 2018 protective Order. The Video’s dissemination on YouTube was, and is, not done in preparation for the case or for the preparation of expert testimony. Moreover, the Court has not previously approved [REDACTED] or the YouTube channel “The Investigation” to possess the Video and/or to disseminate this Video. Consequently, the Government believes such an order is appropriate at this juncture.

The Government further requests that the Court, consistent with its Order, direct [REDACTED] to collect all copies of discovery materials in this matter given to [REDACTED], “The Investigation,” or any other third parties related to “The Investigation,” whether possessed with or without the Court’s prior approval, and give them either to the Court, the Government, or defense counsel for their destruction. This would be consistent with the Court’s Order. (ECF No. 96 at 2-3).

Pursuant to Local Rule 88.9, the Government previously communicated its request to legal counsel for YouTube, which has resulted in the filing of this Motion. Moreover, the Government has conferred with counsel for Cruz, G.P. Della Fera. Mr. Della Fera’s position is that this request does not specifically relate to his client and, therefore, and he is not required to have a position on the Government’s request.

**CONCLUSION**

WHEREFORE, the United States respectfully notifies this Court of a violation of its January 9, 2018, protective Order and requests that the Court issue an Order to Google LLC for the removal of the Video and to direct [REDACTED] to collect and return all copies of discovery obtained by unauthorized third parties in contravention of the Court’s Order.

Respectfully submitted,

MARKENZY LAPOINTE  
UNITED STATES ATTORNEY

By: *s/Alejandra L. López*  
Alejandra L. López  
Assistant United States Attorney  
Florida Bar No. 37132  
99 Northeast 4th Street  
Miami, Florida 33132-2111  
Tel: (305) 961-9241  
Alejandra.Lopez@usdoj.gov

**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that on January 17, 2023, I electronically filed the foregoing document with the Clerk of the Court, and served the same upon counsel for the Defendants, using CM/ECF.

*/s/ Alejandra L. López*  
Alejandra L. López  
Assistant United States Attorney

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 17-20487-CR-COOKE (COHN)

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JONATHAN CRUZ, ERIC ORTIZ  
MELENDEZ, and JORGE APONTE  
FIGUEROA,

Defendants.

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**ORDER GRANTING MOTION FOR AN ORDER FOR REMOVAL OF A YOUTUBE  
URL**

**THIS CAUSE** is before the Court upon the Government's Motion for an Order for Removal of a Youtube URL [DE 762] ("Motion"). The Court has considered the Motion and is otherwise advised in the premises. Accordingly, it is

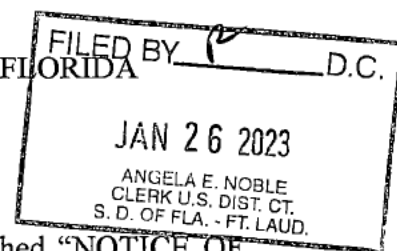
**ORDERED AND ADJUDGED** that the Motion is **GRANTED**. YouTube is to remove the YouTube URL, "https://m.youtube.com/watch?v=rotCVN7AnNg&feature=youtu.be" and/or the video located at that URL from the YouTube platform, in accordance with this Court's prior Protective Order Concerning Discovery [DE 96].

**DONE AND ORDERED** in Chambers at Fort Lauderdale, Broward County, Florida, this 18th day of January, 2023.

  
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JAMES I. COHN  
United States District Judge



UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 17-cr-20487 | USA vs. Jonathan Cruz et al.



**MOTION FOR COURT APPROVAL TO FILE**

1. [redacted] files this motion seeking court approval to file attached “NOTICE OF APPEAL” concerning ORDER issued at ECF#764, to quash subpoena and to consolidate appeals.

[redacted] incorporates via reference (as if set forth herein), ECF #548, #560, #638, #651.

2. In ECF#762 the AUSA falsely claims that *“it is clear one of the defendants, most probably Cruz, has provided discovery to [redacted] and that [redacted] has posted content from discovery online, all in in contravention of that [protective] Order [ECF#96].”* This statement is false as [redacted] never acquired the video posted on youtube from any defendant. [redacted] acquired case materials by receiving them directly from an attorney or creating them himself (causing feds to claim “illegal creation/copy of discoverable evidence” in violation of Florida’s wiretapping statutes). [redacted] was never informed of any protective order, nor does he consent to be covered by it while receiving and/or publishing newsworthy materials on his news sites. The Court already declared that [redacted] will never be permitted access to any constitutional protections in this matter by falsely accusing him of being an “abusive and vexatious litigant” (ECF#661,662) simply because he is a tenacious journalist exposing federal corruption. [redacted] thereby requests the Court recuse itself from any First Amendment matter involving him to avoid appearance of impropriety.

3. The case materials which the Court has unlawfully ordered to be removed from [redacted] news site (without permitting [redacted] an adversarial hearing to dispute it) documents a newsworthy FBI scandal. It is part of a substantial archive of allegedly “protected evidence” that proves Defendant Cruz did not get a fair trial in accordance with clear constitutional standards. Censoring exculpatory and newsworthy evidence from being published to the public not only infringes upon [redacted] First Amendment rights as a journalist, but it also severely infringes upon

Defendant Cruz's First Amendment right to plead his innocent directly to the public. The protective order issued in this matter is also disputed by Defendant Cruz who is demanding his attorney challenge it. More government deception upon the public (ECF#748, Pg12) are as follows:

"On October 28, 2022, before the defense case began the following week, the Government informed counsel for Cruz and Aponte via telephone of jail calls between Cruz and a man named [REDACTED] discussing payments to Aponte for *testimony that he was the leader/organizer in this matter*, not Cruz. Moreover, the Government also informed them of a call between [REDACTED] and Aponte discussing payment. *The Government subsequently provided copies of those calls to the defense on October 31, 2022.* The Government also sent the time stamps for the relevant statements to counsel via email"

4. The 10/31/22 discovery submission cited above is also allegedly covered by protective order, yet [REDACTED] is forced to publish the recordings at [youtube.com/watch?v=Lw-8QjBESB0] to dispute the government's false claims alleging [REDACTED] offered to pay Mr. Aponte to testify he was the leader/organizer of some pawn shop robbery allegedly committed by Cruz. The actual recordings instead confirm that [REDACTED] offered to pay Mr. Aponte to confess his multiple (unsolved) murders directly to the FBI and/or the public. These additional "protected recordings" shouldn't be censored because they prove the feds are involved in criminal conspiracy (since 1994) to obstruct murder investigations anytime confessions are obtained by [REDACTED] as documented on [theinvestigation.org/mumbai], and they also further prove Defendant Cruz did not get fair trial.

5. Feds further state (ECF#762) that "*In November of 2022, the Government subpoenaed Google LLC for records providing proof of the person/user who controls The Investigation YouTube channel. As of the date of this filing, Google LLC has not complied with the subpoena.*"

[REDACTED] also requests the Court to quash or stay the still-pending subpoena and to consolidate this instant appeal with the pending 11<sup>th</sup> Circuit Appeal No. 22-13407 already covering identical issues, and to waive any additional filing fee (already paid as part of the prior appeal to be consolidate).

**CERTIFICATE OF SERVICE – Defendant certifies this motion is served on all counsel of record via email/ecf.**

Submitted 1/25/2023 /s/ [REDACTED]

# EXHIBIT 1

U.S. DISTRICT COURT - SOUTHERN DISTRICT OF FLORIDA  
U.S.A. vs. Jonathan Cruz et al. ||| Case No. 17-cr-20487

**NOTICE OF APPEAL**

1. [REDACTED] hereby appeals to the Eleventh Circuit Court of appeals from the ORDER issued by this court on 1/19/2023 at ECF#764 and requests for this instant appeal to be consolidated under his already pending appeal in Eleventh Circuit Case No# 22-13407-D. Since this instant appeal deals with identical legal issues as already raised in the prior appeal (concerning misconduct the government continues to engage despite being on notice that their unlawful behavior is already under appeal), [REDACTED] wishes for any filing fee to be waived as having already been paid as part of the first appeal.

**CERTIFICATE OF SERVICE – [REDACTED] certifies this appeal is served on all counsel via email/ecf.**

Respectfully submitted on January 25<sup>th</sup>, 2023

[REDACTED]