

UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF
COLUMBIA

UNITED STATES OF AMERICA

v.

PATRICK E. MCCAUGHEY III,
TRISTAN CHANDLER STEVENS,
DAVID LEE JUDD,
CHRISTOPHER JOSEPH QUAGLIN,
ROBERT MORSS,
GEOFFREY WILLIAM SILLS,
DAVID MEHAFFIE,
STEVEN CAPPUCCIO, and
FEDERICO GUILLERMO KLEIN
Defendants.

Case No. 21cr40 &
21CR236

FILED UNDER SEAL

**GOVERNMENT'S MOTION TO SEAL INDICTMENT
AND TO DELAY ENTRY ON THE PUBLIC DOCKET
OF THE FILING OF THIS MOTION TO SEAL AND RELATED MATTERS**

Pursuant to Federal Rule of Criminal Procedure 6(e)(4), the United States, by and through its attorney, the United States Attorney for the District of Columbia, hereby respectfully submits this motion for limited sealing of the accompanying Fourth Superseding Indictment, as well as all other related pleadings, warrants, records, and files in this case, including the instant motion to seal and any order on the motion, and to delay entry on the public docket of this motion to seal and all related matters, until the Arrest Warrant is executed. The government requests a sealing order with a narrow exception that will permit the government to disclose the existence of the Third Superseding Indictment, unexecuted arrest warrants, as well as other records and files in this case, to the extent that is necessary to effectuate the defendant's arrest. In support

of this motion, the government states as follows:

1. The fourth Superseding Indictment charges defendants STEVEN CAPPuccio and DAVID MEHAFFIE with the violation of 18 U.S.C. §§ 111(a)(1), 2, 18 U.S.C. § 111(a)(1) and (b), 18 U.S.C. §§ 2111, 2, 18 U.S.C. § 111(a)(1) and (b), 18 U.S.C. §§ 1512(c)(2), 2, 18 U.S.C. § 231(a)(3), 18 U.S.C. § 1752(a)(2) and (b)(1)(A), 18 U.S.C. § 1752(a)(4) and (b)(1)(A), 40 U.S.C. § 5104(e)(2)(D), 2, 40 U.S.C. § 5104(e)(2)(F), 2. CAPPuccio is a United States citizen residing in Universal City, Texas. MEHAFFIE is a United States citizen residing in Kettering, Ohio.

2. The Fourth Superseding Indictment charges defendants CAPPuccio and MEHAFFIE with committing the above-referenced violations in connection with assaults on law enforcement and disruption of an official proceeding that took place at the United States Capitol on January 6th, 2021.

3. Defendants CAPPuccio and MEHAFFIE have not been arrested. Law enforcement is locating the defendants and preparing to arrest them. Placing the defendants' indictment on the public docket at this time could cause Defendants CAPPuccio and MEHAFFIE to flee or continue flight from prosecution, destroy or tamper with evidence, change patterns of behavior, or intimidate potential witnesses. These are compelling reasons for the sealing of these documents.

4. The government respectfully submits that premature public disclosure of the third superseding indictment and related material, and any unexecuted arrest warrant could compromise ongoing investigations and could undermine the development of critical evidence in those investigations. *See United States v. Hubbard*, 650 F.2d 293, 208 U.S. App. D.C. 399 (D.C. Cir. 1981); *In re Sealed Affidavits*, 600 F.2d 1256 (9th Cir. 1979); *Shea v. Gabriel*, 520

F.2d 879 (1st Cir. 1975). *Cf. In re Search Warrants issued on May 21, 1987*, 1990 WL 113874 (D.D.C. 1990) (information released after the government agreed there was no further need for secrecy). The government further submits that these circumstances present a compelling government interest under *Post v. Robinson*, 935 F.2d 282, 289 n.10 (D.C. Cir. 1991), and that said governmental interest requires sealing the third superseding indictment and other related pleadings, warrants, records, and files in this case, as well as delay in the public docketing of the filing of these sealed pleadings and the accompanying order. Finally, the government submits that these circumstances will remain until the arrest of Defendants CAPPUCCIO AND MEHAFFIE.

WHEREFORE, it is respectfully requested that this motion be granted.

Respectfully submitted,

Channing D. Phillips
Acting United States Attorney
D.C. Bar No. 415793

By: 

MELISSA JACKSON
Assistant United States Attorney
D.C Bar Number 996787
United States Attorney's Office
555 Fourth Street, N.W.
Washington, D.C. 20530
Telephone: (202) 815-8585
Email: Melissa.Jackson@USDOJ.GOV

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

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Defendants.

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ORDER

Upon consideration of the Government's *Ex Parte* Motion for Limited Sealing of the Fourth Superseding Indictment and other related Pleadings, Warrants, Files, and Records, and to Delay Entry on the Public Docket of the Filings of the Motion to Seal and all Related Matters, with exceptions that permit the government to disclose the existence of the Fourth Superseding Indictment, as well as other records and files in this case as necessary to effectuate the arrest of Defendants STEVEN CAPPuccio, and DAVID MEHAFFIE, for the reasons set out therein and in consideration of *Washington Post v. Robinson*, 935 F.2d 282, 289 n.10 (D.C. Cir. 1991), it is this _____ day of August, 2021, hereby,

ORDERED that the Fourth Superseding Indictment and other related pleadings, warrants, files, and records be sealed, and that entry on the public docket of the filings of the motion to seal and all related matters be delayed until the initial appearance of defendants STEVEN CAPPuccio, and DAVID MEHAFFIE before this Court.

It is further **ORDERED** that, notwithstanding the above, the government may disclose the existence of the Indictment, as well as other related records and files in this case as necessary to effectuate the arrest of Defendants STEVEN CAPPUCCIO, and DAVID MEHAFFIE.

It is further **ORDERED** that the Fourth Superseding Indictment and all other related pleadings, warrants, records, and files in this case be unsealed, and the case placed on the public docket, without further motion from the government upon the initial appearance of the defendants in this case.

It is further **ORDERED** that the government shall inform the Court as soon as practicable when sealing is no longer necessary or upon the initial appearance of defendants STEVEN CAPPUCCIO, and DAVID MEHAFFIE.

UNITED STATES MAGISTRATE JUDGE
FOR THE DISTRICT OF COLUMBIA

cc: Melissa Jackson
Fraud Section
Assistant U.S. Attorney
555 4th Street, N.W.
Washington, D.C. 20530