

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA	:	CASE NO.
	:	
v.	:	VIOLATIONS:
	:	
GEORGE AMOS TENNEY III and DARRELL ALAN YOUNGERS,	:	18 U.S.C. § 231(a)(3)
	:	Interfering with Law Enforcement Officer
	:	During Civil Disorder
Defendants.	:	
	:	18 U.S.C. § 1512(c)(2) and (2)
	:	Obstruction of Official Proceedings
	:	
	:	18 U.S.C. § 1752(a)(1)
	:	Knowingly Entering or Remaining in any
	:	Restricted Building or Grounds Without
	:	Lawful Authority
	:	
	:	18 U.S.C. § 1752(a)(2)
	:	Disorderly and Disruptive Conduct in a
	:	Restricted Building or Grounds
	:	
	:	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
	:	
	:	
	:	

MOTION TO SEAL AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

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 the Affidavit in Support of Criminal Complaint, Criminal Complaint, and Arrest Warrants in the above-captioned matter, this Motion and Supporting Memorandum, the proposed Order attached to this Motion, and any Order granting this motion, until the Arrest Warrants have been executed

against both defendants. In support thereof, the government states as follows:

1. The United States is investigating allegations that George Amos Tenney III and Darrell Alan Youngers willfully and knowingly entered the United States Capitol Building on January 6, 2021 without legal authority, and participated in violent and disorderly conduct in violation of 18 U.S.C. § 1752(a)(1) and (2) and 40 U.S.C. § 5104(e)(2)(D) and (G). The United States is also investigating allegations that George Amos Tenney III obstructed an official proceeding, in violation of 18 U.S.C. § 1512(c)(2) and obstructed, impeded, or interfered with any law enforcement officer, in violation of 18 U.S.C. § 231(a)(3) at the U.S. Capitol on January 6.

2. The Affidavit in Support of Criminal Complaint references evidence gathered in the course of the investigation. The public disclosure of the Government's evidence could compromise the integrity of the investigation, including the ability of the United States to locate and arrest the defendant. 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 of its investigation and arresting the defendants. A limited sealing order ensuring that

filings related to the Criminal Complaint 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 Affidavit in Support of Criminal Complaint 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 Complaint and Arrest 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 against both defendants, the Affidavit in Support of Criminal Complaint, this Motion and Supporting Memorandum, the proposed Order attached to this Motion, and any Order granting this motion. Should one defendant be arrested before the other, the United States respectfully requests that this matter be partially unsealed only as to the defendant who has been arrested. In that event, the government shall submit an Affidavit in Support of Criminal Complaint and a Complaint with the name of the defendant who has not been arrested redacted, and those documents shall be placed on the public docket until both defendants have been arrested, at which point all documents shall be entirely unsealed.

Date: June 28, 2021

Respectfully submitted,

CHANNING PHILLIPS
ACTING UNITED STATES ATTORNEY
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ORDER

This matter having come before the Court pursuant to the application of the United States to seal the criminal complaint and related documents, the Court finds that, because of such reasonable grounds to believe the disclosure will result in flight from prosecution, destruction of or tampering with evidence, intimidation of potential witnesses, and serious jeopardy to the investigation, 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 affidavit in support of criminal complaint and other related materials, the instant application to seal, and this Order are sealed until the arrest warrants are executed against both defendants.

2. 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 against both defendants.

3. IT IS FURTHER ORDERED that, in the event that both defendants are not arrested on the same day, the affidavit in support of criminal complaint and other related materials, the instant application to seal, and this Order shall be unsealed only as to the defendant who has been arrested. In that event, the government shall provide the Clerk's office with documents with the name of the defendant who has not yet been arrested redacted, and those documents shall be entered on the public docket until both defendants have been arrested, at which point the the affidavit in support of criminal complaint and other related materials, the instant application to seal, and this Order shall be fully unsealed.

Date: June 28, 2021

G. MICHAEL HARVEY
UNITED STATES MAGISTRATE JUDGE

cc: Alexis Loeb
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