

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	CRIMINAL NO. 21-CR-378 (TJK)
	:	
v.	:	MAGISTRATE NO. 21-MJ-340
	:	MAGISTRATE NO. 21-MJ-330
	:	
ARTHUR JACKMAN,	:	
PAUL RAE,	:	VIOLATIONS:
EDWARD GEORGE, JR.,	:	18 U.S.C. §§ 1512(c)(2), 2
KEVIN A. TUCK, and	:	(Obstruction of an Official Proceeding)
NATHANIEL A. TUCK,	:	18 U.S.C. § 1752(a)(1)
(also known as “Nathan” and “Tito”),	:	(Entering and Remaining in a Restricted
	:	Building or Grounds)
Defendants.	:	18 U.S.C. § 1752(a)(2)
	:	(Disorderly and Disruptive Conduct in a
	:	Restricted Building or Grounds)
	:	40 U.S.C. § 5104(e)(2)(B)
	:	(Entering and Remaining in the Gallery of
	:	Congress)
	:	40 U.S.C. § 5104(e)(2)(D)
	:	(Disorderly Conduct in a Capitol Building)
	:	40 U.S.C. § 5104(e)(2)(G)
	:	(Parading, Demonstrating, or Picketing in
	:	a Capitol Building)
	:	18 U.S.C. § 231(a)(3)
	:	(Civil Disorder)
	:	18 U.S.C. § 111(a)(1)
	:	(Assaulting, Resisting, or Impeding
	:	Certain Officers)
	:	18 U.S.C. §§ 641, 2
	:	(Theft of Government Property)

MOTION TO SEAL SUPERSEDING INDICTMENT AND RELATED DOCUMENTS

The United States of America, by and through the United States Attorney for the District of Columbia, respectfully moves for an order to place and maintain under seal, until the Arrest Warrants are executed, the Superseding Indictment and Arrest Warrants in the above-captioned matter, this Motion, the proposed Order attached to this Motion, and any Order granting this motion. In support thereof, the government states as follows:

1. The United States is investigating allegations: that defendants Arthur Jackman, Paul Rae, Edward George, Jr., Kevin A. Tuck and Nathaniel A. Tuck, willfully and knowingly entered the United States Capitol on January 6, 2021 without legal authority; that all of the defendants engaged in violations of 18 U.S.C. §§ 1512(c)(2) and 2, 1752(a)(1) and (2), and 40 U.S.C. §§ 5104(e)(2) (D) and (G); and that some of the defendants engaged in violations of 18 U.S.C. §§ 111(a)(1), 231(a)(3), and 641, and 40 U.S.C. § 5104(e)(2)(B).

2. The Superseding Indictment¹ will be the first document publicly indicating that George, Kevin A. Tuck and Nathaniel A. Tuck are under investigation for their actions on January 6, 2021. The public disclosure of the Superseding Indictment prematurely could compromise the integrity of the investigation, including the ability of the United States to locate and arrest the defendants, which also may lead to the destruction of evidence in other locations including digital devices. Thus, a sealing order is necessary to avoid hindering the ongoing investigation in this matter.

2. As stated in Washington Post v. Robinson, 935 F.2d 282, 288 (D.C. Cir. 1999), there is a presumption of access to Court proceedings. But, this can be overridden if “(1) closure serves a compelling interest; (2) there is a substantial probability that, in the absence of closure, this compelling interest would be harmed; and (3) there are no alternatives to closure that would adequately protect the compelling interest.” Id. at 290 (quoting Oregonian Pub. Co. v. United States Dist. Court, 920 F.2d 1462, 1466 (9th Cir. 1990)).

3. In this matter, the United States has a compelling interest in preserving the integrity

¹ The original indictment in this matter was brought only against Arthur Jackman and Paul Rae. Kevin A Tuck, Nathaniel A. Tuck, and Edward George, Jr., were added as co-defendants in the Superseding Indictment.

of its investigation and arresting the defendants. A limited sealing order ensuring that filings related to the Superseding Indictment and Arrest Warrants are not accessible from the Court's public files is narrowly tailored to serve a compelling interest.

4. Furthermore, the United States respectfully submits that complying with the normal notice requirements of Washington Post would defeat the purpose of the motion to seal. Persons who know the criminal justice system also know that docketing a motion to seal an Indictment and Arrest Warrants, or a resulting sealing order, means that the defendants are charged with a crime, and the Government intends to arrest them. Thus, if this Motion or a sealing order were to become public, it would be the same as making public the Superseding Indictment and Arrest Warrants.

5. The United States anticipates seeking warrants to search some of the defendants' residences, which warrants would be contemporaneously executed with the Arrest Warrants, if possible. The United States respectfully requests that the Court's sealing order permit the government to reference and disclose the existence of the Superseding Indictment and Arrest Warrants in its anticipated under seal applications for such search warrants.

WHEREFORE, the United States respectfully requests that this Court issue an Order directing that the Clerk of the Court place and maintain under seal, until execution of the Arrest Warrants, the Superseding Indictment, this Motion, the proposed Order attached to this Motion, and any Order granting this motion.

Respectfully submitted,

CHANNING D. PHILLIPS
ACTING UNITED STATES ATTORNEY

By: */s/ Nadia E. Moore*

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	:	(Theft of Government Property)

ORDER

This matter having come before the Court pursuant to the application of the United States to seal the Superseding Indictment, the Court finds that, because of such reasonable grounds to believe the disclosure will result in flight from prosecution and the destruction of or tampering with evidence, the United States has established that a compelling governmental interest exists to

justify the requested sealing.

1. IT IS THEREFORE ORDERED that the application is hereby GRANTED, and that the Superseding Indictment and other related materials, the instant motion to seal, and this Order are sealed until the arrest warrants are executed.

2. IT IS FURTHER ORDERED that the United States may reference and disclose the existence of the Superseding Indictment and Arrest Warrants in its anticipated under seal applications for search warrants relating to this matter.

3. IT IS FURTHER ORDERED that the Clerk's office shall delay any entry on the public docket of the arrest warrants until they are executed.

Date: July 7, 2021

G. MICHAEL HARVEY
UNITED STATES MAGISTRATE JUDGE