

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA

v.

LAWRENCE HOSKINS

Criminal No. 3:12cr238 (JBA)

October 25, 2019

**RULING ON GOVERNMENT'S MOTION TO COMPEL DEFENSE TO INFORM
GOVERNMENT AND COURT OF OBJECTIONS TO GOVERNMENT EXHIBITS**

The Government “moves the Court to compel the defendant to inform the Government and Court of any objections that he may have to the documents on the Government’s exhibit list so as to avoid unduly prolonging the trial and wasting the jury’s time.” (Mot. to Compel [Doc. # 542] at 1.) Defendant opposes. ([Doc. # 546].)

This Court’s Trial Procedures and Requirements ask parties to “premark and exchange exhibits before the final pre-trial conference to insure that all objections that are amenable to pretrial disposition can be heard at that time.” The Government provided Defendant with its witness list five weeks ago, and “has on numerous occasions asked defense counsel to provide a list of objections so that the parties can attempt to resolve any issues without the Court’s involvement and, if unable to resolve such issues, to present them to the Court prior to trial.” (Mot. to Compel at 2.) Defendant has not provided the government with a list of objections, and the Government asks the Court to compel Defendant to do so.

Defendant responds that his counsel “has engaged extensively and in good faith with the government on its proposed exhibits and has stated that it does not anticipate any objections to a large majority of them.” (Def.’s Opp. at 1.) Defendant has identified “one relatively narrow area of potential dispute” with the Government’s exhibits, which “appears to turn on whether the

government is able to lay a proper foundation that some emails are admissible pursuant to Federal Rule of Evidence 801(d)(2)(E).” (*Id.*) Specifically, Defendant anticipates potential objections to “emails for which it appears the government has no sponsoring witness and/or which contain, in some instances, multiple layers of hearsay from non-testifying declarants.” (*Id.* at 2.) Defense counsel has “informed the government that the defense will likely have no objection at trial to statements in emails” which were “made during and in furtherance of the declarant’s participation in the conspiracy” by “non-testifying alleged co-conspirators.” (*Id.*) Thus Defendant has “repeatedly asked the government to produce a list of unindicted co-conspirators (under seal) so that it can assess whether the government can meet its burden of establishing the applicability of Rule 801(d)(2)(E) to such emails.” (*Id.* at 3.) The Government has not provided such list to Defendant.

The Government asserts that it “has offered to meet with the defense to walk through the exhibits to which the defendant objects so that the Government could address the objections,” but defense counsel have “refused.” (Gov’t Reply [Doc. # 548] at 1.) The Government also complains that Defendant has not “identified for the Government a single exhibit to which they do not object.” (*Id.*) However, Defendant is not obliged to do so.

Defendant represents that without additional information which the Government is apparently unwilling to provide at this time, he cannot now determine which Government exhibits, if any, he will object to at trial. Thus there are currently no objections to the Government’s exhibits which are “amenable to pretrial disposition,” and so the Court cannot compel Defendant to disclose his objections, as the Government requests. The parties are encouraged to confer to discuss the possibility of pretrial resolution of potential objections. Should the Government provide to Defendant the information which he claims he requires in order to identify his

objections, then Defendant shall promptly provide to the Government a list of his objections. And at trial, Defendant should be prepared to explain why any objection to a Government exhibit could not have been raised pretrial. For the foregoing reasons, the Government's Motion to Compel [Doc. # 542] is DENIED.

IT IS SO ORDERED.

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Janet Bond Arterton, U.S.D.J.

Dated at New Haven, Connecticut this 25th day of October 2019.