



U.S. Department of Justice

United States Attorney
Eastern District of New York

JDG/SDD:SPN
F. #2014R01174

271 Cadman Plaza East
Brooklyn, New York 11201

May 20, 2016

BY HAND DELIVERY AND ECF

The Honorable Jack B. Weinstein
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. John Doe
Criminal Docket No. 14-612

*Application granted
So ordered
J.B. Weinstein
5/23/16*

Dear Judge Weinstein:

The government respectfully requests that the Court order the unsealing of the following documents and docket entries in this case, with certain redactions:

- Complaint (Docket Entry No. 1)
- Letter Regarding Motion to Seal Courtroom (Docket Entry No. 7)
- Motion to Seal Courtroom (Docket Entry No. 8)
- Order to Close Courtroom and File Documents Under Seal (Docket Entry No. 11)
- Information (Docket Entry No. 9)
- Consent To Have Plea Taken Before a Magistrate Judge (Docket Entry No. 10)
- Waiver of Indictment (Docket Entry No. 12)
- Docket Entry reflecting guilty plea

For the reasons set forth below, the government believes that there is no longer a sufficient basis for maintaining these materials under seal in their entirety. Defense counsel consents to this application.

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A. Background

On November 26, 2014, the defendant pled guilty, pursuant to a cooperation agreement, to an information charging him with providing material support to ISIL, a designated foreign terrorist organization, in violation of 18 U.S.C. § 2339B, and receipt of military-type training from a foreign terrorist organization, in violation of 18 U.S.C. § 2339D. The defendant pled guilty in a sealed courtroom before Magistrate Judge Roanne L. Mann. The charges arose from the defendant's travel in June 2014 from Brooklyn to Syria, where he enlisted with ISIL, received military training from ISIL, and subsequently served as a sentry at an ISIL headquarters building and in various administrative positions, among other roles. The defendant became disillusioned with the group and, in early November 2014, managed to escape across the border into Turkey and to find his way to a U.S. State Department outpost in Adana, Turkey.

On November 3, 2014, Magistrate Judge Marilyn D. Go signed an arrest warrant based on a complaint charging the defendant with providing material support to a foreign terrorist organization in violation of 18 U.S.C. § 2339B. On November 7, 2014, the defendant departed Turkey for the United States following a deportation order from the Turkish authorities. On Saturday, November 8, 2014, following his arrival at John F. Kennedy International Airport, the defendant was placed under arrest by law enforcement agents. The defendant was informed of, and waived, his Miranda rights. Immediately thereafter, the defendant began providing information about his terrorist activities to the FBI. As noted, the defendant pled guilty to two terrorism offenses on November 26, 2014.

Yesterday evening, May 19, 2016, NBC broadcast a news segment that included excerpts of an interview with the defendant – identified only as “Mo” – and referenced the defendant's guilty plea to terrorism offenses and efforts to cooperate with U.S. authorities. The network is expected to air another, lengthier story about the defendant and his experiences in Syria on Sunday evening. As the Court knows, the parties, at the defendant's request, had for some time been exploring the possibility of providing the defendant with an opportunity to speak publicly against ISIL, possibly through a media outlet and/or outreach groups. The parties made arrangements for NBC News to interview the defendant after learning that NBC had identified the defendant and was preparing to broadcast a story about him.

B. Application for Unsealing With Partial Redactions

In light of the information made public during the broadcast, in the government's view there is no longer a sound basis for maintaining the documents and docket entries listed above under seal. The government therefore requests that the documents and docket entries be unsealed, in redacted form. Specifically, the government requests that the Complaint and Motion to Seal the Courtroom, Docket Entry Nos. 1 and 8, respectively, be unsealed with the redactions set forth in Exhibits A and B, attached hereto under seal, and that

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the other documents be redacted to obscure all references to the defendant's name. The proposed redactions, which defense counsel supports, are necessary to protect the integrity of ongoing government investigations and the safety of the defendant and his family. The parties are sensitive to the need to minimize the amount of information in a criminal case that is filed under seal. See, e.g., United States v. Aref, 533 F.3d 72, 83 (2d Cir. 2008) (noting "the requirement that district courts avoid sealing judicial documents in their entirety unless necessary"). However, based on the facts set forth above, the proposed redactions are warranted based on the need to protect the integrity of the government's ongoing investigation and the safety of the defendant and his family. See United States v. Doe, 63 F.3d 121, 128 (2d Cir. 1995) (recognizing danger to persons or property as an interest possibly warranting sealing); United States v. Amodeo, 44 F.3d 141, 147 (2d Cir. 1995) (need to protect the integrity of an ongoing investigation, including the safety of witnesses, may be compelling reason justifying sealing); United States v. Haller, 837 F.2d 84, 87 (2d Cir. 1988) (identifying ongoing criminal investigation as compelling interest that can outweigh public's qualified right to access). The proposed redactions strike the proper balance between the interests at stake and the public's qualified right of access to the specified materials.

