

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CASE NO.: 3:15CR47**

UNITED STATES OF AMERICA

v.

DAVID HOWELL PETRAEUS

DEFENDANT’S RESPONSE TO MOTION TO INTERVENE AND UNSEAL

Defendant David Howell Petraeus, by and through counsel, respectfully submits this response to the *Motion of the Reporters Committee for Freedom of the Press, The Associated Press, Bloomberg L.P., The Charlotte Observers 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*. [Doc. 21]

On April 15, 2015, undersigned counsel filed Defendant’s sentencing memorandum and its attachments under seal. [Doc. 17] Among other things, the sentencing memorandum refers to Defendant’s Presentence Investigation Report (PSR) and the attachments include personal contact information of various character witnesses. These filings were made available to the government, probation, and the Court in anticipation of Defendant’s April 23, 2015 sentencing.

Defendant, by and through undersigned counsel, does not object to the partial unsealing of the sentencing memorandum and its attachments. Defendant requests only that the Court order the redaction of (1) the single quotation from Defendant’s PSR in the sentencing memorandum, and (2) personal contact information for individuals who submitted letters to the Court, through counsel, in support of Defendant.

The Fourth Circuit has made clear that the confidentiality of PSRs is “jealously guarded by the federal courts.” *United States v. Trevino*, 89 F.3d 187, 192 (4th Cir. 1996). This principle informs Local Criminal Rule 55.1(H), which allows for sentencing materials that “incorporate or refer to a defendant’s pre-sentence report shall, if filed, be filed under seal” without a motion to seal. Accordingly, redacting the single quotation from Defendant’s PSR in the sentencing memorandum is appropriate here.

With respect to personal contact information of individuals who submitted letters to the Court, through counsel, Local Criminal Rule 5.2(E)(5) permits counsel to redact “any ... personal identified information which they deem appropriate.” It would be inappropriate here to unseal personal home addresses, personal phone numbers, and personal email addresses for those individuals who included such information in their letters. While undersigned counsel agree that it would be suitable to unseal the names of these individuals and the substance of their submissions, it would be a violation of these individuals’ privacy—and unnecessary in this context—to unseal otherwise personal information.

CONCLUSION

As detailed above, Defendant, by and through undersigned counsel, respectfully asserts that the redaction of (1) the single quotation from Defendant’s PSR in the sentencing memorandum, and (2) personal contact information for individuals who submitted letters in support of Defendant, appropriately balances the concerns and interests in question.

Defendant, through counsel, will also file under seal the documents in question with the above-proposed redactions for the Court’s review.

May 4, 2015

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has filed and served this pleading with the Clerk of Court using the CM/ECF system, which will send notification of such filing to counsel for the government.

Dated: May 4, 2015

/s/ Jacob H. Sussman