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**Clerk, U.S. District and
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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**IN RE THE REPORTERS COMMITTEE
FOR FREEDOM OF THE PRESS,
1156 15th Street NW, Suite 1250
Washington, D.C. 20005,**

**CBS BROADCASTING INC.,
51 W. 52nd Street
New York, NY 10019-6188,**

**SERGIO GOMEZ,
Avenida Calle 26 No. 68B-70
Bogotá, Colombia**

**DANIEL PACHECO
Calle 103 No. 69B-43
Bogotá, Colombia**

**and UNIVISION
605 Third Avenue
New York, NY 10158**

Case: 1:15-mc-00410
Assigned To : Huvelle, Ellen S.
Assign. Date : 4/3/2015
Description: Miscellaneous

Related to:
Criminal No. 1:02-cr-388-ESH-2
Criminal No. 1:02-cr-388-ESH-3

Oral Argument Requested

**APPLICATION OF THE REPORTERS COMMITTEE FOR FREEDOM OF THE
PRESS, CBS BROADCASTING INC., SERGIO GOMEZ, DANIEL PACHECO, AND
UNIVISION TO UNSEAL COURT RECORDS IN CRIMINAL MATTERS NOS. 1:02-cr-
388-ESH-2 AND 1:02-cr-388-ESH-3**

1. Pursuant to Local Criminal Rule 57.6, the Reporters Committee for Freedom of the Press (“the Reporters Committee”), CBS Broadcasting Inc. (“CBS”), Sergio Gomez, Daniel Pacheco, and Univision (collectively, “the Applicants”), respectfully move this Court for an Order unsealing court records in the criminal matters against Defendants Salvatore Mancuso Gomez (“Mancuso”), Crim. No. 1:02-cr-388-ESH-2, and Juan Carlos Sierra Ramirez (“Sierra

Ramirez”), Crim. No. 1:02-cr-388-ESH-3, and directing the Clerk of the Court to enter all filings, orders, and other entries related to their cases on the public docket. In particular, Applicants seek unsealing of (a) any motions to seal and any sealing or closure orders entered by this Court; (b) any hearing transcripts, consistent with this Court’s transcript filing procedure; (c) any plea agreements; (d) any orders of disposition, judgment, and/or sentencing, and all related memoranda, and (e) any other orders entered by the Court.

INTEREST OF THE APPLICANTS

2. The Reporters Committee is an unincorporated nonprofit association of reporters and editors dedicated to safeguarding the First Amendment rights and freedom of information interests of the news media and the public. The Reporters Committee and its attorneys have provided assistance, guidance, and research in First Amendment and freedom of information litigation since 1970. The Reporters Committee frequently represents the interests of the press and the public in cases involving access to judicial proceedings and court records.

3. CBS Broadcasting Inc. produces and broadcasts news, public affairs, and entertainment programming. Its CBS News Division produces morning, evening, and weekend news programming, as well as news and public affairs newsmagazine shows, including “60 Minutes.” CBS Broadcasting Inc. also directly owns and operates television stations across the country, including WCBS-TV in New York City.

4. Sergio Gomez is a U.S.-based reporter for *El Tiempo*, a multimedia news organization, television station, and Colombian daily newspaper with the largest circulation. He has been based in Washington, D.C. for over seventeen years and during that time has covered drug-related extraditions and prosecutions, including those of Mancuso and Sierra Ramirez.

5. Daniel Pacheco is a U.S.-based columnist for *El Espectador*, one of two Colombian national newspapers. He is also a correspondent for Caracol Television, a Colombian television network, and BluRadio Colombia, a Colombian radio station owned by Caracol Television. He has covered several proceedings relating to Colombians extradited to the U.S. for these broadcast organizations, which reach more than 3 million people in Colombia.

6. Univision is an American Spanish-language television network. It produces daily national news programming in the United States, and has covered the news for Spanish-speaking audiences for over 25 years.

7. Applicants, as members and representatives of the press, and all members of the public have a strong interest in observing and understanding the conduct and disposition of criminal cases prosecuted by the government. The press and the public have a heightened interest in access to the proceedings and court documents in the government's prosecutions of Mancuso and Sierra Ramirez, infamous Colombian paramilitaries and alleged drug traffickers extradited to the United States in 2008, whom the government has argued would pose a danger to the community if released.

STATEMENT OF FACTS

SALVATORE MANCUSO GOMEZ

8. Mancuso, also known as "Santander Lozada," is a former leader of the Colombian paramilitary organization known as the United Self-Defense Forces of Colombia ("AUC"), which, according to the U.S. government, controls drug trafficking on the northern coast of Colombia. See Gov't's Mot. to Exclude Time at 4, *United States v. Giraldo Serna, et al.* No. 1:04-cr-114-RBW (D.D.C. filed June 13, 2008), ECF No. 140. In 2001, the U.S. Department of State designated the AUC as a Foreign Terrorist Organization. According to the prosecution in

this case, Mancuso supervised the manufacture and exportation of multi-ton quantities of cocaine bound for the United States. See Gov't's Mot. for Pretrial Detention at 3, *United States v. Castano Gil, et al.*, No. 1:02-cr-388 (D.D.C. filed May 20, 2008), ECF No. 8.

9. Paramilitary groups in Colombia, of which the AUC was the largest, had an estimated membership of 15,000 to 20,000 fighters when they declared a cease fire in 2002. Paramilitaries were responsible for tens of thousands of deaths during the 1990s and early 2000s.¹ Mancuso has spoken publicly about the relationship between the drug trade and paramilitary violence in Colombia.²

10. Mancuso has “confessed to 477 crimes involving 881 victims, including murders, forced disappearances, forced recruitment of minors and forced displacements.”³ He is also alleged to have personally overseen the 1997 massacre at El Aro, which resulted in the deaths of “15 civilians and displacement of more than 600 people.”⁴

11. Mancuso was charged in this Court with conspiracy to import five kilograms or more of cocaine into the United States, and to manufacture and distribute five kilograms or more of cocaine, intending and knowing that the cocaine would be unlawfully imported into the United States, in violation of 21 U.S.C. §§ 952, 959, 960, and 963.

12. On or around May 13, 2008, Mancuso was extradited to the United States to face these charges.

¹ See Cynthia J. Arnson (ed.), *The Peace Process in Colombia with the Autodefensas Unidas de Colombia—AUC 2* (2005) (“[P]aramilitaries were responsible for the majority of 1,969 massacres, resulting in 10,174 deaths, recorded in the country between January 1994 and December 2003.”).

² Hugh Bronstein, *Colombia warlord says drug trade allowed to thrive*, Reuters (Aug. 14, 2007, 3:04 P.M.), <http://reut.rs/1LTWMIS>, archived at <http://perma.cc/B5WX-BQEC>.

³ Int'l Hum. Rts. L. Clinic. Univ. of Calif., Berkeley, *Truth Behind Bars: Colombian Paramilitary Leaders in U.S. Custody 2* (Feb. 2010), available at <http://goo.gl/XvHuqI>.

⁴ Simon Romero, *Colombia Extradites 14 Paramilitary Leaders*, N.Y. Times (May 14, 2008), <http://nyti.ms/1Ore7Yv>.

13. The prosecution of Mancuso has been conducted largely in secret, with little to no public access to docket information or documents filed in his case. No order sealing documents and proceedings relating to Mancuso appears on the docket. A review of the docket in his case, Crim. No. Crim. No. 1:02-cr-388-ESH-2, however, shows that a closed “evidentiary hearing” concerning Mancuso occurred on April 1, 2015. While the docket shows several past and upcoming deadlines for sentencing memoranda and proceedings, some of the documents related to Mancuso’s sentencing—including Mancuso’s sentencing memorandum—do not appear on the public docket.

14. Applicants cannot ascertain from the Court’s electronic filing system or publicly available docket whether a guilty plea, conviction or sentence has been entered.

JUAN CARLOS SIERRA RAMIREZ

15. Sierra Ramirez, also known as “El Tuso” or “El Primo,” was charged with conspiracy to import five kilograms or more of cocaine into the United States, and to manufacture and distribute five kilograms or more of cocaine, intending and knowing that the cocaine would be unlawfully imported into the United States, in violation of 21 U.S.C. §§ 952, 959, 960, and 963; conspiracy to possess with the intent to distribute five kilograms or more of cocaine on board a vessel subject to the jurisdiction of the United States, in violation of 46 U.S.C. §§ 1903(a) and 1903(j); and a substantive violation of 46 U.S.C. § 1903(a).

16. According to the prosecution in this case, Sierra Ramirez organized large shipments of cocaine intended for importation into Central America using maritime vessels. *See* Gov’t’s Mot. for Pretrial Detention at 3, *United States v. Castano Gil, et al.*, No. 1:02-cr-388 (D.D.C. filed May 20, 2008), ECF No. 8.

17. On November 17, 2008, this Court ordered that Sierra Ramirez's plea agreement, a Motion to Seal filed by the Government, plea proceedings that took place on November 19, 2008, and docket entries be sealed until further order of the Court. The Court's sealing order was also sealed.

18. As a result of that sealing order, no notice was given to the public of Sierra Ramirez's plea proceeding, which took place on November 19, 2008, or his sentencing hearing, which took place on September 29, 2010.

19. On January 5, 2011, the Government moved to unseal portions of the record as to Sierra Ramirez for the purpose of providing discovery in a criminal case pending in the Eastern District of New York in which Sierra Ramirez was to testify.

20. On January 7, 2011, this Court granted the Government's motion to unseal portions of the record.

21. On March 17, 2011, the docket entries for the 2008 sealing order as well as Sierra Ramirez's 2008 plea agreement and 2010 sentencing proceedings were added to the public docket, and the Court terminated all deadlines and hearings as to Sierra Ramirez.

22. Sierra Ramirez's sentence was never made public, and no sentencing memoranda appears on the public docket. Sierra Ramirez reportedly received a five-year sentence and a green card in exchange for cooperating with United States authorities. *See* Se inicia trámite de extradición del 'Tuso' Sierra, *El Tiempo* (May 21, 2014 10:08 A.M.), <http://goo.gl/DpHQOk>, *archived at* <http://perma.cc/N3EP-2482>.

23. As explained more fully in the accompanying Memorandum of Points and Authorities, the press and the public have a right of access to court proceedings, court documents, and the dockets in these criminal cases under the First Amendment and common law.

To the extent that sealing of any portion of the docket or court documents in the prosecutions of Mancuso and Sierra Ramirez is necessary to protect a compelling interest, such sealing must be no broader than necessary to serve that interest, and the Court must make specific findings in support of its sealing order.

REQUEST FOR RELIEF

24. Applicants seek an Order directing the Clerk of the Court to enter all filings, orders, and other entries related to the criminal prosecutions of Mancuso and Sierra Ramirez on the public docket.

25. Applicants seek an Order unsealing court documents filed in connection with the prosecutions of Mancuso and Sierra Ramirez, Criminal Nos. 1:02-cr-388-ESH-2 and 1:02-cr-388-ESH-3. In particular, Applicants seek an order unsealing: (a) any motions to seal and any sealing or closure orders entered by the Court; (b) any hearing transcripts, consistent with this Court's transcript filing procedure; (c) any plea agreements; (d) any orders of disposition, judgment and/or sentencing, and all related memoranda, and (e) any other orders of this Court.

26. Applicants seek any further relief that the Court deems just and proper.

ORAL ARGUMENT REQUESTED

27. The Applicants respectfully request oral argument on this application.

Dated: April 3, 2015

Respectfully submitted,

/s/ Bruce D. Brown

Bruce D. Brown

THE REPORTERS COMMITTEE FOR

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