

to overcome this presumption.” *Hardaway v. D.C. Hous. Auth.*, 843 F.3d 973, 980 (D.C. Cir. 2016).

2. The district court’s discretion in determining whether to seal documents is “exercised in light of the relevant facts and circumstances of the particular case.” *United States v. Harris*, 204 F. Supp. 3d 10, 16 (D.D.C. 2016). In *United States v. Hubbard*, 650 F.2d 293 (D.C. Cir. 1980), the D.C. Circuit set forth six factors that district courts must consider. These include balancing the need for, and extent of previous, public access to the documents against the prejudice to any party opposing disclosure, taking into account the strength of any property and privacy interests asserted. *See id.*, at 317-22.

3. As relevant to this motion, the Protective Order Governing Discovery in this case, (21-MJ-438, ECF No. 11, at 1), lists “Medical or mental health records,” and “Surveillance camera footage from the U.S. Capitol Police’s extensive system of cameras on U.S. Capitol grounds” as materials that the government might designate as Sensitive or Highly Sensitive. Pursuant to the protective order, “Absent prior agreement by the parties or permission from the Court, no party shall disclose materials designated as Sensitive or Highly Sensitive in any public filing with the Court. Such materials shall be submitted under seal in accordance with Local Criminal Rule 49(f)(6). The Clerk of Court shall accept for filing under seal any filings made in compliance with that Rule and so marked by the parties pursuant to this Order.” (*Id.*, at 3).

4. Pursuant to *Hubbard*, this Court should grant leave to file the unredacted sentencing memorandum and one of its letter exhibits under seal, because both documents contain private and confidential medical information of Adam Weibling and his wife. The sentencing memorandum and letter exhibit contain information about current medical conditions, the effects of certain currently prescribed medications, and possible medical outcomes of Mr. Weibling’s

wife, Brittney. Sealing and public redaction of the letter exhibit, and of the scant references to it within the sentencing memorandum, are warranted to protect Mr. And Mrs. Weibling's confidential medical information. There is "no need for public access" to such information. *See, e.g., Hardaway*, 843 F.2d at 980 ("public has no need for access to documents that describe [plaintiff's] disability"). There has been no known previous public access to the confidential medical information. Moreover the Protective Order Governing Discovery specifically contemplates that medical information can constitute sensitive material.

5. Exhibits J and K to the sentencing memorandum comprise material that the government has earlier designated Highly Sensitive in this case. Accordingly, the Protective Order requires that those exhibits, and their references within the sentencing memorandum, be filed under seal.

WHEREFORE, Adam Weibling requests that the Court grant this motion to file under seal.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of April 2023, true and genuine copies of MOTION TO FILE UNDER SEAL UNREDACTED SENTENCING MEMORANDUM AND CERTAIN EXHIBITS THERETO were served via email on all counsel of record.

Respectfully submitted,

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