# IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff, No. CR 16-2688 MV

Vs.

CLAUDIA VILLA-MUNOZ,

Defendant

# DEFENDANT’S OPPOSED MOTION TO DISCLOSE ANY PRIOR INFORMATION IN THE POSSESSION OF

**THE BERNALILLO COUNTY SHERIFF’S OFFICE AND THE DEPARTMENT OF HOMELAND SECURITY**

COMES NOW the Defendant Claudia Villa-Munoz (by and through her counsel of record Assistant Federal Public Defender Brian A. Pori), and pursuant to the Fifth and Sixth Amendments of the United States Constitution, to respectfully request that this Honorable Court enter an Order directing the Government to disclose any information concerning Ms. Villa which was in the possession of the Albuquerque Office of the Department of Homeland Security or the Bernalillo County Sheriff’s Office prior to the traffic stop of Ms. Villa on April 6, 2016. Ms. Villa also respectfully requests that the Government be ordered to disclose all relevant *Brady* information, including any impeachment material and

other information concerning the reasons for the traffic stop. In support of this Opposed Motion, counsel for Ms. Villa states:

1. Defendant Claudia Villa-Munoz has been charged in an Indictment, returned on June 14, 2016, with possession of a firearm by an undocumented immigrant (in violation of 18 U.S.C. §§ 922(g)(5) and 924(a)(2)) and with illegal re-entry after deportation (in violation of 8 U.S.C. § 1326, subd. (a) and (b).) Doc. 13.
2. The arrest in this case arose out of a traffic stop of Ms. Munoz on April 6, 2016, purportedly for making an unsafe lane change.1 The officer who stopped Ms. Villa was a Bernalillo County Sheriff’s Deputy K-9 Officer who was working as a Task Force Agent assigned to the Department of Homeland Security. During the course of the stop, other officers from the Sheriff’s Department and Homeland Security arrived on the scene.
3. The traffic stop of Ms. Villa ultimately led to a search of her vehicle.

Before the search, the Deputy who made the stop initially asked Ms. Munoz if she was carrying any firearms in the vehicle. During the search, the Deputy repeatedly asked Ms. Villa where “*it*” was located and insisted that Ms. Villa knew what he

1 Because the stop was initiated by a Sheriff’s Deputy, there is no dash board camera recording of the stop.

was talking about. After repeated badgering by multiple officers Ms. Villa ultimately admitted that there was, in fact, a firearm in the vehicle.

1. Under the totality of the circumstances, it appears that Sheriff’s Deputies and Agents of the Department of Homeland Security were somehow in possession of prior information that Ms. Villa was an undocumented immigrant who would be traveling through New Mexico with a firearm. If so, this information could impeach the Deputy’s claim that the traffic stop was justified at its inception.2
2. Ms. Villa contends that, like a request to disclose a confidential informant, disclosure of any information in the possession of the arresting Agencies prior to the traffic stop on April 6th could be relevant and tend to show that the stop was not, in fact, supported by probable cause; therefore, disclosure of that information is essential to a fair determination of this cause. *Rovario v. United States,* 353 U.S. 53, 61-62 (1957); *United States v. Gordon,* 173 F.3d 761, 767-68 (10th Cir. 1999). In addition, Ms. Villa submits that her right to prepare for a pending evidentiary hearing in this matter and to establish with all available evidence that the stop was not justified at its inception outweighs any interest in

2 Ms. Villa does not allege that the stop in this case was pretextual but instead challenges the probable cause for the traffic stop. As a result *Whren v. United States*, 517 U.S. 806 (1996) does not apply to this case.

shielding the arresting Agencies’ possession of any prior information which they had concerning Ms. Villa*,* 353 U.S. at 62; *U.S. v. Sinclair,* 109 F.3d 127, 1538 (10th

Cir. 1997).

1. In addition, the Government has an obligation to provide the defense with any material exculpatory evidence or impeachment evidence. *Brady v. Maryland,* 373 U.S. 83 (1963); *Giglio v. U.S.* 405 U.S. 150 (1972)*; U.S. v. Bagley,* 43 U.S. 67 (1985). The Government’s *Brady* obligation extends to information in the possession of any government agent. *Kyles v. Whitley,* 514 U.S. 419 (1995). Therefore, disclosure of this material, exculpatory evidence or impeachment information is essential to safeguard Ms. Villa’s Sixth Amendment rights by protecting her right to compulsory process, to confront and cross examine the witnesses against her and to present a defense. *Washington v. Texas,* 388 U.S. 14 (1967); *Davis v. Alaska,* 415 U.S. 308 (1974)*.*
2. A court must be wary of any attempt by law enforcement officers to stop a vehicle without a probable cause in order to pursue another investigation which is unrelated to the purpose of the stop . Cf. *Florida v. Wells,* 495 U.S. 1, 4 (1990) [an inventory search must not be a ruse to discover incriminating evidence]. In addition, the Court should seriously consider any allegation that the officers who initiated a traffic stop “acted in bad faith or for the sole purpose of investigation.” *Colorado v. Bertine,* 479 U.S. 367, 372 (1987) [discussing inventory searches].
3. Ms. Villa contends that she was not stopped for a violation of the New Mexico traffic code but was instead stopped without probable cause in order to pursue an investigation of an undocumented immigrant in possession of a firearm. In light of this allegation she submits that, prior to the commencement of the scheduled evidentiary hearing in this case, the Government is obligated to produce any information concerning Ms. Munoz, her immigrant status, or her travel through New Mexico which was in the possession of the Bernalillo County Sheriff’s Office or the Albuquerque Office of the Department of Homeland Security prior to April 6, 2016, including without limitation any tips from confidential informants, any reports from any other federal, state or local law enforcement or National Security Agency, any intercepted telephone conversations, text messages, social media messages or emails (or reports of any such communications), and any telephone records (including cellular telephone tower records or interceptions).
4. Assistant United States Attorney Kimberly Brawley, counsel of record for the United States, has been informed of this Motion and Ms. Brawley represents that the Government opposes the Motion.

WHEREFORE, for all of the foregoing reasons, Defendant Claudia Villa Munoz respectfully requests that this Honorable Court enter an Order directing the Government to disclose any information of any kind concerning Ms. Munoz, her

immigrant status or her travel through New Mexico in the possession of the arresting agencies prior to the traffic stop on April 6, 2016 and also Order the Government to disclose any material, exculpatory *Brady* information or impeachment information surrounding the events of April 6, 2016.

Respectfully Submitted,

/s/ *Brian A. Pori* filed electronically -/-/-- Brian A. Pori

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(505) 346-2489 [telephone] Counsel for Claudia Villa Munoz

# CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this -th day of April, 2017, I filed the foregoing Defendant’s Opposed Motion electronically through the CM/ECF system, which caused a copy of the pleading to be served electronically on opposing counsel of record addressed as follows:

Kimberly Brawley, Esq. Assistant United States Attorney

P.O. Box 607

Albuquerque, New Mexico 87103

/s/ *Brian Pori* filed electronically -/-/-- Brian A. Pori