

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

UNITED STATES OF AMERICA)	CRIMINAL NO. 08-341-01 (RMU)
)	
v.)	
)	<u>UNDER SEAL</u>
JEREMY P. RIDGEWAY,)	
)	
Defendant.)	

GOVERNMENT’S UNOPPOSED MOTION TO UNSEAL CERTAIN FILINGS

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, respectfully moves the Court to unseal certain filings in this case and to instruct the Clerk of Court to enter these filings on the public docket. The United States requests that the Court maintain its sealing Order in all other respects. In support of this motion, the United States makes the following representations:

1. On November 18, 2008, the defendant, Jeremy P. Ridgeway, pled guilty to both counts of a two-count Information that had been filed under seal on that date, charging him with Voluntary Manslaughter and Attempt to Commit Manslaughter, in violation of 18 U.S.C. §§ 1112 and 1113, respectively, within the Military Extraterritorial Jurisdiction of the United States, 18 U.S.C. § 3261(a)(1). The defendant pled guilty pursuant to a written cooperation agreement that was filed with the Court under seal at the time of the plea colloquy. These charges arose from a shooting that occurred on September 16, 2007, in and around Nisur Square in central Baghdad, in the Republic of Iraq, in which at least fourteen innocent civilians were killed, at least twenty were wounded, and at least eighteen others were assaulted but not injured (hereinafter referred to as the “Nisur Square shooting”).

2. On the government's motion to seal, the Court entered an Order placing under seal the plea proceedings, the pleadings and all other filings in this case, and delaying entry on the public docket of the filing of that motion to seal and the related filings.

3. As set forth more fully in the government's motion to seal, pursuant to the plea agreement, the defendant has agreed to cooperate with prosecutors and law enforcement personnel in the prosecution of several other individuals. Among other things, the United States anticipates that the defendant's cooperation will include testifying in a multi-defendant, extraterritorial homicide case that will be brought in the District Court for the District of Columbia, arising from the Nisur Square shooting. The United States anticipates the public announcement of formal charges against the other defendants and their arrests on those charges on Monday, December 8, 2008.

4. Relatedly, with the defendant's consent, the United States filed yesterday, December 4, 2008, a superseding Information in this case, amending the allegations in the original Information concerning the Military Extraterritorial Jurisdiction Act, 18 U.S.C. § 3261, *et seq.*, while maintaining the same underlying charges of Voluntary Manslaughter and Attempt to Commit Manslaughter, as supported by the Factual Proffer filed with the Court at the time of the defendant's guilty pleas. The defendant pled guilty today before the Court on the superseding Information.

5. Given the anticipated public announcement of formal charges against the other defendants and their arrests on those charges, the United States requests that the Court enter an Order unsealing certain documents related to the defendant's guilty pleas. The United States requests that these documents be unsealed and placed on the public docket at the time of the arrest of one or more of the other defendants, which, as mentioned, is expected to occur on Monday, December 8, 2008. Specifically, the government requests that the Court unseal and place on the public docket at that

time three documents that have been filed under seal in this case: (1) the Information filed on November 18, 2008, in connection with the defendant's guilty pleas; (2) the Factual Proffer filed on November 18, 2008, at the time of the plea colloquy; and (3) the superseding Information filed on December 4, 2008.

6. The United States requests that the Court maintain its sealing Order in all other respects in order not to disclose to the public the fact of and the details surrounding the defendant's cooperation with the government in this ongoing investigation. As described in the government's motion to seal, the premature public docketing of pleadings and other filings related to the defendant's cooperation with the government may well deny the defendant of the full benefit of the departure provisions of his plea agreement, see 18 U.S.C. § 3553(e) and U.S.S.G. § 5K1.1. Among other reasons, targets of this investigation and other witnesses who are hostile to the government had been in contact with the defendant and may contact him when an indictment is announced in this matter. These anticipated contacts with the defendant may be a valuable source of information and evidence in this ongoing investigation. However, these individuals will be less likely to contact the defendant if his cooperation with the government is announced publicly.

7. As distinct from his ongoing cooperation with the government, with the expected public announcement of charges against the other defendants and their arrests on those charges on Monday, December 8, 2008, there will no longer be a basis for the continued sealing of the fact of the defendant's guilty pleas.

8. Accordingly the government submits that under Washington Post v. Robinson, 935 F.2d 282, 289, n.10 (D.C. Cir. 1991), these facts present an extraordinary situation and a compelling governmental interest which justify maintaining the Court's sealing order until: (a) the fact and

particulars of the defendant's cooperation must be disclosed, pursuant to the government's legal obligations to counsel for other individuals who will be prosecuted in this matter; (b) the defendant's cooperation becomes known by reason of his testimony in public proceedings; or (c) the government represents that the matters covered by this motion can be made public without substantial risk to the ongoing investigation.

9. The United States respectfully requests that the Court grant this motion and that at the time of the arrest of one or more of the other defendants, which is expected to occur on Monday, December 8, 2008, the Court unseal and place on the public docket three documents that have been filed under seal in this case: (1) the Information filed on November 18, 2008, in connection with the defendant's guilty pleas; (2) the Factual Proffer filed on November 18, 2008, at the time of the plea colloquy; and (3) the superseding Information filed on December 4, 2008; and that the Court otherwise maintain its sealing Order.

10. Because this motion to unseal makes reference to the defendant's ongoing cooperation with the United States, the government respectfully requests that the Court allow this motion to be filed under seal pursuant to the Court's sealing Order.

11. Undersigned counsel is authorized to represent that counsel for the defendant,

William Sullivan, Esq., does not oppose this motion.

WHEREFORE, for the foregoing reasons and for any other such reasons as may appear to the Court, the United States requests that its motion be granted.

Respectfully submitted,

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Certificate of Service

_____ I hereby certify that a copy of the foregoing motion and accompanying proposed order were sent to William Sullivan, Esquire, counsel for the defendant, by email to Wsullivan@winston.com on December 5, 2008.

Kenneth C. Kohl
Assistant United States Attorney