

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 59

THE PEOPLE OF THE STATE OF NEW YORK

- against -

DONALD J. TRUMP,

Defendant.

DECISION AND ORDER
ON MOTION TO QUASH
DEFENDANT'S SUBPOENA
TO MARK POMERANTZ
AND FOR A PROTECTIVE
ORDER

Ind. No. 71543/2023

HON. JUAN M. MERCHAN A.J.S.C.:

On April 4, 2023, Donald J. Trump, the Defendant, was arraigned before this Court on an indictment charging him with 34 counts of Falsifying Business Records in the First Degree, in violation of Penal Law § 175.10. On March 18, 2024, Defendant issued a subpoena *duces tecum* (hereinafter "Subpoena") to former Special Assistant District Attorney Mark Pomerantz (hereinafter "Pomerantz") seeking various documents. Pomerantz 3/18/24 Subpoena. On April 3, 2024, the People filed a motion to quash the Subpoena. Defendant responded on April 5, 2024. Pomerantz, through his attorney Roberto Finzi, joined the People's motion on April 4, 2024. From March 2022 through March 2024, the People have sought, received, and provided to Defendant a number of documents and materials from Pomerantz that pertain to the instant matter. People's Memo at pgs. 2-5.

MOTION TO QUASH

CPL § 610.20 provides that any party to a criminal proceeding may issue a subpoena. CPL § 610.20(3) specifically provides that an attorney for a defendant in a criminal action may issue a subpoena of any witness whom the defendant is entitled to call in such action or proceeding. To "sustain a subpoena," the issuing party must demonstrate "that the testimony or evidence sought is reasonably likely to be relevant and material to the proceedings and that the subpoena is not overbroad or unreasonably burdensome." *See* CPL § 610.20(4); *see also, People v. Kozłowski*, 11 NY3d 223, 242 [2008] (the proper purpose of a subpoena *duces tecum* is to compel the production of specific documents that are relevant and material to facts at issue in a judicial proceeding). When disputes arise concerning the "validity or propriety" of a subpoena, the court must resolve whether the subpoena is enforceable. *See Application of Davis*, 88 Misc2d 938, 940 [Crim. Ct. N.Y. Co. 1976]; *see also, People v. Natal*, 75 NY2d