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VIA ECF

The Honorable Alison J. Nathan
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

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

Dear Judge Nathan,

I write in response to the government's letter of this morning requesting a hearing to consider a Juror's statements to various media sources that the Juror was a victim of sexual assault. Doc. 568. The government's request for a hearing is premature because based on undisputed, publicly available information, the Court can and should order a new trial without any evidentiary hearing.

The Supreme Court has held that to be entitled to a new trial, "a party must first demonstrate that a juror failed to answer honestly a material question on *voir dire*, and then further show that a correct response would have provided a valid basis for a challenge for cause. *McDonough Power Equip., Inc. v. Greenwood*, 464 U.S. 548, 556 (1984). This standard applies even if the juror's conduct was merely inadvertent and not intentional. *United States v. Langford*, 990 F.2d 65, 68 (2d Cir. 1993) ("We read [the *McDonough*] multi-part test as governing not only inadvertent nondisclosures but also nondisclosures or misstatements that were deliberate.").

[redacted][1]

Respectfully, it is not the proper function of the Court to contact the Juror and suggest that he retain an attorney or to secure the appointment of an attorney on his behalf. There is no indication this Juror either needs a lawyer or is indigent and qualifies for court-appointed counsel. Moreover, any such action would undermine the search for the truth and thus potentially compromise Ms. Maxwell's constitutional right to trial by an impartial jury.

Ms. Maxwell intends to request a new trial under Rule 33 because the "interest of justice so requires." Fed. R. Crim. P. 33(a). Any submission will include all known undisputed remarks of the Juror, including recorded statements, the relevant questionnaire, and other non-controverted facts. It is clear to Ms. Maxwell that based on this record alone a new trial is required. If this Court disagrees, however, Ms. Maxwell requests that a hearing be scheduled

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[1] The government cites *United States v. Langford* in support of its request for a hearing. Doc. 568, p 2. But the hearing in *Langford* concerned whether an honest answer from the juror would have subjected her to a challenge for cause due to bias, *i.e.*, the second prong of the *McDonough* multi-part test. 900 F.2d at 68-69. Given the substance of the juror's dishonest answer—that she had not been convicted of or arrested for any crimes when, in fact, she had been convicted of prostitution and arrested for larceny—her intent was relevant to whether she was biased. An affirmative answer to the judge's *voir dire* question did not, for that reason alone, render the juror biased in a case involving controlled substances.

[redacted]

sooner than one month from now. Ms. Maxwell also suggests that all the deliberating jurors will need to be examined, not to impeach the verdict, but to evaluate the Juror's conduct.

Ms. Maxwell is drafting a Rule 33 motion to be filed on a schedule ordered by the Court.

s/ Jeffrey S. Pagliuca

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cc: Counsel of record (via ECF and email)