

Environmental Criminal Enforcement: Federal Appellate Court Addresses Brady Motion to Challenging Clean Water Act Conviction



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The United States Court of Appeals for the 9th Circuit (“9th Circuit”) in an August 28th Memorandum addressed a post-trial Motion subject to a Clean Water Act criminal enforcement trial. *See U.S. v. Louie Sanft*, 2024 W.L. 3963840.

The 9th Circuit addressed whether the United States’ alleged suppression of evidence from a cooperating witness violated *Brady v. Maryland*, 373 U.S. 83 (1963).

A Brady violation occurs where evidence that is favorable to the accused is suppressed by the government. The suppression can occur either willfully or inadvertently but must cause prejudice. *See United States v. Wilkes*, 662 F.3d 524 (9th Cir. 2011). Suppressed evidence is prejudicial only if its admission creates a reasonable probability – or a probability sufficient to undermine confidence in the outcome of the trial – of a different result.

Louis Sanft (“Sanft”) is the owner of Seattle Barrel and Cooperage Company (“Seattle Barrel”).

A jury convicted him of the following alleged crimes:

- Conspiracy to violate the Clean Water Act.
- Unlawful discharge of caustic wastewater into a public sewer in violation of the Clean Water Act.
- Making false statements under the Clean Water Act.
- Making false statements to the United States.

Sanft argued that the United States suppressed evidence from cooperating witness Daniel Leiva (“Leiva”) in violation of *Brady v. Maryland*. He argued that suppressed parts of Leiva’s immigration file would have resulted in additional impeachment evidence undermining his credibility. It was further argued that that testimony was critical to the United States’ case (i.e., any doubt cast on the testimony would have left the jury with no basis to convict).

The 9th Circuit rejected this argument, concluding:

- The jury was already aware Leiva was a cooperating witness that had received immigration benefits.
- The defense actively challenged Leiva’s credibility.
- A jury instruction was given stating that Leiva’s testimony should be examined with greater caution.

The 9th Circuit also noted that Leiva’s testimony was not the sole evidence linking Sanft to the discharge of caustic water, citing:

- Evidence that others had told Sanft of Leiva's misconduct.
- Seattle Barrel's history of discharge violations.
- Technical and scientific evidence related to the unlawful discharge.
- Sanft's statement to the United States Environmental Protection Agency regarding Seattle Barrel's method for disposing caustic solution.

The 9th Circuit concluded that the United States' failure to disclose part of the immigration file did not displace their confidence in the jury verdict.

A copy of the Memorandum can be downloaded [here](#).