



BONJEAN
LAW GROUP, PLLC

750 Lexington Avenue, 9th Floor
New York, New York 10022

Tel: 718.875.1850

Fax: 718.230.0582

www.bonjeanlaw.com

June 17, 2024

FILED ELECTRONICALLY

Hon. Diane Gujarati
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *U.S. v. Cherwitz, et al.*, No. 23-cr-146
(DG), Supplemental Information in
Requesting Immediate Hearing into
Evidence that The FBI has Instructed
a Key Witness to Delete Emails

Dear Judge Gujarati:

We write on behalf of Nicole Daedone and Rachel Cherwitz to bring to the Court's attention additional information that **surfaced over the weekend** prompted by and relevant to our June 11 letter. [See ECF No. 96.] The information that follows provides further support for Ms. Daedone's and Ms. Cherwitz's claims of coercion, intimidation, and evidence tampering by FBI Agent McGinnis, and we supplement the letter with this additional information, in advance of the government's June 18 response and in support of our request for a briefing schedule to address these matters with appropriate evidence.

In addition to Agent McGinnis telling a witness in an active investigation to "disband and cancel" her email account, Agent McGinnis has revealed a pattern of coercing and/or pressuring individuals and potential witnesses into identifying as victims. Law enforcement's role in pursuing the facts does not include inducing and grooming witnesses to declare themselves as victims. An agent wielding the authority of the federal government, symbolized by their badge and gun, holds immense power to intimidate individuals. Agents must uphold the highest standards of integrity, focusing on uncovering the truth rather than manipulating testimony.

Defendants have learned of an individual who has disclosed that she was interviewed in a manner by Agent McGinnis that left her feeling pressured to identify as a "victim," even though she did not believe that she was a "victim." She disclosed that, in or around April 2021, Agent McGinnis and another agent showed up at her residence in another state with a subpoena and told her that she would be arrested and interrogated in New York if she failed to respond to this subpoena. Agent McGinnis proceeded to berate this individual and ordered



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them to identify as a victim and to not talk to anyone about the subpoena or investigation. The individual began to have severe anxiety and depression as result of this interaction and lost her ability to hold a job. In September 2021, this individual was put in touch with a victim witness specialist employed by the federal government who tried to convince her that the traumatic experience caused by Agent McGinnis was due to OneTaste and to coerce her to cooperate with the FBI against her wishes. All throughout this time, the individual repeatedly told Agent McGinnis and other FBI representatives that she did not consider herself to be a victim. As a result of intense pressure from Agent McGinnis, other FBI agents, and her prior attorney, this individual believed she had no alternative but to support the FBI's case. The individual felt trapped in an endless process with no support. Eventually, the individual managed to extricate herself from the situation, desperately pleading with the FBI to leave her in peace and never contact her again.

This individual said to a federal employee to whom she was referred after complaining about the coercion she was experiencing:

“This is some dark Victorian s__t. Where you traumatize me and then tell me I need therapy ... the FBI could not possibly see me as a victim because if they did they could never treat me in the way that they are ... I was not in therapy until the FBI showed up at my door ... I don't want to have anything to do with this.”

Believing, based on what Agent McGinnis had told her, that she had no choice but to help the FBI make its case, she said “since I have no choice but to participate in this case, I need to find a better way to work together with you.” The federal employee to whom she conveyed this information said to her “this is not right.”

This disclosure adds to the information previously submitted to the Court by prior defense counsel, as detailed in ECF No. 49-2 (attached here for convenience) on September 27, 2023. That information outlined Agent McGinnis' attempts to shape witness accounts and transform individuals into “victims.” A troubling pattern has emerged: Agent McGinnis interviews potential witnesses, disregards their exculpatory statements, and presents a false narrative that casts them as “victims.” In a perverse twist, it is the FBI that seems to be “grooming” witnesses into adopting victim status. An individual should not be labeled a “victim” for the first time by an FBI agent.

In the second half of 2018, shortly after the publication of an article in Bloomberg Businessweek about OneTaste, Agent McGinnis contacted another individual about her experiences as an employee of OneTaste and course participant in its programs. Agent McGinnis told her that the FBI were investigating “human trafficking” allegations against OneTaste. This individual informed McGinnis that she never saw, heard or perceived of any



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behavior at OneTaste in her extensive experience that even vaguely resembled human trafficking or other criminal or coercive behavior. In August 2023, shortly after the Indictment of the Defendants, Agent McGinnis called to offer this individual “victim assistance.” When she reiterated that she was not a victim of any activity by the Defendants or by OneTaste, Agent McGinnis aggressively challenged her clearly stated and consistent position. This individual states:

“On August 31st, 2023, approximately seven weeks after I heard about the indictment of Nicole Daedone and Rachel Cherwitz, Agent McGinnis called me again. He began the call by reminding me we had spoken once before. He then referenced the indictment of Nicole Daedone and Rachel Cherwitz and informed me they had been charged with conspiracy for ‘forced labor.’ Agent McGinnis then informed me that the purpose of his call was to provide me with ‘victim assistance’ and that he was ‘calling everyone’ to offer them these services. Agent McGinnis told me these ‘victim assistance’ services were for ‘this type of crime,’ referring to conspiracy for forced labor. I immediately told Agent McGinnis that I was not a victim of anything and that I did not want or need ‘victim assistance.’ Agent McGinnis seemed surprised to hear me say this and then proceeded to push back on my assertion that I did not qualify myself as a victim in need of these services. Agent McGinnis then told me something like ‘Oh, well I thought in our last call you told me you felt like a victim.’ This was shocking to me as my recollection of our first conversation is crystal clear and I am positive there is nothing I said that could have been construed as identifying myself as a victim.”

McGinnis’s behavior as described above interferes with the search for truth and arguably violates federal law prohibiting tampering with or intimidating witnesses and victims. See 18 U.S. Code § 1512 (making it a crime to “knowingly use[] intimidation, threaten[], or corruptly persuade[] another person, or attempt[] to do so....with intent to influence, delay, or prevent the testimony of any person in an official proceeding.”)

The defendants have documented multiple instances of the Prosecution Team, including Agent McGinnis, coercing, manipulating, and intimidating at least three individuals in an effort to compel them to identify as victims. One of these individuals is Ms. Cherwitz, who was punished for her refusal to label herself as a victim by being named a co-defendant in this case. Rachel Cherwitz’ attorney at the time is prepared to aver that they attempted to persuade her she was a victim. When she declined to participate when they needed another victim for the rapidly diminishing case, they made Ms. Cherwitz a co-defendant in this case. After Ms. Cherwitz declined to identify as a victim, a phalanx of FBI agents in full SWAT gear



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descended on her home with a helicopter and convoy of SUVs despite her attorney's assurances that she would be available to answer any questions that they had. This of course had a very chilling effect on any other witness who would not care to identify as a victim. Other witnesses are aware of this punitive response, which could potentially influence their statements and compromise the integrity of their testimonies.

Agent McGinnis's egregious conduct in this case includes witness coercion and intimidation, spoliation of evidence, false statements under oath, and participation in a Netflix film about OneTaste that included the staged filming of a false crime report to the FBI. The Court should not tolerate Agent McGinnis's misconduct, which turns the constitutional principle of due process on its head, creating an environment where fairness and impartiality are sacrificed in favor of securing a conviction at any cost. This not only undermines the rights of the defendants but also erodes public trust in the criminal justice system as a whole.

The above individuals have provided statements as to the misconduct that they experienced at the hands of FBI Agent McGinnis that will be provided to the Court in support of Defendants' forthcoming formal motions.

Respectfully submitted,

LEVIN & ASSOCIATES, PLLC
44 Court Street, Suite 905
Brooklyn, New York 11201

By: ___/s_____
Duncan Levin, Esq.
Counsel for Rachel Chervitz

BONJEAN LAW GROUP, PLLC
750 Lexington Avenue, 9th Floor
New York, New York 10022

By: ___/s_____
Jennifer Bonjean, Esq.
Counsel for Nicole Daedone