

Case No. 05-CR-1115 (ER) (S.D.N.Y.)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,
Plaintiff,

v.

ULYSSES THOMAS WARE,
Defendant.

In re USAO-SDNY | Brady Disclosure Fraud
SUA SPONTE ADMINISTRATIVE SHOW CAUSE ORDER

RE: EMERGENCY ADMINISTRATIVE ORDER PURSUANT TO 28 U.S.C. § 137(a) TO SHOW CAUSE REGARDING ONGOING BRADY DISCLOSURE FRAUDS ON THE COURT, PROSECUTORIAL MISCONDUCT, AND SYSTEMATIC CONCEALMENT, REMOVAL, AND SUPPRESSION OF JUDICIAL COURT RECORDS PERTAINING TO THE GOVERNMENT’S “PRINCIPAL WITNESS” JEREMY JONES IN VIOLATION OF THE MAY 19, 2006, BRADY COURT ORDER (DKT. 17).

Dated: Monday, March 16, 2026

I. PRELIMINARY STATEMENT

This **Emergency Order to Show Cause** is entered by the District Court for the Southern District of New York, acting **sua sponte** through the Office of the Chief District Judge, upon receipt of the documented and verified submissions of Ulysses Thomas Ware, *pro se* litigant in the above-captioned proceedings, which establish (i) probable cause, and (ii) a *prima facie* case of ongoing, systematic, and willful Brady disclosure frauds perpetrated upon this Court by the United

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States Attorney’s Office for the Southern District of New York (“USAO-SDNY”) in connection with the suppression, concealment, and destruction of material exculpatory and impeachment evidence relating to the Government’s “principal witness,” Jeremy Jones.

The documentary record before this Court establishes, to a certainty not subject to reasonable dispute, that:

(a) The Honorable William H. Pauley III (deceased) entered a lawful Brady court order on May 19, 2006, Dkt. 17, in *United States v. Ware*, No. 05-cr-1115 (S.D.N.Y.) (the “Brady Court Order”), mandating the Government to disclose all exculpatory and impeachment evidence to Mr. Ware prior to trial;

(b) A Rule 11 plea proceeding involving Jeremy Jones was conducted before Magistrate Judge Michael H. Dolinger on September 22, 2006, as reflected in the transcript bearing the designation “Doc. #24,” at which AUSA Alexander H. Southwell represented the Government and confirmed on the record the existence of a plea agreement consisting of a letter dated September 15, 2006, from the United States Attorney to Jones’s attorney;

(c) CJA Attorney Marlon G. Kirton confirmed in his April 30, 2008, letter to Judge Pauley that Jones “cooperated with the government” and received “a 5K letter from the government;”

(d) Neither the Rule 11 plea agreement, the September 15, 2006, plea agreement letter, the U.S.S.G. § 5K1.1 cooperation agreement, the Rule 11 allocution transcript, the 5K letter, nor any related court records were ever disclosed or produced to Mr. Ware prior to, during, or after his January 2007 trial, in direct and willful violation of the Brady Court Order;

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(e) The CM/ECF docket sheet of No. 05-cr-1115 contains no entry corresponding to Docket Entry 24 or any Rule 11 proceeding, cooperation proceeding, or U.S.S.G. § 5K1.1 motion involving Jeremy Jones—evidencing deliberate falsification, spoliation, and concealment of official judicial records in probable violation of 18 U.S.C. § 2071(a) and (b); and

(f) The September 11, 2008, sentencing transcript of Jeremy Jones before Judge Pauley confirms that Jones was sentenced to three years' probation after the Government via AUSA Nicholas S. Goldin moved for a downward departure for “substantial assistance” pursuant to U.S.S.G. § 5K1.1—confirming the existence of the suppressed cooperation agreement.

II. JURISDICTIONAL AND LEGAL AUTHORITY

This Emergency Order to Show Cause is entered pursuant to the following administrative, constitutional, statutory, and inherent authorities of this Court:

A. Constitutional Authority. The Due Process Clause of the Fifth Amendment to the United States Constitution, as construed in *Brady v. Maryland*, 373 U.S. 83, 87 (1963) (holding that the suppression of evidence favorable to the accused violates due process where the evidence is material to guilt or punishment), and *Giglio v. United States*, 405 U.S. 150, 154 (1972) (extending the *Brady* obligation to impeachment evidence, including cooperation agreements and leniency promises made to government witnesses).

B. Statutory Contempt Power. Title 18, United States Code, Section 401, which provides that “[a] court of the United States shall have power to punish by fine or imprisonment, or both, at its discretion, such contempt of its authority” including: (2) “Misbehavior of any of its officers in their official transactions;” and (3) “Disobedience or resistance to its lawful writ, process, order,

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rule, decree, or command.” 18 U.S.C. § 401(2), (3). The Brady Court Order, Dkt. 17, constitutes a “lawful . . . order” within the meaning of 18 U.S.C. § 401(3), disobedience of which subjects any person to the contempt power of this Court.

C. Federal Rule of Criminal Procedure 42. Rule 42(a) of the Federal Rules of Criminal Procedure provides that “[a]ny person who commits criminal contempt may be punished for that contempt after prosecution on notice,” and that “[t]he court must give the person notice in open court, in an order to show cause, or in an arrest order.” Fed. R. Crim. P. 42(a)(1). Rule 42(a)(2) further provides that “[t]he court must request that the contempt be prosecuted by an attorney for the government, unless the interest of justice requires the appointment of another attorney.”

D. Inherent Article III Authority. Federal courts possess inherent authority to manage their proceedings and control the conduct of those who appear before them. *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43–46 (1991) (holding that “[t]he wielding of [inherent] power is particularly appropriate when the offending parties have practiced a fraud upon the court”). The Supreme Court has further recognized that courts possess inherent authority to initiate contempt proceedings for disobedience to their orders. *Young v. United States ex rel. Vuitton et Fils S.A.*, 481 U.S. 787, 793–96 (1987) (holding that courts possess “inherent authority to initiate contempt proceedings for disobedience to their orders, which authority necessarily includes the ability to appoint a private attorney to prosecute the contempt”). The Judiciary must have “an independent means to vindicate its own authority without complete dependence on other Branches.” *Id.* at 796.

E. Administrative Authority of the Chief Judge. Title 28, United States Code, Section 137(a), provides that “[t]he chief judge of the district court shall be responsible for the

observance of [the court's] rules and orders, and shall divide the business and assign the cases.” As Chief Administrative Officer of this District, Chief Judge Taylor-Swain bears the ultimate statutory, constitutional, and ethical responsibility for the administrative integrity of the Southern District of New York. *The Code of Conduct for United States Judges, Canon 3, requires that judicial officers perform their duties diligently, including the duty to act on information indicating that officers of the court have engaged in fraud or misconduct.*

F. Fraud on the Court Doctrine. *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944), establishes the court's affirmative duty to act when confronted with evidence of fraud upon the court, including the suppression of material evidence, falsification of records, and suborning of perjury by officers of the court. The USAO-SDNY's systematic concealment of the Jeremy Jones Perjury Contracts, combined with the erasure of official docket entries, constitutes precisely the type of “deliberately planned and carefully executed scheme” to corrupt the judicial process that *Hazel-Atlas* was designed to remedy. *Id.* at 245.

III. VERIFIED FACTUAL BASIS FOR EMERGENCY ACTION

The Court finds, based upon the documentary record presented to it by defendant Ulysses T. Ware, *and from an independent review* of the 05-cr-1115 case file, and subject to mandatory judicial notice under Fed. R. Evid. 201(b)(2) and (c)(2), the following material facts:

1. The Brady Court Order. On May 19, 2006, the Honorable William H. Pauley III entered a lawful Brady court order, Dkt. 17, in *United States v. Ware*, No. 05-cr-1115 (S.D.N.Y.), mandating that the Government disclose all exculpatory and impeachment evidence to Mr. Ware no later than the Thursday before the start of trial in January 2007. The Brady Court Order has

never been dissolved, modified, or vacated, and its binding force continues in full effect to the present date.

2. The Secret Jeremy Jones Plea and Cooperation Agreements. On September 22, 2006, a Rule 11 plea proceeding was allegedly conducted before Magistrate Judge Michael H. Dolinger involving Jeremy Jones, who was identified by the Second Circuit as the Government’s “principal witness” in *United States v. Ware*, 577 F.3d 440, 445 (2d Cir. 2009) (Kearse, J.). AUSA Southwell confirmed on the record the existence of a plea agreement letter dated September 15, 2006. The September 11, 2008, sentencing transcript confirms that Jones received a U.S.S.G. § 5K1.1 “substantial assistance” downward departure and was sentenced to three years’ probation—an extraordinarily lenient sentence confirming the corrupt *quid pro quo* nature of the arrangement. *These documents, collectively designated the “Null and Void Perjury Contracts,” constitute material Brady and Giglio evidence that was willfully suppressed.*

3. Systematic Destruction and Concealment of Court Records. The CM/ECF docket sheet of No. 05-cr-1115 contains no entry for Docket Entry 24 or any Rule 11 proceeding involving Jeremy Jones, despite the transcript itself bearing the designation “Doc. #24.” On June 5, 2023, the Custodian of Records for this District, David Ng, confirmed to Mr. Ware that no records exist in the official files of the Court pertaining to Jones’s Rule 11 plea proceedings, cooperation agreement, or 5K1.1 motion. This constitutes *prima facie* evidence of criminal violations of 18 U.S.C. § 2071(a) and (b) by persons having custody of or access to these records.

4. Continuing Willful Non-Compliance. Despite multiple formal demands by Mr. Ware—dating from the original trial through the habeas corpus proceedings in *Ware v. United*

States, No. 1:22-cv-03409-ER (S.D.N.Y.), and continuing through December 2025 to the present—**the USAO-SDNY has failed and refused to disclose or produce the Null and Void Perjury Contracts or any related materials**. The USAO-SDNY’s February 10, 2026, Offset Decision Letter, issued by AUSA Melissa A. Childs, fails entirely to address Mr. Ware’s Brady arguments. The USAO’s continuing stonewalling constitutes willful and contumacious resistance to the Brady Court Order within the meaning of 18 U.S.C. § 401(3).

5. The USAO-SDNY Is an Interested Party and Cannot Be Trusted to Investigate Itself. The USAO-SDNY is both the entity that orchestrated the original Brady suppression and the entity that has continuously resisted disclosure for nearly twenty years. The present Chiefs of the Criminal and Civil Divisions—AUSAs Amanda Houle and Jeffrey Oestericher—have inherited supervisory responsibility over the personnel and files implicated in the Brady violations. They are bound, as officers of this Court and subject to ABA Model Rule 3.3 (Candor Toward the Tribunal) and New York Rules of Professional Conduct Rule 3.3, to disclose to this Court all material facts, including those adverse to the Government’s position. Their continuing silence constitutes an independent basis for judicial inquiry.

IV. LEGAL ANALYSIS: THE COURT’S DUTY TO ACT

The judicial power of the United States, vested in this Court by Article III of the Constitution, carries with it the inherent obligation to protect the integrity of its processes against fraud and abuse. When officers of the court suppress material evidence in defiance of a court order, falsify the court’s own records, and suborn perjury to secure a conviction, the very

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foundation of the judicial system is under attack. This Court has not merely the authority but the *obligation* to act.

As the Supreme Court has recognized, “[t]he power to punish for contempts is inherent in all courts.” *Young*, 481 U.S. at 795 (quoting *Michaelson v. United States*, 266 U.S. 42, 65–66 (1924)). “It is essential to the administration of justice.” *Id.* The Judiciary must have “an independent means to vindicate its own authority without complete dependence on other Branches.” *Id.* at 796. The wielding of inherent power is “particularly appropriate when the offending parties have practiced a fraud upon the court.” *Chambers*, 501 U.S. at 46.

The documented record establishes that the USAO-SDNY has engaged in a systematic, nearly twenty-year campaign of Brady non-compliance involving: (i) the willful suppression of the Jeremy Jones Rule 11 plea agreement and U.S.S.G. § 5K1.1 cooperation agreement in direct violation of the Brady Court Order; (ii) ***the apparent falsification and erasure of official docket entries reflecting the Jones Rule 11 proceedings; (iii) the knowing presentation of Jones’s testimony at trial without disclosure of the impeachment material that would have devastating impact on his credibility; and (iv) the continuing refusal to comply with repeated formal demands for production of these materials.***

Under these circumstances, the interest of justice and the public interest require immediate judicial intervention. The USAO-SDNY cannot be entrusted with investigating or prosecuting the very misconduct it has perpetrated. The Court’s inherent authority and its statutory power under 18 U.S.C. § 401 and Fed. R. Crim. P. 42 provide the jurisdictional basis for this Emergency Order.

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V. EMERGENCY ORDER TO SHOW CAUSE

UPON THE FOREGOING FINDINGS, and pursuant to the Due Process Clause of the Fifth Amendment to the United States Constitution; *Brady v. Maryland*, 373 U.S. 83 (1963); *Giglio v. United States*, 405 U.S. 150 (1972); 18 U.S.C. § 401(2) and (3); Fed. R. Crim. P. 42(a); the inherent Article III authority of this Court as recognized in *Chambers v. NASCO, Inc.*, 501 U.S. 32 (1991), and *Young v. United States ex rel. Vuitton et Fils S.A.*, 481 U.S. 787 (1987); *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944); 28 U.S.C. § 137(a); 18 U.S.C. § 2071; and the Code of Conduct for United States Judges, Canons 1, 2, and 3;

IT IS HEREBY ORDERED that the following persons, as officers of this Court and in their official capacities as representatives of the United States Attorney's Office for the Southern District of New York, **SHALL APPEAR** before this Court and **SHOW CAUSE** in writing, under oath, as Government lawyers and officers of the court, and subject to ABA Model Rule 3.3 (Duty of Complete Candor to the Tribunal) and New York Rules of Professional Conduct Rule 3.3, **not later than Wednesday, March 18, 2026, at 5:00 P.M. Eastern Time**, as follows:

1. AUSA AMANDA HOULE, Chief of the Criminal Division, USAO-SDNY, shall file a sworn declaration, signed under penalty of perjury pursuant to 28 U.S.C. § 1746, as a government lawyer, officer of the court, stating with particularity:

(a) Whether the USAO-SDNY is in possession, custody, or control of the September 15, 2006, plea agreement letter between the United States Attorney and Jeremy Jones's attorney, and if not, the circumstances of its loss, destruction, or transfer;

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(b) Whether the USAO-SDNY is in possession, custody, or control of the U.S.S.G. § 5K1.1 cooperation agreement with Jeremy Jones, and if not, the circumstances of its loss, destruction, or transfer;

(c) Whether the USAO-SDNY is in possession, custody, or control of the September 22, 2006 Rule 11 allocution transcript (designated “Doc. #24”), and if not, the circumstances of its non-production;

(d) Whether the Brady Court Order, Dkt. 17, was complied with in full with respect to the disclosure and production of all Jeremy Jones plea, cooperation, and sentencing materials prior to Mr. Ware’s January 2007 trial, and if so, to identify the date, manner, and recipient of each disclosure;

(e) Why the USAO-SDNY should not be immediately suspended and barred from appearing in this District Court until full, verified compliance with the Brady Court Order is achieved with respect to the disclosure and production of all Jeremy Jones Null and Void Perjury Contracts, and all related judicial court records, files, and papers.

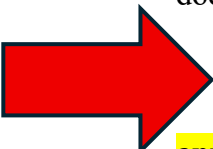


2. AUSA JEFFREY OESTERICH, Chief of the Civil Division, USAO-SDNY, shall file a sworn declaration, signed under penalty of perjury pursuant to 28 U.S.C. § 1746, as a government lawyer, officer of the court, stating with particularity:

(a) The legal and factual basis upon which the USAO-SDNY has certified to the Bureau of the Fiscal Service that a debt arising from No. 05-cr-1115 is “past-due and legally enforceable” for purposes of the Treasury Offset Program, given the outstanding and unresolved Brady violations documented herein;

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(b) Whether AUSA Oestericher, or any person under his supervision, was aware of the documented Brady violations and docket falsification at the time of any such certification;



(c) **Why the USAO-SDNY should not be immediately suspended and barred from appearing in this District Court until full, verified compliance with the Brady Court Order is achieved.**

VI. FURTHER DIRECTIVES

IT IS FURTHER ORDERED that:

1. All responses to this Order shall be filed on the docket of *United States v. Ware*, No. 05-cr-1115 (S.D.N.Y.), and shall be simultaneously served upon Mr. Ulysses T. Ware by electronic mail at utware007@gmail.com.

2. Failure to comply with this Order within the time specified shall be treated as a default constituting an admission of all factual allegations contained herein, and shall subject the defaulting party to further proceedings for civil and criminal contempt under 18 U.S.C. § 401 and Fed. R. Crim. P. 42.

3. A copy of this Order shall be transmitted forthwith by the Clerk of Court to: (a) the United States Attorney for the Southern District of New York; (b) the Chief of the Criminal Division, USAO-SDNY; (c) the Chief of the Civil Division, USAO-SDNY; (d) the Deputy Attorney General of the United States; (e) the Inspector General of the United States Department of Justice; (f) the Director, Office of Professional Responsibility, United States Department of Justice; and (g) Mr. Ulysses T. Ware.

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4. This Court reserves the right, in the event of non-compliance, to appoint independent counsel to prosecute the contempt pursuant to *Young v. United States ex rel. Vuitton et Fils S.A.*, 481 U.S. 787 (1987), and Fed. R. Crim. P. 42(a)(2), and to appoint a Special Master to investigate the alleged falsification and destruction of official court records in No. 05-cr-1115 pursuant to the Court's inherent authority under *Ex parte Peterson*, 253 U.S. 300, 312 (1920), and *Chambers v. NASCO, Inc.*, 501 U.S. 32 (1991).

SO ORDERED this 16th day of March, 2026.

OFFICE OF THE CHIEF DISTRICT JUDGE
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/s/ Laura Taylor-Swain
Chief District Judge

[End of Show Cause Order]