UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

UNITED STATES OF AMERICA

v. Case No. 3:16-cr-93-J-32JRK

CORRINE BROWN

UNITED STATES' MEMORANDUM IN OPPOSITION TO SHANTREL BROWN'S MOTION TO QUASH TRIAL SUBPOENA

The United States of America files this response in opposition to Shantrel Brown's Motion to Quash (Doc. 111) a trial subpoena that was validly served upon her. The motion is premature and grounded on the legally infirm notion that a witness can be excused from even appearing at trial by prospectively refusing to answer each and every question that could be posed – without knowing what the questions will be. For these reasons, discussed in greater detail below, the motion to quash should be denied.

The movant is the defendant's daughter and shares a home with her in Alexandria, Virginia. She asks this Court to "quash the trial subpoena on Shantrel Brown and prohibit the government from calling her as a witness at trial." *See* Mot. at 3. As grounds for seeking this unusual pre-trial relief, the motion simply asserts that if called to testify, she will invoke the Fifth Amendment privilege against self-incrimination. *Id.* at 2. In asserting her Fifth Amendment privilege, Shantrel Brown makes no effort to identify particular areas of questioning that may be at

issue. Nor does she explain why truthful answers to questions may tend to incriminate her. Rather, she asserts outright that she "will remain silent in response to *any questions* by the government." *Id.* at 2 (emphasis added).

Blanket assertions of this sort are not grounds for quashing a subpoena. *See United States v. Goodwin*, 625 F.2d 693, 701 (5th Cir. 1980) (holding that "[a] blanket assertion of the privilege without inquiry by the court, is unacceptable"). Rather, the Court "must make a proper inquiry into the legitimacy and scope of the witness' assertion of [her] Fifth Amendment privilege." *Id.* (reversing judgment where the trial judge failed to conduct a thorough inquiry into privilege assertions). The Court must decide, '"in connection with each specific area that the questioning party wishes to explore, whether or not the privilege is well-founded."' *Id.* (quoting *United States v. Melchor Moreno*, 536 F.2d 1042, 1049 (5th Cir. 1976)). "Although the witness may have a valid claim to the privilege with respect to some questions, the scope of that privilege may not extend to all relevant questions." *Goodwin*, 625 F.2d at 701. "The witness may be totally excused only if the court finds that [she] could 'legitimately refuse to answer essentially all relevant questions.'" *Id.* (quoting *United States v. Gomez-Rojas*, 507 F.2d 1213, 1220 (5th Cir. 1975)).

In view of these controlling principles, Shantrel Brown is not entitled to the relief she seeks – *at present*. Before excusing Ms. Brown from testifying, the Court cannot rely on her motion's empty invocation of the Fifth Amendment, but instead

must review each specific area that the United States (or conceivably the defendant) may wish to explore to determine whether the claimed privilege is well-founded. *Goodwin*, 625 F.2d at 701.

Making such a determination today would be premature. There are a variety of topics about which Shantrel Brown could be questioned at trial. Candidly, certain areas of inquiry may tend to incriminate her, but other areas of inquiry would not. There is evidence that Shantrel Brown planned and attended parties in the defendant's honor (as well as other events). Those events were paid for with money raised by the defendant, ostensibly for educational and charitable purposes, through the entity known as for One Door for Education. She is also privy to information about the defendant because – separate from any involvement with One Door – she has lived with the defendant and has known her for her entire life. She naturally would be familiar with the defendant's habits, practices, and often her whereabouts – information that would not implicate Shantrel Brown in wrongdoing, but that might be relevant to the case.

At present, the United States cannot specify with certainty which topics it might address if Ms. Brown is called as a trial witness. Nor should the United States be forced to speculate publically before trial about this issue. Whether ultimately to call Shantrel Brown as a witness and the nature of her questioning will be driven by factors that are today unknown, such as how other evidence is received

at trial, the nature and extent of the cross-examination of prosecution witnesses, and most importantly, the defense proffered by Corrine Brown.

On this last point, the defendant has publically blamed others for the alleged fraud, at first taking aim at One Door's president and government cooperator, Carla Wiley, but then turning her fire on her former chief of staff, Elias "Ronnie" Simmons after he pleaded guilty and also began cooperating. There is reason to believe that blame will be shifted next to Shantrel Brown. The shifting nature of the defense's position complicates the United States' ability to determine prospectively the precise role that Shantrel Brown will play at trial.

During opening statements and as evidence is admitted, the United States will evaluate and decide whether to call Shantrel Brown as a witness and the nature of anticipated questioning. The United States cannot (and will not) make a final decision on these issues until near the end of its case-in-chief. At that time and outside the presence of the jury, the United States will share its position with the Court, defendant, and the potential witness. If Ms. Brown is called as a witness, assures the Court that she will rely on her Fifth Amendment privilege (as is her right), and can articulate the general basis of her fear of criminal liability, then the Court can determine the scope of her privilege and whether she must still testify. *Goodwin*, 625 F.2d at 701. Attempting to conduct this analysis now and based solely on the motion to quash would be futile, because the motion does not identify the

possible areas of inquiry or what Shantrel Brown has to fear by testifying.

The motion to quash also suggests that subpoenaing Shantrel Brown was somehow "improper" and amounts to an effort create "high courtroom drama" by forcing her to invoke her Fifth Amendment privilege before the jury. Mot. at 2. Ms. Brown is mistaken. It is not, and never was, the United States' intention to force Shantrel Brown to invoke her Fifth Amendment privilege in the presence of the jury. To the contrary, as argued above, it is the United States' position that the Court should determine, *outside the presence of the jury*, whether Shantrel Brown has a valid privilege as to relevant questions – a position made known to Shantrel Brown's counsel before the filing of the motion to quash. Again, if the Court determines that all contemplated questions implicate Shantrel Brown's Fifth Amendment privilege, and if she confirms she will refuse to answer such questions, then the Court obviously should not require her to take the stand simply to invoke her rights in front of the jury.[1]

[1] To avoid Shantrel Brown's waiting at the courthouse indefinitely in anticipation of taking the witness stand, the United States will, as the trial progresses, share with her counsel when she is most likely to be called as a witness, if at all.

In view of the foregoing, the United States respectfully requests that the motion to quash be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2017, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

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