

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

MICHAEL T. FLYNN,

Defendant

Crim. No. 17-232 (EGS)

**GOVERNMENT’S RESPONSE TO DEFENDANT’S MOTION TO PRODUCE
NEWLY DISCOVERED BRADY EVIDENCE**

The United States of America, by and through its undersigned counsel, respectfully files this response to defendant Michael Flynn’s Motion to Produce Newly Discovered *Brady* Evidence, *United States v. Flynn*, 17-cr-232 (Doc. 124) (D.D.C. Oct. 15, 2019). In the motion, the defendant requests information pertaining to two phones that allegedly “were used by Mr. Joseph Mifsud” and are allegedly in the possession of the government. *Id.* at 2. According to the defendant, the phones contain information on individuals tasked against the defendant as early as 2014. *Id.*¹

The requested materials are not favorable and material to the defendant’s guilt or punishment, or even relevant to this criminal case. *See, e.g., United States v. Bagley*, 473 U.S. 667, 667 (1985) (“favorable to an accused . . . where the evidence is material either to guilt or punishment.”); Standing Order at 2, *United States v. Flynn*, No. 17-cr-232 (D.D.C. Feb. 16, 2018) (Doc. 20) (requiring the government to produce “any evidence in its possession that is

¹ As the government has previously stated, its responses are not intended to, and should not be read to, indicate that the requested information exists within the government’s holdings. Should the Court have additional questions, the government is able to provide additional information, *ex parte* and under seal.

favorable to the defendant and material to either the defendant's guilt or punishment."). Mifsud has no connection to the defendant's communications with the Russian Ambassador in December 2016, or to the defendant's work on behalf of the Republic of Turkey, and the defendant offers no argument or facts to the contrary. Rather, Mifsud is connected to the criminal activity of George Papadopoulos, who on October 7, 2017, pleaded guilty to lying to the Federal Bureau of Investigation ("FBI") about the nature and timing of his interactions with Mifsud. *See* Statement of Offense, *United States v. George Papadopoulos*, 17-cr-182 (D.D.C. Oct. 5, 2017) (Doc. 19). None of the references to Mifsud in the Special Counsel Report are connected to the defendant. *See* SPECIAL COUNSEL ROBERT S. MUELLER III, REPORT ON THE INVESTIGATION INTO RUSSIAN INTERFERENCE IN THE 2016 PRESIDENTIAL ELECTION (Mar. 2019), Vol. I. at 5, 81-93, 192-93. Accordingly, at this time, the government is not aware of any information pertaining to the defendant's motion that are even relevant to the defendant's false statements to the FBI on January 24, 2017, or to his punishment. And, thus, the defendant's motion should be denied.

Respectfully submitted,

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Dated: October 29, 2019

CERTIFICATE OF SERVICE

I, Jocelyn Ballantine, certify that I caused to be served a copy of the foregoing by electronic means on counsel of record for the defendant on October 29, 2019.

/s/

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