



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*United States Courthouse
300 Quarropas Street
White Plains, New York 10601*

January 9, 2020

BY ECF

The Honorable Kenneth M. Karas
United States District Judge
Southern District of New York
300 Quarropas Street
White Plains, NY 10601

Re: *United States v. Nicholas Tartaglione*, S4 16 Cr. 832 (KMK)

Dear Judge Karas:

The Government respectfully submits this letter to provide a further update to the Court regarding the defense's request for video footage from outside the defendant's cell at the Metropolitan Correctional Center ("MCC") on July 22 – July 23, 2019. On or about December 19, 2019, the Government informed the Court and defense counsel that it had confirmed with MCC staff that the requested video had been preserved, and that the Government was working to obtain a copy from MCC. As set forth in greater detail below, the Government has learned that the MCC inadvertently preserved video from the wrong tier within the MCC, and, as a result, video from outside the defendant's cell on July 22 – 23, 2019 (*i.e.* the requested video) no longer exists.

On or about July 23, 2019, at approximately 1:27 a.m., MCC corrections officers responded to the cell ("Cell-1") that the defendant shared with Jeffrey Epstein. On or about July 25, 2019, defense counsel requested that MCC preserve video footage from outside the defendant's cell from July 22, 2019 at 11:00 p.m. through July 23, 2019 at 4:00 a.m. From speaking with MCC legal counsel, the Government understands that in response to this request, MCC legal counsel looked up the defendant's cell number in the MCC computer system and thereafter requested that MCC staff preserve video from outside of that cell for the requested time period. An MCC staff member confirmed that the video had been preserved.

On or about January 3, 2020, the MCC provided the Government with a copy of the video that it had preserved, which the Government then converted into a playable format. After reviewing the video, it appeared to the Government that the footage contained on the preserved video was for the correct date and time, but captured a different tier than the one where Cell-1 was located because the preserved video did not show corrections officers responding to any of the cells seen on the video. After speaking with MCC legal counsel, the Government was informed that the MCC computer system listed a different, incorrect cell for Tartaglione ("Cell-2"). Therefore, when MCC legal counsel asked that the video outside of the defendant's cell be preserved, the MCC preserved video outside of Cell-2 instead of Cell-1.

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The Government understands from speaking with MCC legal counsel that there was a backup system in place that housed all video for the Special Housing Unit, including the video requested by defense counsel. The Government further understands from the Federal Bureau of Investigation that it has reviewed that backup system as part of an unrelated investigation and determined that the requested video no longer exists on the backup system and has not since at least August 2019 as a result of technical errors.

The Government will make the video of the tier containing Cell-2 available for defense counsel's review at the United States Attorney's Office.

Respectfully submitted,

GEOFFREY S. BERMAN
United States Attorney

By: /s/


Assistant United States Attorneys

Cc: Counsel of record (by ECF)

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