

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS

UNITED STATES OF AMERICA	)	
	)	
v.	)	No. 4:18CR00450 KGB
	)	
JEREMY YOUNG HUTCHINSON	)	

**MOTION FOR LEAVE TO FILE SURREPLY AND TO FILE EXHIBITS UNDER SEAL**

The United States of America, by and through the United States Attorney for the Eastern District of Arkansas, Cody Hiland, through the undersigned Assistant United States Attorneys, and the Public Integrity Section of the U.S. Department of Justice, Criminal Division, through Acting Chief AnnaLou Tirol and the undersigned Trial Attorney, for its motion for leave to file surreply and to file exhibits under seal, states:

After Hutchinson filed his reply to the United States’ response to the motion to dismiss or, alternatively to suppress evidence, the United States located additional evidence and received additional information pertinent to the claims raised by Hutchinson and material to the Court’s determination. The United States seeks approval to submit exhibits for the Court’s review to allow the Court and defense counsel sufficient time to consider this additional information, as the information bears directly on the threshold issue of standing and the necessity of a hearing.

In his reply, Hutchinson states, “While the government also suggests that Gov’t Exhibit 7 necessarily means that Individual-1 was the proper owner of the laptop, this document only indicates that Individual-1 could have used her email address to register a VAIO computer at some undetermined point in time.” *See* Hutchinson Reply, p. 6 n.5. As Government’s Exhibit 7 does not contain a serial number or specific identifying characteristics of the Sony VAIO laptop

registered, Hutchinson suggests that Individual-1 may have registered a different computer than the one Individual-1 turned over to the FBI.

In preparation for a potential hearing and trial, the United States continued to review the thousands of emails and communications recovered from Individual-1 and discovered evidence that Individual-1 registered the exact computer at issue in this motion to dismiss in her name. In addition to Government's Exhibit 7, the United States has learned that Individual-1 received an email on March 19, 2011, confirming that she registered, in her name, the same Sony VAIO she later turned over to the FBI in 2012, as confirmed by the serial number on the March 19, 2011 registration email. The United States also identified an email reflecting that Individual-1 registered the Sony computer with Norton Internet Security on March 17, 2011.

Additionally, after the United States filed its response, the United States was advised by Individual-1 that she filed a police report regarding the theft of the computers at issue in the motion to dismiss after she received the computers back from the FBI, further corroborating her ownership of the computers she turned over to the FBI. The United States requested and received a copy of that Little Rock Police Department report for the Court's consideration. The United States also received additional information that the laptops were subsequently returned to Individual-1 through an attorney, and the Sony was later stolen from Individual-1's Hot Springs residence thereafter. Thus, Individual-1 no longer has access to the Sony laptop.

Also, in his reply, Hutchinson alleges that the FBI failed to comply with policy in its destruction of the images of the laptop, alleging that Special Agent Lowe failed to obtain concurrence from his supervisory special agent to destroy the images. *See* Hutchinson Reply, p. 18. The United States has obtained email communications establishing that Special Agent Lowe complied with FBI policy for the Court's consideration.

In his reply, Hutchinson alleges that the joint venture agreement recovered from Individual-1 “could have *only* come from a device belonging to Mr. Hutchinson.” However, the United States has located an email from Hutchinson to Individual-1 that indicates Individual-1 had access to a copy of the joint venture agreement, which the FBI found on one of her devices.

The United States requests permission to file these exhibits under seal, as personal identifiers are included in the Little Rock Police Department and Hot Springs Police Department Reports. If the Court determines that some or all of the exhibits should not be filed under seal, the United States respectfully requests the opportunity to propose redactions prior to unsealing.

The United States has consulted with Tim Dudley, attorney for defendant, and the defense objects to the filing of a surreply.

Wherefore, the United States prays that the Court grant leave to file a surreply and to file the exhibits under seal.

Respectfully submitted,

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