

UNITED STATES DISTRICT COURT
for the
Southern District of New York

United States of America)
v.)
Ghislaine Maxwell)
Defendant)

Case No. S2 20 Cr. 330 (AJN)

SUBPOENA TO TESTIFY AT A HEARING OR TRIAL IN A CRIMINAL CASE

To:



500 South Flagler Drive Suite 500
West Palm Beach FL 33401

YOU ARE COMMANDED to appear in the United States district court at the time, date, and place shown below to testify in this criminal case. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place of Appearance: United States Courthouse 40 Foley Square New York, NY 10007	Courtroom No.: 318
	Date and Time: 11/23/2021 9:00 am 12/16/21

You must also bring with you the following documents, electronically stored information, or objects (blank if not applicable):

14:49
mhm
1613
12/13/21

(SEAL)

Date: NOV 16 2021



The name, address, e-mail, and telephone number of the attorney representing (name of party) Ms. Ghislaine Maxwell, who requests this subpoena, are:

Christian R. Everdell Cohen & Gresser LLP
800 Third Ave New York N.Y. 10002
212-957-7600



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November 15, 2021

*Rec'd via
email by PLS
more on 11/13/21

BY FIRST CLASS MAIL

Mr. Kenneth A. Polite, Jr.
Assistant Attorney General
Criminal Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

Re: *United States v. Ghislaine Maxwell*, S2 20 Cr. 330 (AJN)

Dear Assistant Attorney General Polite:

We represent the defendant, Ghislaine Maxwell, in the above-referenced matter. This letter constitutes a request made pursuant to *United States ex. rel. Touhy v. Regan*, 340 U.S. 462 (1951), for the testimony of (1) FBI Special Agent [REDACTED] and (2) former Assistant United States Attorney [REDACTED] at the trial in this case on November 29, 2019 at 9:00 A.M., before the Honorable Alison J. Nathan, United States District Judge.

In accordance with 28 C.F.R. § 16.23(c), we make the following statement setting forth a summary of the testimony we seek:

[REDACTED] was co-case agent in charge of an investigation into allegations of sexual abuse by Jeffrey Epstein conducted by the Palm Beach FBI and the U.S. Attorney's Office for the Southern District of Florida from approximately July 2006 to June 2008 (the "Florida Investigation"). During the course of the Florida Investigation, [REDACTED] was present for numerous interviews of witnesses who alleged that they were sexually abused by Jeffrey Epstein, including at least one witness who is anticipated to testify against Ms. Maxwell at the trial in the above-captioned case (the "Witness"). The interview of the Witness took place on August 7, 2007. [REDACTED] took contemporaneous notes of the interview and summarized his notes in an FBI 302, dated August 13, 2007. The government has produced [REDACTED] notes and the FBI 302 to the defense as part of the criminal discovery in this case. In the event that the Witness's testimony at trial is inconsistent with the statements she made at the August 7, 2007 interview, the defense would seek to call [REDACTED] to impeach the Witness.

[REDACTED] is a former Assistant United States Attorney in the United States Attorney's Office for the Southern District of New York ("USAO-SDNY"), who is

now in private practice.¹ In her capacity as the Human Trafficking and Project Safe Childhood Coordinator for the USAO-SDNY, Ms. ██████ met with attorneys for several of the alleged victims who are testifying against Ms. Maxwell in this case on February 29, 2016. At that meeting, the attorneys for the alleged victims attempted to persuade Ms. ██████ to open an investigation into Jeffrey Epstein and Ms. Maxwell and discussed how a previous investigation into Mr. Epstein by the United States Attorney's Office for the Southern District of Florida had been resolved by a Non-Prosecution Agreement ("NPA"). Ms. ██████ took contemporaneous notes of that meeting and soon afterwards emailed the Chief of the Criminal Division of the USAO-SDNY to discuss the case. The USAO-SDNY did not open an investigation at that time.

In late-November 2018, Ms. ██████ read an article in the *Miami Herald* which was extremely critical of the Epstein NPA and highlighted the extent of Mr. Epstein's alleged crimes. Shortly after reading the *Miami Herald* article, Ms. ██████ approached prosecutors in the Public Corruption Unit of the USAO-SDNY, including several of the prosecutors on this case, and told them about the February 29, 2016 meeting. Ms. ██████ also provided the prosecutors with her notes of the meeting and other documents in her file. Shortly after that, the USAO-SDNY opened an investigation into Epstein that ultimately led to the indictment against Ms. Maxwell.

The government has produced to the defense in discovery, among other things, Ms. ██████ notes of the February 29, 2016 meeting, emails between Ms. ██████ and the prosecutors from the Public Corruption Unit in November-December 2018, and the prosecution team's notes of a February 11, 2021 phone call with Ms. ██████ in which she discusses her recollection of the February 29, 2016 meeting and her interactions with the prosecutors in November-December 2018. In the event that Judge Nathan permits the defense to elicit testimony at trial about the February 29, 2016 meeting and Ms. ██████ subsequent interactions with the prosecutors on this case in November-December 2018, the defense would seek to call Ms. ██████ to testify about those topics.

The testimony of ██████ and Ms. ██████ is relevant and material to the issues in this case. Furthermore, it is Ms. Maxwell's position that the disclosure is appropriate under rules of

¹ Although Ms. ██████ is no longer an employee for the Department of Justice, the Department's *Touhy* regulations apply to "any information acquired by any person while such person was an employee of the Department as a part of the performance of that person's official duties or because of that person's official status." 28 C.F.R. § 16.21(a); see also Justice Manual, Section 1-6.111 (included in the definition of "employee" are "former Department employees in cases in which the subpoena or demand seeks testimony as to information acquired while the person was employed by the Department").

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procedure and that disclosure, to Ms. Maxwell's knowledge, would not violate any statute or regulations or reveal confidential sources, classified information, trade secrets, ongoing investigations, or investigatory techniques. (28 C.F.R. § 16.26(b)).

If you have any questions or would like to discuss further, please do not hesitate to contact me.

Sincerely,

/s/ Christian R. Everdell
Christian R. Everdell
COHEN & GRESSER LLP
800 Third Avenue, 21st Floor
New York, New York 10022
(212) 957-7600

cc: All counsel of record (by email)