

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

JAMES J. BULGER,

Defendant.

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CRIM. NO. 99-10371-RGS

GOVERNMENT’S STATUS REPORT

The United States of America, by and through the undersigned counsel, hereby provides its status report to the Court in advance of the March 19, 2012 status conference scheduled in this matter.

On March 6, 2012, government counsel and defense counsel met at the U.S. Attorney’s office to discuss discovery-related issues. Government counsel offered to go through the pending indictment and identify all of the discovery which it believes is most relevant to the actual charges in this case. However, before anything productive could be accomplished, defense counsel insisted that the government re-scan and re-number with one Bates prefix **all** of the discovery that it has already produced. Currently, most of the discovery material is stamped either with the Bates prefix “USAO” (primarily pre-2002) or with the Bates prefix “Bulger” (primarily post-2002).¹ The USAO materials were produced along with a 537 page index.

Government counsel informed defense counsel that the request to re-number and re-scan all of the material would take a substantial amount of time, was duplicative of work it had

¹ The videos and photographs are not bates stamped nor are the public witness transcripts of the Salemme hearings which have been produced on its own separate CD. There is also some material that the government has produced in this matter that is either duplicative or only marginally relevant (e.g. discovery previously produced in Bulger related civil litigation).

already done, and did not make any sense. Instead, the government proposed that, over multiple days, the government would review the Superseding Indictment with defense counsel, count by count, explaining what its evidence was on each count and where that evidence could be located within the materials the government has already produced. Defense counsel continued to insist that the government re-scan and re-number the already-produced discovery. According to defense counsel, a defense technology consultant had stated it was only a two hour project.

Government counsel informed defense counsel that since they had the same material the government did, in the same format, they should re-scan and re-number everything however they so chose. When defense counsel stated that then both sides would be working off different numbering systems, the government agreed to use whatever new numbering system defense counsel devised. At this point, defense counsel continued to object to the government's refusal to re-scan and re-number over 500,000 pages of material and abruptly left the meeting.

The government has attached hereto as Exhibits A and B the detailed automatic discovery letters that it sent defense counsel in this matter. As the letters make clear, the government has gone well beyond what Fed. R. Crim. P. 16 and the Local Rules require and has produced discovery in this case in a manner that allows the defendant to focus his defense on the particular charges he is facing - specifying by Bates number where various items are located in the discovery. The government will continue preparing early Jencks/Giglio packages for all of its significant trial witnesses and will produce them without further request of the defendant. Moreover, the government remains willing to utilize whatever numbering system defense counsel

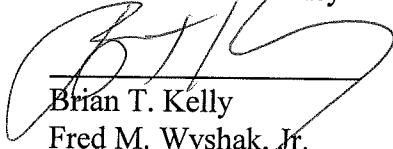
prefers so long as the government's Bates stamp numbers are not deleted.

Respectfully submitted,

Carmen M. Ortiz
United States Attorney

Date: March 13, 2012

By:



Brian T. Kelly
Fred M. Wyshak, Jr.
Zachary R. Hafer
Assistant U.S. Attorneys

CERTIFICATE OF SERVICE

I, Brian T. Kelly, Assistant United States Attorney, do hereby certify that this document, was filed on the above date through the ECF system which sends copies electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and that paper copies will be sent to those indicated as non registered participants on this date.

/s/ Brian T. Kelly

BRIAN T. KELLY
Assistant U.S. Attorney