

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:15-CR-047-DCK**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
DAVID HOWELL PETRAEUS,)	
)	
Defendant.)	
<hr/>)	

THIS MATTER IS BEFORE THE COURT on the “Motion Of The Reporters Committee For Freedom Of The Press, The Associated Press, Bloomberg L.P., The Charlotte Observer Publishing Company, Dow Jones & Company, Inc., First Look Media, Inc., National Public Radio, Inc., The New York Times Company, And The Washington Post To Intervene And Unseal” (Document No. 21); and the “Further Motion Of The News Media Intervenors To Unseal Statement Of Reasons (ECF No. 25)” (Document No. 27). The parties have consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c), and these motions are ripe for disposition.

BACKGROUND

The “Motion Of The Reporters Committee For Freedom Of The Press, The Associated Press, Bloomberg L.P., The Charlotte Observer Publishing Company, Dow Jones & Company, Inc., First Look Media, Inc., National Public Radio, Inc., The New York Times Company, And The Washington Post To Intervene And Unseal” (Document No. 21) was filed on April 27, 2015; and the “Further Motion Of The News Media Intervenors To Unseal Statement Of Reasons (ECF No. 25)” (Document No. 27) was filed on May 4, 2015.

“Defendant’s Response To Motion To Intervene And Unseal” (Document No. 26) was timely filed on May 4, 2015; and the “Government’s Response To Motion To Intervene And Unseal Defendant Petraeus’s Sentencing Memorandum And Letters” (Document No. 32) was filed May 14, 2015. “Defendant’s Response To Further Motion Of The News Media Intervenors To Unseal Statement Of Reasons” (Document No. 30) and “Government’s Response To Further Motion To Unseal Statement Of Reasons” (Document No. 31) were also filed May 14, 2015.

The “News Media Intervenors’ Reply In Support of Their Motion To Intervene And Unseal (ECF No. 21) and Further Motion To Unseal Statement Of Reasons (ECF No. 27)” (Document No. 33) was filed on May 18, 2015. As such, the pending motions are now ripe for review and disposition.

DISCUSSION

The Reporters Committee For Freedom Of The Press, The Associated Press, Bloomberg L.P., The Charlotte Observer Publishing Company, Dow Jones & Company, Inc., First Look Media, Inc., National Public Radio, Inc., The New York Times Company, And The Washington Post (“Movants” or “News Media Intervenors”) first motion seeks leave “to intervene in this action for the limited purpose of seeking an order unsealing (1) the Sentencing Memorandum and attachments thereto filed under seal by counsel for David Howell Petraeus . . . and (2) any statements or letters of support submitted to the Court on behalf of Defendant in connection with his sentencing.” (Document No. 21, p.1).

“Defendant’s Response To Motion To Intervene And Unseal” (Document No. 26) states that Defendant “does not object to the partial unsealing of the sentencing memorandum and its attachments.” (Document No. 26, p.1). Defendant requests, however, that the Court: (1) redact a single quotation from the sealed “Presentence Investigation Report” (Document No. 15) (“PSR”)

in “Defendant’s Sentencing Memorandum...” (Document No. 17); and (2) redact the “personal contact information for individuals who submitted letters to the Court, through counsel, in support of Defendant.” Id. Defendant asserts in his response that “the confidentiality of PSRs is ‘jealously guarded by the federal courts,’” and that it is unnecessary and inappropriate to unseal the personal home addresses, phone numbers and email addresses of those individuals who included such information in their letters in support of Defendant to the Court. (Document No. 26, p.) (quoting United States v. Trevino, 89 F.3d 187, 192 (4th Cir. 1996).

The “Government’s Response To Motion To Intervene And Unseal...” asserts that it “does not oppose the partial unsealing of the Sentencing Memorandum and the attached letters recommended by Defendant Petraeus” and does not oppose any of the proposed redactions. (Document No. 32, p.2).

In reply, the News Media Intervenors indicate that they do not object to the redaction of the personal information of the authors of the sentencing letters submitted to the Court. (Document No. 33, p.2). Regarding the single sentence that Defendant seeks to redact from the Sentencing Memorandum, the News Media Intervenors “defer to the Court on whether the redaction requested by Defendant is essential to preserve higher values.” (Document No. 33, p.3).

The “Further Motion Of The News Media Intervenors To Unseal...” requests that the Court’s “Statement Of Reasons” (Document No. 25) be unsealed. (Document No. 27, p.1). The News Media Intervenors conclude that absent “a compelling interest that would necessitate the sealing of the Statement Of Reasons, either in whole or in part, it should be unsealed.” (Document No. 27, p.7). The News Media Intervenors acknowledge that if the Court finds that a compelling interest justifies sealing some portion of the Statement Of Reasons, such sealing should be narrowly tailored, and the Court should make public a redacted version. Id.

“Defendant’s Response...” (Document No. 30) states that Defendant does not object to the unsealing of the “Statement Of Reasons” (Document No. 25), and requests only that the Court redact Defendant’s social security number from that document. (Document No. 30). The “Government’s Response...” provides that the requests to unseal the Statement of Reasons, and to redact personal identifying information therein, are not opposed. (Document No. 31). Finally, the News Media Intervenors also state that they do not “object to the proposed redaction of Defendant’s social security number in the Statement of Reasons.” (Document No. 33, p.2).

CONCLUSION

In short, on the issue of whether certain of the sentencing materials in this matter should be unsealed, the parties are in near consensus. Therefore, on the facts of this particular case, and based upon the parties’ briefs and applicable law, the undersigned finds good cause to grant the pending motions. Moreover, the Court agrees that the proposed redactions to the documents at issue are appropriate.

IT IS, THEREFORE, ORDERED that the “Motion . . . To Intervene And Unseal” (Document No. 21) is **GRANTED, with modification**. The Clerk of Court shall unseal a redacted version of “Defendant’s Sentencing Memorandum In Support Of A Sentence Of Probation” (Document No. 17) and its Appendix A and B (Document No. 17-2), as proposed by Defendant.

IT IS FURTHER ORDERED that the “Further Motion Of The News Media Intervenors To Unseal Statement of Reasons (ECF No. 25) is **GRANTED, with modification**. The Clerk of Court shall unseal a redacted version of the “Statement Of Reasons” (Document No. 25), as proposed by Defendant.

SO ORDERED.

Signed: June 8, 2015



David C. Keesler
United States Magistrate Judge

