

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

UNITED STATES OF AMERICA

v.

MATTHEW JASON BEDDINGFIELD,

Defendant.

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Case No. 22-CR-66 (CJN)

**GOVERNMENT’S OBJECTIONS TO DEFENSE COUNSEL’S PROPOSED
REDACTIONS TO SENTENCING MEMORANDUM, SEALING OF
ATTACHMENTS, AND PRESENTENCE INVESTIGATION REPORT**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, respectfully submits this motion for public access to the defendant’s Sentencing Memorandum and Exhibits, and objection to the defendant’s proposed redactions to the Sentencing Memorandum, to the Exhibits (except Exhibits F and G), and to the PSR. For the reasons detailed below, the government asks this Court to recognize the qualified public right of access under the First Amendment and the common law to the defendant’s Sentencing Memorandum and all Exhibits (with the exception of Exhibit F and Exhibit G).¹ The government also asks this Court to not allow any redactions to the PSR.

Background Facts

Prior to the July 11, 2023, Sentencing of Matthew Jason Beddingfield, the government filed a Sentencing Memorandum with various attachments and exhibits. Defense counsel did not

¹ While the defense, to the government’s knowledge, has not made a proper showing pursuant to the First Amendment, caselaw, and Local Rules that Exhibits F and G should be sealed from the public, given that they are Forensic Psychological and Psychiatric Evaluations, the government does not object to their exclusion from public access. The government does believe, however, that defendant’s argument in Section D of their Sentencing Memorandum, which is based on Exhibits F and G, should be subject to public access.

file anything to the public docket. On Thursday, July 6, 2023, counsel for the government received an email from this Court's Courtroom Deputy asking the government to reach out to defense counsel because they had been trying unsuccessfully to "send some sealed documents" to the government. The government emailed defense counsel to identify the source of the purported issue.

In response, defense counsel emailed the government the defendant's twenty-page Sentencing Memorandum along with Exhibit A (identified as four Character Letters from Beddingfield's father, "Granny," Assistant Youth Pastor, and Youth Director), Exhibit B (identified as one Character Letter from Beddingfield's sister), Exhibit C (one Character Letter from Beddingfield's employer), Exhibit D (one Character Letter from Beddingfield's friend), Exhibit E (one Character Letter from Beddingfield's U.S. Probation Officer), Exhibit F (a six-page Forensic Psychological Evaluation from Dr. James H. Hiley, Ph.D.), and Exhibit G (an eight-page Forensic Psychiatric Evaluation from Dr. George P. Corvin, M.D.).

Defense counsel stated in its email, "We did file a Motion to Seal and it was granted. There is currently an order sealing our memorandum." Because no motion to seal has been filed to the public docket, the government asked defense counsel on more than one occasion to provide the government with a copy of their motion to seal. To date, defense has not provided any such motion or order. The government believes the public has qualified First Amendment and common law right to access documents in a criminal proceeding. Accordingly, the government asks the Court to order the defense to file the defendant's Sentencing Memorandum and Exhibits (except as indicated) to the public record.

The Public's First Amendment Qualified Right of Access

To begin, if something is a judicial record, a "strong presumption in favor of public access" attaches to it. *In re Leopold v. United States*, 964 F.3d 1121, 1127 (D.C. Cir. 2020). "[W]hether

something is a judicial record depends on ‘the role it plays in the adjudicatory process.’” *In re Leopold*, 964 F.3d at 1128 (quoting *SEC v. Am. Int’l Grp.*, 712 F.3d 1, 3 (D.C. Cir. 2013)). Documents and other materials filed in court that are “intended to influence the court,” are judicial records. *Id.* District Judge Royce C. Lamberth provided additional insight in *United States v. Munchel*, 567 F. Supp. 3d 9, 14 (D.D.C. 2021).

The D.C. Circuit has explained that the common-law right of public access to judicial records is a fundamental element of the rule of law, important to maintaining the integrity and legitimacy of an independent Judicial Branch. The importance of the right cannot be understated. It serves to produce an informed and enlightened public opinion, safeguards against any attempt to employ our courts as instruments of persecution, promotes the search for truth, and assures confidence in judicial remedies.

In *United States v. Kravetz*, the First Circuit asked whether “advocacy memoranda, commonly submitted by the parties to the court in advance of sentencing [are] ‘judicial records’ entitled to a common law presumption of access.” *United States v. Kravetz*, 706 F.3d 47, 56 (1st Cir. 2013). The First Circuit quickly answered its own question, stating, “[W]e have little doubt that they are.” *Id.* The court supported its conclusion by recognizing that “sentencing is an integral phase in a criminal prosecution” and sentencing memoranda both “are clearly relevant to a studied determination of what constitutes reasonable punishment” and “are meant to impact the court’s disposition of substantive rights.” *Id.* In finding that the public retains a First Amendment right to disclosure of sentencing memoranda, Judge Kollar-Kotelly similarly found that “sentencing memoranda historically have been open to the press and general public.” *United States v. Thompson*, 199 F.Supp. 3d 3, 8-9 (D.D.C. 2016) (Kollar-Kotelly, J.) (collecting cases).

The First Circuit also found that the presumptive right of access “plainly attaches” to sentencing letters submitted by third parties on a defendant’s behalf. *Kravetz*, 706 F.3d at 57. Although these letters are “unguarded,” “informal,” and “frequently emotion-laden,” their “purpose is not so different” from sentencing memoranda and often are “central to, and serve as

an evidentiary basis for, the defendants’ arguments for leniency.” *Id.* (cleaned up); *see also United States v. Harris*, 204 F.Supp. 3d 10, 15 (D.D.C. 2016) (Judge Kollar-Kotelly concluded “that there exists a First Amendment qualified right to public access” of addenda to sentencing memoranda).

Given that the court—rather than a jury—determines the defendant’s sentence, there are numerous “salutary effects” of public access to the sentencing process and all relevant materials, including keeping in check the temptation by any party “to seek or impose an arbitrary or disproportionate sentence,” to “promote accurate fact-finding,” and to “stimulate public confidence in the criminal justice system by permitting members of the public to observe that the defendant is justly sentenced.” *Kravetz*, 706 F.3d at 57 (collecting cases). The right *is*, however, qualified. Where a party asserts an exception to the right of public access, “the decision as to access to judicial records is one best left to the sound discretion of the trial court, a discretion to be exercised in light of the relevant facts and circumstances of the particular case.” *United States v. Hubbard*, 650 F.2d 293, 316-17 (D.C. Cir. 1981) (cleaned up). A six-part *Hubbard* test is discussed in greater detail below. Since “[c]ourts have an obligation to consider all reasonable alternatives to foreclosing the constitutional right of access,” “[r]edaction constitutes a time-tested means of minimizing any intrusion on that right.” *In re Providence Journal Co.*, 293 F.3d 1, 15 (1st Cir. 2002).

The Sentencing Memorandum

In this case, Beddingfield’s entire Sentencing Memorandum and the Exhibits attached thereto (except Exhibit F and Exhibit G) should be posted to the public docket with limited to no redaction or exclusion.

Turning first to the Sentencing Memorandum, the government submits that no redactions are appropriate, and the defendant has not provided an adequate basis for the redactions proposed

in its response to the Court's July 11, 2023 Minute Entry.

Specifically, defense counsel seeks to redact Beddingfield's employer's name from the memo (section B, p. 15), and the entirety of the section discussing the two forensic reports (section D, pp. 16-17). As it concerns the employer's name, defense counsel cites vaguely to LCrR 57.7(b)(3) which governs the Conduct of Attorneys in Criminal Cases, and according to defense counsel "forbids the release of examinations of the defendant as well as character or reputation evidence of the accused from the time of arrest through the disposition of the case." Even if this rule were relevant, the "disposition" in this case was Beddingfield's Change of Plea on February 16, 2023. LCrR 57.7(b)(3) is therefore inapt because sentencing comes after this "disposition." The redaction of the employer's name is unnecessary, and since defense provided no legally sound attempt to justify the redaction, the proposed redaction to her name should be denied.

Defendant's proposed redactions to the entirety of Section D of the Sentencing Memorandum are similarly unwarranted. The first sentence simply identifies the doctors and the second simply asserts that, "Both doctors have previously been recognized by multiple federal courts as qualified experts in their respective fields." The remainder of the paragraph is a summary of the doctors' findings, diagnoses (or lack thereof), and opinions regarding Beddingfield. While *Kravetz* recognizes that "[m]edical information is . . . universally presumed to be private, not public," 706 F.3d at 63 (internal quotes omitted), it also finds that, "The privacy interest in medical information is neither fundamental nor absolute and can be waived or otherwise overcome by a variety of means." *Id.* (internal quotes omitted).

A careful reading of section D shows that the section does not actually disclose any protected or sensitive medical information regarding Beddingfield, nor does it contain any other details that "may only serve to gratify private spite or promote public scandal." *Nixon v. Warner*

Comm’n’s, 435 U.S. 589, 598 (1978) (internal quotations omitted). And again, defense counsel provides no grounds or justification for its exclusion. Instead, they point to LCrR 57.7(b)(3), which, as noted, does not apply. They then point to 42 U.S.C. § 1320d-6, the criminal enforcement provision of The Public Health and Welfare Act, otherwise known as HIPAA. This provision does not, nor was it ever intended to, apply to attorneys in a criminal proceeding or anyone other than “those persons to whom the substantive requirements of the subtitle, as set forth in the regulations promulgated thereunder, apply.” *See* Prin. Dep. Asst. Atty. Gen. Mem. Op. Re. Scope of Criminal Enforcement Under 42 U.S.C. § 1320d-6 (June 1, 2005).²

The proper test, as recognized by *Thompson* and *Harris*, is the six-part analysis established by the D.C. Circuit in *United States v. Hubbard*, 650 F.2d 293, 317-22 (1980). Specifically, the Court should consider (1) the need for public access to the documents at issue; (2) the extent of previous public access to the documents; (3) the fact that someone has objected to disclosure, and the identity of that person; (4) the strength of any property and privacy interests asserted; (5) the possibility of prejudice to those opposing disclosure; and (6) the purposes for which the documents were introduced during the judicial proceedings. *Id.*

As to the need for public access, Beddingfield committed an assault on a police officer during an insurrection at the United States Capitol. He submitted forensic reports and argued for the Court to consider them in mitigation of his crime. The Court, having already read and considered Section D, knows that it does not contain any sensitive medical information. It is thus the government’s position that this factor weighs in favor of public disclosure. The public has never had access to these documents, and defense counsel has objected to their disclosure, so factors two and three weigh in favor of redacting Section D. The strength of the privacy interest is

² https://www.justice.gov/sites/default/files/olc/opinions/attachments/2014/11/17/hipaa_final.htm

weak, which cuts in favor of public disclosure of Section D. There is a possibility of prejudice to the government given that many hundreds of defendants are currently charged and awaiting trial or sentencing on their cases related to their conduct on January 6, 2021. If the Court allows wholesale redactions of relevant information from the public for Beddingfield, future defendants may attempt to stretch the boundaries of such non-disclosure. *See Friedman v. Sebelius*, 672 F. Supp. 2d 54, 60 (D.D.C. 2009) (Urbina, J.). This fifth factor weighs in favor of disclosure of Section D. Finally, the defendant “utilized and asked the court to rely on [Section D] in tailoring [his] arguments for leniency,” and therefore this factor cuts in favor of disclosure. *Kravetz*, 706 F.3d at 57. On a balance, this Court should find that Beddingfield has failed to overcome the qualified right of access to the information in Section D, and it should not be redacted.

The Letters

As discussed above, the public has an established right to access the letters submitted by Beddingfield in Exhibits A through G in support of his Sentencing Memorandum, even if the government is only arguing at this time for the public release of Exhibits A through E. Defendant’s sole argument is that LCrR 57.7(b)(3) and 42 U.S.C. § 1320d-6 mandate their full sealing. The government maintains its position that both the cited rule and statute are entirely inapplicable. Instead, the government asks the Court to apply the six-prong Hubbard test, a balance that ultimately tips once again in the favor of full disclosure of and public access to Exhibits A through E, and the sealing of Exhibits F and G.

As for the need for public access to the documents at issue, Beddingfield was sentenced on a case where he admitted to assaulting a police officer during an insurrection and breaching many areas of the U.S. Capitol in such a way that the peaceful transition of power was disrupted. Any arguments made in support of this position should be known to the public, and thus this factor cuts

in favor of public disclosure. The public has not previously had access to the documents, and defense counsel has objected to the disclosure, and thus factors two and three cut against disclosure. The strength of any privacy interests asserted is minimal, as many of the individuals who submitted character letters are pictured or named in the proposed submission of the defendant, and thus this cuts in favor of full disclosure. The government faces prejudice if January 6 defendants are allowed to submit numerous character letters that are fully sealed from public access without justification or legal reasoning, and thus the fifth factor weighs in favor of disclosure. Finally, the defendant relies heavily on the narrative presented by the character letters to counter his terrible and violent actions while at the U.S. Capitol on January 6, so this factor weighs in favor of disclosure. On a balance, the *Hubbard* factors weigh in favor of public disclosure, and thus the government asks the Court to publish to the public docket Exhibits A through E in their entirety.

The Presentence Investigation Report

The government's objections to the proposed redactions by defense counsel to the Presentence Investigation Report remain as stated on the record during the sentencing hearing and present a much more straightforward analysis. As a general matter, 18 U.S.C. § 3661 provides that "[n]o limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence." Furthermore, Fed. R. Crim. P. 32(d)(2)(A) requires the PSR to include information about the defendant's history and characteristics, including "any circumstances affecting the defendant's behavior that may be helpful in imposing sentence or in correctional treatment." Rule 32(d)(2)(A)(iii). Rule 32(d)(3), on the other hand, excludes only three narrow categories of information from the PSR: 1) "any diagnoses that, if disclosed, might seriously disrupt a rehabilitation program"; 2) "any sources of

information obtained upon a promise of confidentiality”; and 3) “any other information that, if disclosed, might result in physical or other harm to the defendant or others.” Based on this clear law, defense counsel’s proposed redactions to the PSR are excessive, unnecessary, and have no basis. The PSR should remain as it is now—unredacted and complete.

Categories one and two do not apply to the present situation. Although she did not cite to it as legal authority, defense counsel’s arguments for the heavy redactions to the PSR seemed to hinge on her belief that the information in the PSR, especially the hate-laden speech and communications engaged in by the defendant, could result in physical harm to the defendant if disclosed. The fatal flaw in this argument is that the PSR is a sealed document and defense counsel has provided no basis for concluding that the information in the PSR would or could be improperly disclosed. Moreover, the communications used by the U.S. Probation Officer in the PSR that defense objects to were previously included in filings by the government which were and remain public. Because the information she proposes to redact is already available on the public docket, there is no purpose in redaction.

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CONCLUSION

For the foregoing reasons, the government asks this Court to recognize the qualified public right of access under the First Amendment and the common law to the defendant's Sentencing Memorandum and all Exhibits, with narrowly tailored redactions to Exhibit F and Exhibit G. The government also asks this Court to not allow any redactions to the PSR.

Respectfully submitted,

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