

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

UNITED STATES OF AMERICA,

v.

JAMES A. WOLFE

Case No. 18-CR-170 (KBJ)

**MOTION FOR ORDER GOVERNING EXTRAJUDICIAL STATEMENTS UNDER
LOCAL CRIMINAL RULE 57.7(c) BY DEFENDANT JAMES A. WOLFE**

Pursuant to Local Criminal Rule 57.7(c), Defendant James A. Wolfe, through counsel, hereby moves for an Order restricting the government's extrajudicial commentary in this matter. As explained in the accompanying Memorandum of Points and Authorities in support, the highly prejudicial public comments already made by President Donald J. Trump and senior Justice Department officials have threatened Mr. Wolfe's right to a fair trial under the Sixth Amendment, and must be prevented in the future.

WHEREFORE, Defendant James A. Wolfe respectfully requests that the Court issue an Order prohibiting anyone involved in this case, whether lawyers, parties, witnesses, or others associated with the prosecution – up to and including President Trump – from making any further public commentary that is likely to interfere with a fair trial for Mr. Wolfe.

Dated: June 19, 2018

Respectfully submitted,

_____/s/_____

By: Benjamin Klubes (D.C. Bar No. 428852)
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CERTIFICATE OF SERVICE

I certify that on June 19, 2018, I electronically filed the foregoing **Defendant James A. Wolfe's Motion for Order Governing Extrajudicial Statements Under Local Criminal Rule 57.7(c)** using the CM/ECF system, which will send notification of such filing to the counsel of record in this matter who are registered on the CM/ECF.

/s/

Lauren R. Randell (D.C. Bar No. 503129)

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Case No. 18-CR-170 (KBJ)

**DEFENDANT JAMES A. WOLFE’S MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF HIS MOTION FOR ORDER GOVERNING
EXTRAJUDICIAL STATEMENTS UNDER LOCAL CRIMINAL RULE 57.7(c)**

Defendant James A. Wolfe, through counsel, respectfully requests an Order restricting the government’s extrajudicial commentary in this matter pursuant to Local Criminal Rule 57.7(c). Criminal defendants have a fundamental constitutional right to a fair trial by an impartial jury. That right is jeopardized when government officials make inflammatory, misleading pretrial statements to the public about a defendant or his or her case, particularly when those statements are highly publicized. That, unfortunately, is exactly what has occurred here and we respectfully request an order from this Court to prevent it from happening again.

ARGUMENT

The morning after Mr. Wolfe’s evening arrest on June 7, 2018, President Donald J. Trump announced that the Department of Justice had just “caught a leaker. It’s a very important leaker. . . . You cannot leak classified information.”¹ At the time these comments were made,

¹ Eileen Sullivan & Katie Brenner, *Trump praises arrest of former Senate Committee Aide in Leaks Inquiry*, N.Y. Times, (June 8, 2018), <https://www.nytimes.com/2018/06/08/us/politics/trump-leak-investigation.html> (Exhibit 1); Clare Foran & Laura Jarrett, *Trump says prosecutors ‘caught a leaker’ after former Senate staffer charged with lying to investigators*, CNN (June 8, 2018), <https://www.cnn.com/2018/06/08/politics/trump-leakers-senate-intel/index.html> (Exhibit 2);

Mr. Wolfe had not yet appeared for his arraignment, much less had his charges considered by counsel, a judge, or a jury, all of which he is guaranteed under the U.S. Constitution. Yet President Trump informed the world that Mr. Wolfe was in fact **guilty** – a “leaker” who had been caught – pronouncing his arrest a “terrific thing” and implying falsely that the conduct involved leaking classified information.² But the Indictment ***does not actually charge Mr. Wolfe with leaking anything***, and contains no allegation that he disclosed or mishandled classified information in any way.

These prejudicial and improper statements were immediately and widely disseminated by the national news media.³ Further, Assistant Attorney General John Demers publicly called the case “doubly troubling” because it concerns the “unauthorized disclosure of sensitive and confidential information,”⁴ when the Indictment refers only to the disclosure of information “not otherwise publicly available.”⁵ Indictment ¶¶ 33, 35.

David Lauter & Eliza Fawcett, *Indicted former Senate staffer appears in court as Russia leak inquiry sets off partisan fireworks*, L.A. Times (June 8, 2018), <http://www.latimes.com/politics/la-na-pol-leak-indictment-20180608-story.html> (Exhibit 3).

² *Id.*

³ *See, e.g., id.*

⁴ Press Release, Department of Justice, U.S. Attorney’s Office, Former U.S. Senate Employee Indicted on False Statements Charges, (June 7, 2018), <https://www.justice.gov/usao-dc/pr/former-us-senate-employee-indicted-false-statements-charges> (Exhibit 4). We do not ascribe any inappropriate commentary addressed in this motion to the Assistant U.S. Attorneys handling this matter.

⁵ These statements also appear to contravene Department of Justice policy permitting discussion of only the “substance” of a charge. *See* U.S. Attorneys’ Manual § 1-7.500 (Release of Information in Criminal, Civil, and Administrative Matters – Disclosable Information). The government’s press release inappropriately commented on Mr. Wolfe’s character, warning that “[t]hose entrusted with sensitive information must discharge their duties with honesty and integrity, and that includes telling the truth to law enforcement,” and characterizing Mr. Wolfe’s conduct as “a betrayal of the extraordinary public trust that had been placed in him.” Exhibit 4.

Mr. Wolfe's Sixth Amendment right to an impartial jury and the presumption of innocence have been jeopardized by presidential comments about the merits of the case ("caught a leaker") and highly prejudicial insinuations – straying far from the language and substance of the Indictment and echoed by the Justice Department – that Mr. Wolfe leaked classified information.⁶ This Court, we respectfully submit, has both the duty and the means to preserve Mr. Wolfe's Sixth Amendment right to an impartial jury and the presumption of his innocence, and Mr. Wolfe respectfully requests that it do so.

Under Local Criminal Rule 57.7(c), the Court may "issue a special order governing such matters as extrajudicial statements by parties, witnesses and attorneys likely to interfere with the rights of the accused to a fair trial by an impartial jury." The party seeking to convict Mr. Wolfe of a crime here is the "United States of America." President Trump and senior Department of Justice officials, while not appearing as lawyers in this court, are unquestionably senior representatives of that party. The Constitution vests the Executive power of the United States to enforce the laws in the President. U.S. Const. art. II § 1. As stated by President Trump himself,

As with the attempts to link Mr. Wolfe with leaking classified information, Mr. Wolfe is ***not*** charged with having abused the public trust. *See generally infra* note 9 (regarding likely violations of Local Rules); U.S. Attorneys' Manual § 1-7.610 (Concerns of Prejudice) ("Because the release of certain types of information could prejudice an adjudicative proceeding, DOJ personnel should refrain from disclosing the following, except as appropriate in the proceeding or in an announcement after a finding of guilt: A. Observations about a defendant's or party's character"). As discussed in note 10, incanting "alleged" before making these types of remarks does not inoculate the government and certainly does not protect adequately a defendant's rights.

⁶ The DOJ press release blurs the nature of the information at issue – never using the actual language in the Indictment ("not publicly available") but rather more inflammatory language ("the unauthorized disclosure of sensitive and confidential information"). Exhibit 4.

“I have absolute right to do what I want to do with the Justice Department.”⁷ Absent relief from this Court, there is no reason to expect that President Trump will cease making public statements about Mr. Wolfe and this case.⁸

The Supreme Court has long recognized that “[f]ew, if any, interests under the Constitution are more fundamental than the right to a fair trial by ‘impartial’ jurors, and an outcome affected by extrajudicial statements would violate that fundamental right.” *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1075, 111 S.Ct. 2720, 2745 (1991). “Due process requires that the accused receive a trial by an impartial jury free from outside influences” and “[n]either prosecutors, counsel for defense, the accused, witnesses, court staff nor enforcement officers . . . should be permitted to frustrate its function.” *Sheppard v. Maxwell*, 384 U.S. 333, 362-63, 86 S.Ct. 1507, 1522 (1966). Thus, it is not only the Court’s responsibility, but indeed “an affirmative constitutional duty to minimize the effects of prejudicial pretrial publicity.” *Gannett Co. v. DePasquale*, 443 U.S. 368, 378, 99 S.Ct. 2898, 2904 (1979). And the Supreme Court has endorsed doing so by entering orders limiting extrajudicial commentary of trial participants. *Sheppard*, 384 U.S. at 361.

The order Mr. Wolfe seeks is narrow and is the least restrictive means available to ensure that Mr. Wolfe’s rights are protected. He does not seek any limitation on what can be reported about this case by the media, nor is he seeking to preclude all speech by the parties. For

⁷ Michael S. Schmidt & Michael D. Shear, *Trump Says Russia Inquiry Makes U.S. ‘Look Very Bad,’* N.Y. Times (Dec. 28, 2017), <https://www.nytimes.com/2017/12/28/us/politics/trump-interview-mueller-russia-china-north-korea.html> (Exhibit 5).

⁸ This President’s near daily proclivity to discuss all manner of criminal investigations – including his views on guilt of individuals, appropriateness of sentences, and who and what should be investigated by the Department of Justice as well as attacks on the integrity of the judicial system – provides little to no comfort that his June 8, 2018 comments will be his last on this case. See generally @realDonaldTrump, Twitter, <https://twitter.com/realDonaldTrump>.

instance, accurate and limited public statements about the content of the Indictment or other filings or events occurring in court are customary and unobjectionable. He seeks only to prevent the most visible and powerful representatives of the party seeking to convict him of serious crimes from making public statements that jeopardize his right to an impartial jury.

I. The Government Itself Has Already Made This a Widely Publicized or Sensational Case

Even before President Trump rendered his pre-arraignment verdict, this case was already front-page news throughout the nation, generating thousands of news stories or mentions. The charges against Mr. Wolfe, and what has been reported about the investigation that led to them, read like a list of trending topics: the Administration's fixation on rooting out the source of alleged leaks; the Russia investigation by the Senate; and controversy regarding the seizure of a reporter's phone and e-mail records.

Numerous news organizations reported President Trump's premature conclusion that not only was Mr. Wolfe guilty, but he was guilty of *actually* leaking *classified information*, even though the Indictment only charges Mr. Wolfe with making false statements, and about non-classified information. The President's mischaracterization has gone uncorrected by the Justice Department. And there is no indication that the level of press coverage of this case will abate, particularly as likely issues concerning the government's ability to obtain information from journalists are addressed.

II. Protecting Mr. Wolfe's Sixth Amendment Rights Requires a Restrictive Order Under Rule 57.7(c)

Absent an order under this Court's Local Criminal Rule 57.7(c), Mr. Wolfe's Sixth Amendment right to a fair trial is imperiled. The Local Rule embodies concerns the Supreme Court has repeatedly expressed about the danger that extrajudicial statements pose to the right of a defendant to a fair trial, and it empowers the Court to issue the type of order we seek. *See, e.g.,*

United States v. Brown, 218 F.3d 415, 428-29 (5th Cir. 2000) (upholding restrictive order against extrajudicial commentary by trial participants where the cases at issue, involving Louisiana's state Insurance Commissioner and a former Governor, were already the subject of "intense and extensive media attention"); *United States v. Pawlowski et al.*, Case No. 5:17-cr-00390-JS, Dkt. 42 (E.D. Pa. Nov. 29, 2017) (restrictive order in corruption trial of Allentown mayor); *United States v. Stanford et al.*, Case No. H-09-cr-342, Dkt. 307 (S.D. Tex. Sept. 30, 2010) (restrictive order in R. Allen Stanford Ponzi scheme case) (Exhibit 6).⁹

The Court's authority to protect a defendant's right to an impartial jury and presumption of innocence recently was invoked in another high profile case pending in this Court. Judge Amy Berman Jackson ordered "all interested participants in the [*United States v. Manafort*] matter . . . to refrain from making statements to the media or in public settings that pose a substantial likelihood of material prejudice to this case." *United States v. Manafort et al.*, Case No. 17-cr-0201-ABJ, Dkt. 38 (D.D.C. Nov. 8, 2017).

Substantial prejudice has already occurred here and it requires the remedy of a proactive Order. Recognizing that some commentary about arrests and charges is a valid and important government function, the comments in this case go too far and no more such comments should be made.¹⁰ The President's statements have been particularly prejudicial because they convict

⁹ See also *United States v. Aldawsari*, 683 F.3d 660, 665 (5th Cir. 2012) (upholding restrictive order in terrorism case, where "the allegations generated a good deal of media coverage that highlighted Aldawsari's alleged radical Islamic views, bomb-making activities, and targeting of former President George W. Bush"); cf. *In re Morrissey*, 168 F.3d 134, 140 (4th Cir. 1999) (upholding Local Criminal Rule 57 of the Eastern District of Virginia, regarding extrajudicial statements that "threaten the right to a fair trial and an impartial jury").

¹⁰ The Department of Justice press release, discussed *supra*, also appears to have violated the local rules by making statements attributed to senior Department officials that potentially interfere with a fair trial or otherwise prejudice the due administration of justice," LCrR

Mr. Wolfe in the eyes of the public – and the potential venire – of conduct he is not charged with. He is charged only with making false statements regarding general and personal contacts with reporters, and the disclosure of merely non-public information or a denial of a personal relationship is a far cry from the improper leaking of classified information.¹¹

The Order we seek is also appropriately narrow. Mr. Wolfe is not requesting any limitation on what can be reported about this case by the media, and the Court's authority to restrict the comments made by the participants, which includes the entirety of the Executive Branch, is clear. *See Gentile*, 501 U.S. at 1074 (permitting greater restrictions on participants in a case compared to the press). Mr. Wolfe also is not requesting a blanket limitation on all speech by all parties involved in this case. *See Brown*, 218 F.3d at 429-30. Confirming or clarifying what actually occurred in Court or what was stated in a filing is perfectly acceptable conduct, consistent with the Local Rules.

Such an Order also represents the least restrictive means necessary to safeguard Mr. Wolfe's rights. Mr. Wolfe does not seek an order gagging the news media, and seeking a change of venue to another judicial district would be pointless¹² when the President is generating a large part of the prejudice in his pronouncements to the national media. Nor would voir dire or jury

57.7(b)(1), concerning "the character or reputation of the accused," LCrR 57.7(b)(3)(a), and concerning "[a]ny opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case." LCrR 57.7(b)(3)(vi). And, as another federal judge observed, "any prejudicial effect of otherwise improper comments is [not] magically dispelled by sprinkling the words 'allege(d)' or 'allegation(s)' liberally throughout the press conference or speech, or by inserting a disclaimer that the accused is 'innocent unless and until proven guilty' at the end of an otherwise improper press release." *United States v. Silver*, 103 F.Supp.3d 370, 378 (S.D.N.Y. 2015) (first alteration added).

¹¹ Indeed, even the Indictment includes a gratuitous discussion of classified information, despite the fact that Mr. Wolfe faces no charge involving classified information. See Indictment at ¶ 2.

¹² Mr. Wolfe reserves his right to seek a venue change depending on further events or discovery.

instructions cure the effects of his pretrial verdict regarding Mr. Wolfe's conduct. *See Brown*, 218 F.3d at 431; *see also Levine v. United States Dist. Ct. for the Cent. Dist. of Calif.*, 764 F.2d 590, 600 (1985) (“[V]oir dire cannot eliminate prejudice caused by publicity during the trial. Moreover, voir dire cannot alleviate the harm to the integrity of the judicial process caused by the extrajudicial statements of trial participants.”).

III. President Trump Can Be Subject to a Restrictive Order

The Court can appropriately include government supervisors up to and including the President within the ambit of such an order, especially where the President has already chosen to weigh in publicly on this particular criminal prosecution conducted by his Administration and declare Mr. Wolfe's guilt (of something he is not charged with). It does not matter that the President is not himself a lawyer, or that he and other senior officials and supervisors are not physical or formally appearing in court on behalf of the government. They have inserted themselves into this case either as part of the government “party” or as counsel to the government, and they present a significant, proven threat to Mr. Wolfe's right to a fair trial.¹³ As the head of the Executive Branch, the President is ultimately responsible for all powers wielded by that Branch, including prosecutorial powers.

¹³ For example, in a situation where the U.S. Attorney for the Southern District of New York – who was not personally prosecuting the case in court – made numerous pronouncements following then-Speaker of the New York Assembly Sheldon Silver's arrest regarding the corrupt nature of his actions, the district court recognized that those statements could cause prejudice to the defendant. *Silver*, 103 F. Supp. 3d at 379 (S.D.N.Y. 2015) (ultimately refusing to dismiss the Indictment – a step we are not asking the Court to take here – because the defense could not prove that the U.S. Attorney's statements had improperly and substantially influenced the grand jury decision to indict). The court further noted that “[g]iven the fact that the U.S. Attorney apparently wanted to address the topic of public corruption in his speech, a far more prudent course—and one that would have been far more respectful of the Defendant's presumption of innocence and fair trial rights—would have been to delay the arrest until after the U.S. Attorney's speech and for the U.S. Attorney to stay focused on politicians who have actually been convicted.” *Id.*

The Supreme Court has emphasized in this context that the obligation of the Courts to safeguard defendants' Sixth Amendment rights is not limited to orders directed at just the lawyers specifically involved in a case: "Neither prosecutors, counsel for defense, the accused, witnesses, court staff nor enforcement officers coming under the jurisdiction of the court should be permitted to frustrate its function." *Sheppard*, 384 U.S. at 363. Within this District, restrictive orders have been extended to cover supervisory lawyers who were not actually trying the case, restricting the extrajudicial commentary of "the lawyers appearing in this case or any persons associated with them, including any persons with supervisory authority over them." *See United States v. Gray et al*, Case No. 00-cr-157 (RCL), 2001 WL 1000694, at *1 (D.D.C. June 14, 2001) (Exhibit 7) (vacated in 2004).¹⁴

¹⁴ *See also In re Goode*, 821 F.3d 553, 557-58 (5th Cir. 2016) (approving the extension of speech restrictions to lawyers "associated with the prosecution or defense," while rejecting the overall local rule that restricted speech regardless of likelihood of prejudice).

CONCLUSION

For the foregoing reasons, Defendant James A. Wolfe respectfully requests that this Court issue an order prohibiting further extrajudicial statements by participants in this case, including all relevant members of the Executive Branch, up to and including the President of the United States.

DATED: June 19, 2018

Respectfully submitted,

_____/s/_____

By: Benjamin Klubes (D.C. Bar No. 428852)
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Counsel for Defendant James A. Wolfe

CERTIFICATE OF SERVICE

I certify that on June 19, 2018, I electronically filed the foregoing **Defendant James A. Wolfe's Motion for Order Governing Extrajudicial Statements Under Local Criminal Rule 57.7(c)** using the CM/ECF system, which will send notification of such filing to the counsel of record in this matter who are registered on the CM/ECF.

_____/s/_____
Lauren R. Randell (D.C. Bar No. 503129)

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v.

JAMES A. WOLFE

Case No. 1:18-CR-00170 (KBJ)

ORDER

The Court having considered Defendant James A. Wolfe's Motion for Order Governing Extrajudicial Statements Under Local Criminal Rule 57.7(c), it is hereby ORDERED that Defendant's motion is hereby GRANTED, and it is further ORDERED that in order to safeguard Defendant's right to a fair trial, and to ensure that the Court has the ability to seat a jury that has not been tainted by pretrial publicity, all interested participants in this matter, including the parties, any potential witnesses, counsel for the parties and witnesses and all persons affiliated therewith (including all supervisors of this prosecution in the U.S. Attorney's Office, the United States Department of Justice, and the Executive Branch, up to and including the President of the United States), and law enforcement agents involved in this prosecution, are hereby

ORDERED to refrain from making statements to the media or in public settings that pose a substantial likelihood of material prejudice to this case, including comments that inaccurately reflect the nature of the charges against Mr. Wolfe, comment upon his character, or which suggest an opinion on whether he engaged in the conduct charged in the Indictment.

Dated this _____ day of _____, 2018.

The Honorable Ketanji Brown Jackson
United States District Court

Exhibit 1

The New York Times

Trump Praises Arrest of Former Senate Committee Aide in Leaks Inquiry

By Eileen Sullivan and Katie Benner

June 8, 2018

WASHINGTON — President Trump on Friday praised the arrest of a former Senate Intelligence Committee aide who is accused of lying to investigators about his contacts with reporters in an inquiry into leaks of classified information.

The president called the former Senate aide, James A. Wolfe, “a very important leaker.” Mr. Wolfe, the committee’s former director of security, was arrested Thursday at his home in Ellicott City, Md.

As part of its investigation, federal law enforcement officials secretly seized a New York Times reporter’s phone and email records going back several years.

“It could be a terrific thing,” Mr. Trump said of the arrest, speaking to reporters as he left Washington for the Group of 7 summit meeting in Canada.

“I’m a big, big believer in freedom of the press,” Mr. Trump said. “But I’m also a believer in classified information. It has to remain classified.” Mr. Wolfe was not accused of illegally disclosing national security secrets.

It was the first known instance during the Trump administration of the Justice Department going after a reporter’s data.

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“Reporters can’t leak. You cannot leak classified information. At the same time, we need freedom of the press. But you cannot leak,” Mr. Trump said, speaking to reporters. Previously, Mr. Trump has suggested that reporters should be jailed for publishing classified information.

Mr. Wolfe made his first court appearance on Friday in federal court in Baltimore, about 15 miles from his home Ellicott City. Before the proceedings, he quietly reviewed papers with his lawyer, Christian Lassiter, an attorney in the Maryland public defender’s office.

He did not enter a plea and was released on several conditions, including that he turn in his passport, travel only in Maryland and, for legal proceedings, in the District of Columbia, and that not make unauthorized disclosures of classified information. He was scheduled to be arraigned on Tuesday in federal court in the District of Columbia.

Mr. Wolfe, a former Army intelligence analyst, stopped performing committee work in December and retired in May.

He worked closely with both Democrats and Republicans in a bipartisan fashion for more than 30 years on the Senate Intelligence Committee, which oversees the F.B.I., the C.I.A. and the National Security Agency, and their secretive operations.

The committee's staff follows strict rules for the handling of delicate, and often classified, information for one of the most tightly secured committees in Congress. Mr. Wolfe would have been responsible for enforcing those rules. The committee is also conducting its own investigation into Russia's interference in the 2016 election and possible ties to the Trump campaign. As part of that, the committee has reviewed reams of classified materials related to the election meddling and met with current and former Trump aides.

The investigation of Mr. Wolfe came to light this week after the committee said that it was cooperating with the Justice Department "in a pending investigation arising out of the unauthorized disclosure of information."

"Freedom of the press is a cornerstone of democracy," said Eileen Murphy, a Times spokeswoman. "This decision by the Justice Department will endanger reporters' ability to promise confidentiality to their sources and, ultimately, undermine the ability of a free press to shine a much-needed light on government actions. That should be a grave concern to anyone who cares about an informed citizenry."

Obtaining information a reporter's records is considered an "extraordinary" measure that must be approved by top Justice Department officials, according to the guidelines for federal prosecutors. Per federal statute, agents must make "all reasonable attempts to obtain the information from alternative, non-media sources."

A Justice Department official who spoke on background because the matter pertains to an ongoing criminal investigation said that all regulations were followed.

The Trump administration has been troubled by a flood of embarrassing leaks, and the president has pushed law enforcement officials to seek criminal charges against government officials who make unauthorized disclosures to the news media.

Attorney General Jeff Sessions has been responsive. Last year, he said the department was pursuing about three times as many leak investigations as were open at the end of the Obama administration. The Justice Department under President Barack Obama prosecuted more leak cases than all previous administrations combined.

Lawyers and journalism experts have argued that the Espionage Act applies to the person who leaks the classified information — not to publishers or journalists. But the act is written so broadly that, in theory, it could apply to the news media.

Mr. Trump has suggested that the justice system is not balanced in the prosecution of leaks. He reminded reporters on Friday that he thinks the former F.B.I. director James B. Comey is guilty of leaking classified information — a contention the president often raises in his diatribes about Mr. Comey, whom he fired last year. Mr. Comey has denied making illegal disclosures.

Eileen Sullivan reported from Washington, and Katie Benner from Baltimore.

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Exhibit 2



Trump says prosecutors 'caught a leaker' after former Senate staffer charged with lying to investigators

By [Clare Foran](#) and [Laura Jarrett](#), CNN

Updated 3:28 PM ET, Fri June 8, 2018



Trump: Russia should be in the G7 summit 00:53

Washington (CNN) — President Donald Trump alleged on Friday that federal prosecutors have "caught a leaker" in response to news that a longtime US Senate staffer [has been indicted](#) on charges of making false statements to FBI agents as part of an investigation related to the unauthorized disclosure of non-public information.

"It's very interesting that they caught a leaker ... it's a very important leaker," the President said while speaking to reporters at the White House. "So, it's very interesting. I'm getting information on it now, happened last night, it could be a terrific thing."

The Justice Department [announced](#) Thursday evening that James Wolfe, the former security director for the Senate Intelligence Committee, has been accused of lying to FBI agents in December 2017 about his contacts with three reporters.

At this time, Wolfe has not been convicted of wrongdoing in relation to the charges of making false statements and he was not charged with leaking classified information in the federal indictment released by the Justice Department.

Wolfe was released from custody Friday after agreeing to relinquish his passport and appear in district court in Washington, DC, on the charges in coming days, along with other conditions put forward by prosecutors and ordered by a federal judge at an initial appearance in Maryland district court Friday.

Wolfe, 57, sat mostly silent throughout the hearing in a white dress shirt, replying only "yes, your honor," when prompted by Magistrate Judge J. Mark Coulson. Wolfe was represented by a public defender.

Wolfe was arrested Thursday in Maryland on a three-count indictment out of DC. He faces up to 15 years in prison if convicted.

Coulson also ordered Wolfe not to access or discuss classified information with undisclosed people, not to possess a personal identification other than his own, and to make weekly check-ins with authorities -- all were stipulations of release requested by the federal prosecutor, Phil Selden.

Wolfe will be processed Monday morning at the FBI's Washington field office, and appear at a hearing on the charges in US District Court for the District of Columbia on Tuesday, Coulson ordered. His travel will also be restricted to Maryland and DC for meetings with counsel and court appearances, Coulson said.

Earlier Friday, Trump said that he is "a big, big believer in freedom of the press," but added that he is also "a believer in classified information -- has to remain classified."

[The New York Times](#) reported Thursday evening that one of its reporters, Ali Watkins, had been contacted by federal investigators about the inquiry into Wolfe.

According to The Times, the Justice Department notified Watkins in February that her email and phone records -- but not the content of her communications -- had been seized.

The court papers indicate Watkins and Wolfe had a "personal relationship" dating back to 2014. He "helped her with articles," the Times said, but "Wolfe was not a source of classified information for Ms. Watkins during their relationship, she said."

Prosecutors allege Wolfe also had contact with three other journalists, referred to only as Reporter #1, Reporter #3, and Reporter #4 in the indictment.

According to a Justice Department official, their records were not targeted as part of the investigation.

CNN's Jessica Schneider contributed to this report.

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Exhibit 3

TOPICS

Los Angeles Times

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POLITICS

Indicted former Senate staffer appears in court as Russia leak inquiry sets off partisan fireworks

LA
TimesBy DAVID LAUTER and ELIZA FAWCETT
JUN 08, 2018 | WASHINGTON



James Wolfe, former director of security for the Senate Intelligence Committee, shown in 2017 with former FBI Director James B. Comey. Federal prosecutors accuse Wolfe of lying to the FBI about contacts he had with reporters. (J. Scott Applewhite / Associated Press)



The former security director for the Senate Intelligence Committee made an initial court appearance on Friday after his indictment on charges that he lied to federal investigators probing a leak involving a former campaign aide to President Trump.

The indictment of James A. Wolfe, 57, indicates that FBI agents were trying to determine how reporters learned that Carter Page, the former Trump campaign aide, had contacts with Russian intelligence operatives. The contacts were revealed to the Senate committee by law enforcement officials in classified documents, according to the indictment, which was unsealed late Thursday after his arrest.



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On Friday afternoon, Wolfe appeared before Magistrate Judge J. Mark Coulson at the U.S. District Court in Baltimore. Dressed in a white shirt and gray pants, Wolfe was expressionless and composed. He was represented in court by a public defender and requested a court-appointed lawyer.

By Friday morning the case had already begun setting off partisan fireworks. The Breitbart news site and other conservative media dubbed Wolfe a “deep-state leaker,” saying the charges against him bolstered their theory that a cabal of government officials conspired to go after Trump and members of his campaign team after he won the presidency.

Trump, speaking to reporters at the White House before departing for the G-7 summit in Quebec, called the case “very important — it's a very important leaker.”

“It could be a terrific thing,” Trump said “I'm a big, big believer in freedom of the press. But I'm also a believer in classified information has to remain classified.”

The extent to which the case involves classified information remained uncertain. The chairman of the Intelligence Committee, Sen. Richard Burr (R-N.C.), and the panel's ranking Democrat, Sen. Mark R. Warner of Virginia, issued a joint statement noting that “the charges do not appear to include anything related to the mishandling of

classified information” but adding that “the committee takes this matter extremely seriously.”

The two said the news of Wolfe’s arrest was “disappointing,” noting that he had worked on the committee staff for more than 30 years, under both Democratic and Republican majorities. The Intelligence Committee has “fully cooperated” with investigators since learning about the case “late last year,” they said.

Advertisements Redacted

The case took on additional sizzle because one of the reporters to whom Wolfe is alleged to have provided information, Ali Watkins, now works for the New York Times — a favorite target of Trump’s — and had a romantic relationship with Wolfe, the paper reported.

Federal law enforcement officials seized several years’ worth of Watkins’ email and phone records in connection with the Wolfe investigation, the New York Times reported Thursday.

The seized material does not include the contents of Watkins’ emails, but does include customer records from Verizon and Google covering two email accounts and a phone she used, the newspaper reported.

The seizures would mark the first time that the Justice Department under Trump is known to have authorized prosecutors to obtain a reporter’s records as part of a leak investigation.

Federal prosecutors obtained reporters’ records in several cases under President Obama, but the Justice Department in Obama’s second term adopted rules designed to shield reporters in many circumstances. Atty. Gen. Jeff Sessions has said that the

Justice Department may change some of those rules, which some prosecutors say have hindered investigations. No changes have been made public to date, however.

In a statement Thursday, Watkins' personal lawyer, Mark J. MacDougall, said "it's always disconcerting when a journalist's telephone records are obtained by the Justice Department — through a grand jury subpoena or other legal process."

"Whether it was really necessary here will depend on the nature of the investigation and the scope of any charges."

Free-press advocates also questioned whether prosecutors had acted appropriately.

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"Seizing a journalist's records sends a terrible message to the public and should never be considered except as the last resort in a truly essential investigation," Bruce Brown, executive director of the Reporters Committee for Freedom of the Press, said in a statement. The Justice Department should "explain how its actions adhered to its own guidelines," he said.

Wolfe was charged with three counts of making false statements to investigators when they interviewed him in December. He denied then being in contact with reporters, but, according to the indictment, he had communicated extensively with four reporters in part by using encrypted phone apps. The indictment indicates that investigators obtained copies of many of those messages.

According to Judge Coulson, each count carries a maximum penalty of five years in prison, a \$250,000 fine and three years of supervised release.

Wolfe officially retired from the committee staff last month.

According to the indictment, a journalist identified as Reporter 2 published an online article on April 3, 2017, revealing the identity of a person the indictment calls “Male 1.”

An article under Watkins’ byline appeared online on the BuzzFeed news site on that date revealing Page’s contact with a Russian intelligence operative.

The indictment does not name Watkins, but the description of Reporter 2’s employment history matches hers.

Watkins began her career in Washington in 2013 as an intern for the McClatchy news service’s Washington bureau while she was a journalism student at Temple University in Philadelphia. She later worked for BuzzFeed and Politico. She began working for the New York Times late last year, covering national security. The seized records all predate her employment there, the paper reported.

A prosecutor informed Watkins on Feb. 13 about the seizure of her records, the New York Times reported. The paper learned of the matter on Thursday, the day after the Intelligence Committee made a terse announcement that it was cooperating with the Justice Department “in a pending investigation.”

Wolfe, who was arrested in Maryland but charged in D.C., was released Friday without bail. A federal prosecutor did not seek pretrial detention. His pretrial conditions included an appearance at the FBI Field Office in D.C. for processing on Monday at 9 a.m., and an appearance before Magistrate Judge Robin Meriweather at 1:45 p.m. Tuesday at the D.C. District Court.

Wolfe must also surrender his passport by Monday, cannot travel beyond Maryland except for his court appearance in D.C., cannot apply for employment involving security clearance without court approval and must check in regularly with his pretrial office, among other conditions.

1 p.m.: This story was updated with details from Wolfe’s court appearance.

Exhibit 4



THE UNITED STATES ATTORNEY'S OFFICE
DISTRICT *of* COLUMBIA

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Department of Justice

U.S. Attorney's Office

District of Columbia

FOR IMMEDIATE RELEASE

Thursday, June 7, 2018

**Former U.S. Senate Employee Indicted on False
Statements Charges**

**Longtime Director of Security for the Senate Select Committee on Intelligence
Accused of Lying to FBI About Repeated Contacts with Reporters**

WASHINGTON – A former staff employee of the Senate Select Committee on Intelligence (SSCI) has been indicted and arrested on charges of making false statements to special agents of the FBI during the course of an investigation into the unlawful disclosure of classified information, announced Assistant Attorney General for National Security John C. Demers, U.S. Attorney for the District of Columbia Jessie K. Liu, and Timothy M. Dunham, Special Agent in Charge of the Counterintelligence Division of the FBI's Washington Field Office.

James A. Wolfe, 57, of Ellicott City, Md., was indicted by a federal grand jury on three counts of violating Title 18, United States Code, Section 1001. At the time he made the alleged false statements to the FBI, Wolfe was Director of Security for the SSCI, a position he held for approximately 29 years. As SSCI Director of Security, Wolfe was entrusted with access to classified SECRET and TOP SECRET information provided by the Executive Branch, including the U.S. Intelligence Community, to the SSCI. In this position, Wolfe was responsible for safeguarding all classified information in the possession of the SSCI.

Wolfe is alleged to have lied to FBI agents in December 2017 about his repeated contacts with three reporters, including through his use of encrypted messaging applications. Wolfe is further alleged to have made false statements to the FBI about providing two reporters with non-public information related to the matters occurring before the SSCI.

"The Attorney General has stated that investigations and prosecutions of unauthorized disclosure of controlled information are a priority of the Department of Justice. The allegations in this indictment are doubly troubling as the false statements concern the unauthorized disclosure of sensitive and confidential information," said Assistant Attorney General Demers. "Those

entrusted with sensitive information must discharge their duties with honesty and integrity, and that includes telling the truth to law enforcement.”

“Mr. Wolfe’s alleged conduct is a betrayal of the extraordinary public trust that had been placed in him,” said U.S. Attorney Liu. “It is hoped that these charges will be a warning to those who might lie to law enforcement to the detriment of the United States.”

“All individuals in positions of trust must be held to the highest of standards, as the American public deserves no less,” said Special Agent in Charge Dunham. “As alleged in this indictment, Mr. Wolfe failed to meet those standards in his repeated lies to federal agents concerning the unauthorized disclosure of information. His arrest demonstrates that this conduct will not be tolerated, and those that engage in it will be held accountable.”

Wolfe was arrested on June 7, 2018, and is expected to make his first appearance Friday, June 8, in the U.S. District Court for the District of Maryland. The case is entitled United States v. James A. Wolfe, and the matter has been assigned to the Honorable Ketanji Brown Jackson in the U.S. District Court for the District of Columbia.

The charges in the indictment are merely allegations, and every defendant is presumed innocent unless and until proven guilty beyond a reasonable doubt. The maximum penalty for each count of making a false statement to federal law enforcement agents is five years in prison. The maximum statutory sentences are prescribed by Congress and are provided here for informational purposes. The sentencing of the defendant, if he is later convicted, will be determined by the court after considering the advisory Sentencing Guidelines and other statutory factors.

The investigation into this matter is being conducted by the FBI’s Washington Field Office. The case is being prosecuted by Assistant U.S. Attorneys for the District of Columbia, with assistance from the Counterintelligence and Export Control Section, National Security Division of the U.S. Department of Justice.

Attachment(s):

[Download wolfe_james - indictment - june 2018.pdf](#)

[Download wolfe_james - unsealing_order - june 2018.pdf](#)

Topic(s):

National Security

Component(s):

[National Security Division \(NSD\)](#)

[USAO - District of Columbia](#)

Press Release Number:

18-142

Updated June 8, 2018

Exhibit 5

The New York Times

Trump Says Russia Inquiry Makes U.S. 'Look Very Bad'

By Michael S. Schmidt and Michael D. Shear

Dec. 28, 2017

WEST PALM BEACH, Fla. — President Trump said Thursday that he believes Robert S. Mueller III, the special counsel in the Russia investigation, will treat him fairly, contradicting some members of his party who have waged a weekslong campaign to try to discredit Mr. Mueller and the continuing inquiry.

During an impromptu 30-minute interview with The New York Times at his golf club in West Palm Beach, the president did not demand an end to the Russia investigations swirling around his administration, but insisted 16 times that there has been “no collusion” discovered by the inquiry.

“It makes the country look very bad, and it puts the country in a very bad position,” Mr. Trump said of the investigation. “So the sooner it’s worked out, the better it is for the country.”

Asked whether he would order the Justice Department to reopen the investigation into Hillary Clinton’s emails, Mr. Trump appeared to remain focused on the Russia investigation.

“I have absolute right to do what I want to do with the Justice Department,” he said, echoing claims by his supporters that as president he has the power to open or end an investigation. “But for purposes of hopefully thinking I’m going to be treated fairly, I’ve stayed uninvolved with this particular matter.”

Hours after he accused the Chinese of secretly shipping oil to North Korea, Mr. Trump explicitly said for the first time that he has “been soft” on China on trade in the hopes that its leaders will pressure North Korea to abandon its nuclear weapons program.

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He hinted that his patience may soon end, however, signaling his frustration with the reported oil shipments.

“Oil is going into North Korea. That wasn’t my deal!” he exclaimed, raising the possibility of aggressive trade actions against China. “If they don’t help us with North Korea, then I do what I’ve always said I want to do.”

Despite saying that when he visited China in November, President Xi Jinping “treated me better than anybody’s ever been treated in the history of China,” Mr. Trump said that “they have to help us much more.”

“We have a nuclear menace out there, which is no good for China,” he said.

Mr. Trump gave the interview in the Grill Room at Trump International Golf Club after he ate lunch with his playing partners, including his son Eric and the pro golfer Jim Herman. No aides were present for the interview, and the president sat alone with a New York Times reporter at a large round table as club members chatted and ate lunch nearby. A few times, members and friends — including a longtime supporter, Christopher Ruddy, the president and chief executive of the conservative website and TV company Newsmax — came by to speak with Mr. Trump.

Noting that he had given Mr. Herman \$50,000 years ago when he worked at the president’s New Jersey golf club and was trying to make the PGA Tour, Mr. Trump asked him how much he made playing on the professional circuit.

“It’s like \$3 million,” Mr. Herman said.

“Which to him is like making a billion because he doesn’t spend anything,” Mr. Trump joked. “Ain’t that a great story?”

In the interview, the president touted the strength of his campaign victories and his accomplishments in office, including passage of a tax overhaul this month. But he also expressed frustration and anger at Democrats, who he said refused to negotiate on legislation.

“Like Joe Manchin,” Mr. Trump said, referring to the Democratic senator from West Virginia. He said Mr. Manchin and other Democrats claimed to be centrists but refused to negotiate on health care or taxes.

“He talks. But he doesn’t do anything. He doesn’t do,” Mr. Trump said. “‘Hey, let’s get together, let’s do bipartisan.’ I say, ‘Good, let’s go.’ Then you don’t hear from him again.”

Nonetheless, Mr. Trump said he still hoped Democrats will work with him on bipartisan legislation in the coming year to overhaul health care, improve the country’s crumbling infrastructure and help young immigrants brought to the country as children.

Mr. Trump disputed reports that suggested he does not have a detailed understanding of legislation, saying, “I know the details of taxes better than anybody. Better than the greatest C.P.A. I know the details of health care better than most, better than most.”

Later, he added that he knows more about “the big bills” debated in the Congress “than any president that’s ever been in office.”

The president also spoke at length about the special election this month in Alabama, where Roy S. Moore, the Republican candidate, lost to a Democrat after being accused of sexual misconduct with young girls, including a minor, when he was in his 30s.

Mr. Trump said that he supported Mr. Moore’s opponent in the Republican primary race because he knew Mr. Moore would lose in the general election. And he insisted that he endorsed Mr. Moore later only because “I feel that I have to endorse Republicans as the head of the party.”

Mr. Mueller’s investigation appears to be moving ahead despite predictions by Mr. Trump’s lawyers this year that it would be over by Thanksgiving. Mr. Trump said that he was not bothered by the fact that he does not know when it will be completed because he has nothing to hide.

Mr. Trump repeated his assertion that Democrats invented the Russia allegations “as a hoax, as a ruse, as an excuse for losing an election.” He said that “everybody knows” his associates did not collude with the Russians, even as he insisted that the “real stories” are about Democrats who worked with Russians during the 2016 campaign.

“There’s been no collusion. But I think he’s going to be fair,” Mr. Trump said of Mr. Mueller.

In recent weeks, Republican lawmakers have seized on anti-Trump texts sent by an F.B.I. investigator who was removed from Mr. Mueller’s team as evidence of political bias. At a hearing this month, Representative Jim Jordan, Republican of Ohio, said that “the public trust in this whole thing is gone.”

Although Mr. Trump said he believes Mr. Mueller will treat him fairly, Mr. Trump raised questions about how the special counsel had dealt with the lobbyist Tony Podesta. Mr. Podesta is the brother of Mrs. Clinton’s campaign chairman, John D. Podesta, and Tony Podesta is under investigation for work his firm, the Podesta Group, did on behalf of a client referred to it in 2012 by Paul Manafort, the former Trump campaign chairman.

“Whatever happened to Podesta?” Mr. Trump said. “They closed their firm, they left in disgrace, the whole thing, and now you never heard of anything.”

Mr. Trump tried to put distance between himself and Mr. Manafort, who was indicted in October. The president said that Mr. Manafort — whom he called “very nice man” and “an honorable person” — had spent more time working for other candidates and presidents than for him.

“Paul only worked for me for a few months,” Mr. Trump said. “Paul worked for Ronald Reagan. His firm worked for John McCain, worked for Bob Dole, worked for many Republicans for far longer than he worked for me. And you’re talking about what Paul was many years ago before I

ever heard of him. He worked for me for — what was it, three and a half months?”

Mr. Trump said it was “too bad” that Jeff Sessions, the attorney general, recused himself from overseeing the Russia investigation. Mr. Trump did not directly answer a question about whether he thought that Eric H. Holder Jr., President Barack Obama’s first attorney general, was more loyal than Mr. Sessions had been.

“I don’t want to get into loyalty, but I will tell you that, I will say this: Holder protected President Obama. Totally protected him,” Mr. Trump said. He added: “When you look at the things that they did, and Holder protected the president. And I have great respect for that, I’ll be honest.”

Mr. Trump said he believes members of the news media will eventually cover him more favorably because they are profiting from the interest in his presidency and thus will want him re-elected.

“Another reason that I’m going to win another four years is because newspapers, television, all forms of media will tank if I’m not there because without me, their ratings are going down the tubes,” Mr. Trump said, then invoked one of his preferred insults. “Without me, The New York Times will indeed be not the failing New York Times, but the failed New York Times.”

He added: “So they basically have to let me win. And eventually, probably six months before the election, they’ll be loving me because they’re saying, ‘Please, please, don’t lose Donald Trump.’ O.K.”

After the interview, Mr. Trump walked out of the Grill Room, stopping briefly to speak to guests. He then showed off a plaque that listed the club’s golf champions, including several years in which Mr. Trump had won its annual tournament. Asked how far he was hitting balls off the tee these days, Mr. Trump, who will turn 72 next year, was modest. “Gets shorter every year,” he said.

Michael S. Schmidt reported from West Palm Beach, and Michael D. Shear from Washington.

A version of this article appears in print on Dec. 29, 2017, on Page A1 of the New York edition with the headline: President Says Inquiry Makes U.S. Look Bad

Exhibit 6

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	Criminal Action No. H-09-342
	§	
ROBERT ALLEN STANFORD,	§	
LAURA PENDERGEST-HOLT,	§	
GILBERTO LOPEZ, MARK	§	
KUHRT, <i>and</i> LEROY KING	§	

ORDER

On June 18, 2009, a federal grand jury in the Southern District of Texas returned a twenty-one count indictment against Defendants Robert Allen Stanford, Laura Pendergest-Holt, Gilberto Lopez, Mark Kuhrt, and Leroy King (“Defendants”). The indictment alleges the Defendants, in controlling Stanford Financial Group and its affiliated companies including Stanford International Bank, Ltd., conspired to commit and did commit mail fraud and wire fraud, conspired to commit securities fraud and money laundering, and conspired to obstruct and did obstruct a Securities Exchange Commission investigation. Defendant Robert Allen Stanford’s jury trial in this case is set to commence January 24, 2011.¹

Additionally, two civil cases related to the actions giving rise to the criminal case are pending—*Securities and Exchange Commission v. Stanford International*

¹On June 23, 2010, the Court granted Defendant Laura Pendergest-Holt’s motion for severance, joined by Defendants Gilberto Lopez and Mark Kuhrt. They will jointly proceed to trial following Defendant Robert Allen Stanford’s trial.

Bank, Ltd., et al.; Case No. 3-09-CV-298-N, filed on February 17, 2009 in the United States District Court for the Northern District of Texas, Dallas Division (the “SEC Action”) and *Laura Pendergest-Holt v. Certain Underwriters at Lloyd’s of London*, Case No. 4:09-CV-3712 filed on November 17, 2009 in the United States District Court for the Southern District of Texas, Houston Division (the “Declaratory Action”). In the former, the SEC alleges Defendants orchestrated a multi-billion dollar Ponzi scheme in which they, *inter alia*, conspired to deceive investors and sold sham certificates of deposit. *Sec. & Exch. Comm’n v. Stanford Int’l Bank, Ltd., et al.*, No. 3:09-CV-298 (N.D. Tex. filed Feb. 17, 2009). In the latter, Laura Pendergest-Holt, Robert Allen Stanford, Gilberto Lopez, and Mark Kuhrt brought a declaratory judgment action against Certain Underwriters at Lloyd’s of London (“Certain Underwriters”) and Arch Specialty Insurance Company seeking an order directing Certain Underwriters to pay their defense costs in both the SEC Action and this case. *Laura Pendergest-Holt, et al. v. Certain Underwriters at Lloyd’s of London, et al.*, No. 4:09-CV-3712 (S.D. Tex. filed Nov. 17, 2009).

The Court takes judicial notice that these cases have received extensive media coverage—locally, nationally, and internationally—which the Court does not foresee subsiding.² See *United States v. Brown*, 218 F.3d 415, 423, 431–32 (5th Cir. 2000)

²See, e.g., Laurel Brubacker Calkins and Andrews M. Harris, *Undisclosed Stanford Loans Prove Fraud, Examiner Says*, BLOOMBERG (Aug. 26, 2010),

(affirming the trial court's denial of a motion to modify or vacate a gag order directed at trial participants in part because of the possible prejudicial effect of extrajudicial statements made by trial participants where two related cases were concurrently pending). The Court also takes judicial notice that some of the trial participants have demonstrated a willingness to "try this case in the press."³ *See Brown*, 218 F.3d at 423, 439. Such heightened publicity surrounding these proceedings potentially poses a significant danger to providing a fair trial by impartial jurors. *See Pennekamp v. Florida*, 328 U.S. 331, 357–58 (1946). The Court has an affirmative duty to take

<http://www.bloomberg.com/news/2010-08-26/undisclosed-stanford-loans-prove-fraud-witness-says-in-lloyd-s-trial.html>; Bill McQuillen, Justin Blum, and Laurel Brubaker Calkins, *Allen Stanford Indicted by U.S. in \$7 Billion Scam*, BLOOMBERG, (June 19, 2009) <http://www.bloomberg.com/apps/news?pid=newsarchive&sid=aMEDm0Rhcbo>; Graeme Wearden, *Allen Stanford indicted on fraud charges after surrendering to FBI*, THE GUARDIAN, June 19, 2009, <http://www.guardian.co.uk/world/2009/jun/19/allen-stanford-arrested>; Mary Flood, Tom Fowler, and Jennifer Dlouhy, *Stanford among 6 indicted in Ponzi scam*, HOUS. CHRONICLE, June 20, 2009, <http://www.chron.com/dispatch/story.mpl/business/stanford/6487122.html>; Amir Efrati, *Stanford Defense Turns into Legal Circus*, June 5, 2010, <http://online.wsj.com/article/SB10001424052748704080104575286760595101400.html>. *See generally Stanford scandal*, HOUS. CHRONICLE, <http://www.chron.com/business/stanford/> (web log tracking the Stanford cases); *Stanford Financial Group*, N.Y. TIMES, http://topics.nytimes.com/top/news/business/companies/stanford_financial_group/index.html (same); *Allen Stanford*, <http://www.guardian.co.uk/world/allen-stanford> (same).

³Michael Rothfeld, *Texas Prison is Technology Vortex, Allen Stanford Says*, W. ST. J. (Aug. 13, 2010), <http://blogs.wsj.com/law/2010/08/13/texas-prison-is-technology-vortex-allen-stanford-says/>; Mary Flood, *Yet another lawyer wants to enter Stanford case*, HOUS. CHRONICLE, June 3, 2010, <http://www.chron.com/dispatch/story.mpl/business/stanford/7035307.html>; Mary Flood, *Stanford's new lawyer says client has already fired him*, HOUS. CHRONICLE, May 14, 2010, <http://www.chron.com/dispatch/story.mpl/side/7005883.html>.

preventative measures in order to avert prejudicial pretrial publicity. *Sheppard v. Maxwell*, 384 U.S. 333, 363 (1966). The objective of the Court is to institute “those remedial measures that will prevent the prejudice at its inception.” *Brown*, 218 F.3d at 431.

Because the Court finds that there is a substantial likelihood that extrajudicial commentary by trial participants might taint the jury pool and might undermine a fair trial, to which both the Defendants and the public are entitled, and no other available remedy would effectively mitigate the effect of prejudicial publicity, it is necessary to issue this Order, *sua sponte*, as the least restrictive measure to preserve a fair trial. *See Brown*, 218 F.3d at 427–28 (recognizing the “substantial likelihood” standard as applied to restrictions aimed at extrajudicial statements by trial participants); *see also Neb. Press Ass’n v. Stuart*, 427 U.S. 539, 555 (1976) (endorsing proposed measures available to trial judges to mitigate prejudicial effects of pretrial publicity, including prohibiting extrajudicial comments by trial participants but short of applying prior restraints on the press). Accordingly, the Court hereby

ORDERS that from this date until the final disposition in this case: (i) the prosecuting attorneys and any and all members of their respective staffs; (ii) the alleged victims and all other designated or potential witnesses expected to be called by either side; and (iii) the Defendants and their attorneys, and their respective staffs,

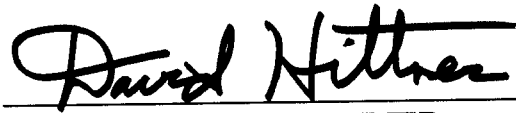
their representatives, and their agents, including publicity agents, shall not give, authorize, or permit any extrajudicial statement to any person associated with any public communications media relating to the trial, the parties, the witnesses, or the issues in this case, which (a) may reasonably be expected or have the potential to interfere with a fair trial or prejudice the Defendants, the prosecutors, or the administration of justice and (b) which is not a matter of public record. Testimony given before the grand jury and tapes or transcripts of tapes made by any of the above parties prior to this trial are not public information. Prejudicial information or statements includes information and statements intended to influence public opinion regarding the merits of this case. The attorneys in this case are ordered to insure that all persons within the categories described in this paragraph who are or may be involved in the attorneys' respective side (whether prosecution or defense) are fully informed of the content of this Order.

Nothing set forth above shall prohibit any of the above persons from the following:

(1) stating, without any elaboration: (a) the general nature of an allegation or defense made in this case; (b) information contained in the public record of this case; (c) scheduling information; (d) any decision made or order issued by the Court, which is a matter of public record;

(2) stating, without any elaboration, the contents or substance of any motion or step in the proceedings, to the extent such motion or step is a matter of public record in this case and any ruling made thereon to the extent that such ruling is a matter of public record.

SIGNED at Houston, Texas, on this 30 day of September, 2010.

A handwritten signature in black ink, reading "David Hittner", written over a horizontal line.

DAVID HITTNER
United States District Judge

Exhibit 7

2001 WL 1000694

Only the Westlaw citation is currently available.
United States District Court, District of Columbia.

UNITED STATES of America

v.

Kevin L. GRAY, et al.

No. 00-157(RCL).

|

June 14, 2001.

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[Timothy J. Sullivan, Esq.](#), College Park, MD, Co-counsel for Deon Oliver.

ORDER

[LAMBERTH](#), District J.

*1 Based on the representations in the Joint unopposed Motion for Order Governing Extrajudicial Statements,

and pursuant to Local Criminal Rule 57.7(c), this Court hereby finds that the instant case is “widely publicized” and will continue to generate an unusually high level of interest among the citizens of the District of Columbia. Accordingly, the Court exercises its authority under our local rules and hereby issues this “special order governing ... extrajudicial statements by parties, witnesses, and attorneys.” L. Cr. R. 57.7(c).

A. None of the lawyers appearing in this case or any persons associated with them, including any persons with supervisory authority over them, will release or authorize the release of information or opinion about this criminal proceeding which a reasonable person would expect to be disseminated by any means of public communication, if there is a reasonable likelihood that such dissemination will interfere with a fair trial of the pending charges or otherwise prejudice the due administration of justice.

B. This duty to refrain from prejudicial disclosures requires all counsel to take reasonable precautions to prevent all persons who have been or are now participants in or associated with the investigations conducted by the prosecution and defense from making any statements or releasing any documents that are not in the public record and that are reasonably expected to be publicly disseminated which would be likely to materially prejudice the fairness of this criminal proceeding.

C. None of the lawyers appearing in this case or any persons associated with them, including any persons having supervisory authority over them, shall release or authorize the release of any extrajudicial statement which a reasonable person would expect to be disseminated by any means of public communication, concerning any of the following matters related to this case:

- (1) The prior criminal record (including arrests, indictments, or other charges of crime), or the character or reputation of the defendants, except insofar as such statements are reasonably likely to assist in the apprehension of an accused who has not yet been arrested or to warn the public of any dangers which that accused may present;
- (2) The existence or contents of any statements given by the defendants to any law enforcement personnel or the refusal or failure of the defendants to make any statements to law enforcement personnel;

(3) The performance of any examinations or tests or any defendant's refusal or failure to submit to any examination or test;

(4) The identity, testimony, or credibility of any prospective witness, except that the lawyer or his agent may announce the identity of a victim, if the announcement is not otherwise prohibited by law;

(5) The possibility of a plea of guilty to the offenses charged or a lesser offense;

(6) Any opinion as to the guilt or innocence of the defendants or as to the merits of the case or the quality or quantity of evidence as to any charge in the case.

***2** D. The foregoing shall not be construed to prevent any of the lawyers appearing in this case or any persons associated with them, including any persons having supervisory authority over them, from quoting or referring without comment to public records of the court in the case; from announcing the identity of the investigating and arresting officer or agency, and the length of the investigation; from providing information regarding the scheduling or result of any step in the judicial process; from requesting assistance in obtaining evidence; or from announcing without further comment that the defendants deny all charges made against them.

E. Before the trial jury is empaneled, none of the lawyers in this case or those associated with them, including those with supervisory powers over them, shall give or authorize any extrajudicial statement or interview relating to the trial or the parties or issues in the trial, which a reasonable person would expect to be disseminated by means of public communication if there is a reasonable likelihood that such dissemination will interfere with a fair trial, except that a lawyer may quote from or refer without comment to public records of the court in the case and may give such explanations of pleadings and hearings as may assist the public in understanding the legal issues being presented and the relationship of any hearing or ruling to the trial process without expressing any opinions as to the merits of the positions and arguments of any party or giving any predictions concerning the expected result.

F. All court supporting personnel, including, among others, marshals, deputy marshals, court clerks, deputy court clerks, court reporters and employees or

subcontractors retained by the court-appointed official reporters, are prohibited from disclosing to any person, outside of their official duties and without authorization by the court, any information relating to this criminal case that is not a part of the public records of the court. All personnel are also forbidden from divulging outside of their official duties information concerning any sealed filings, in camera arguments and hearings held outside the presence of the public.

G. Counsel for all parties shall exercise caution in filing papers in the public record in this case to avoid

references to confidential documents or such references to information contained in them as would reveal the sources and contents of those documents. If a proper presentation of a party's position requires the use of copies of sealed documents or such references to the information in them as described herein, that portion of the filing shall be submitted under seal.

All Citations

Not Reported in F.Supp.2d, 2001 WL 1000694

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