

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 3:21-cr-22(S4)-MMH-MCR

KRISTOPHER JUSTINBOYER ERVIN
MATTHEW RAYMOND HOOVER

**MOTION FOR ORDER PROHIBITING DISSEMINATION OF
PRESENTENCE INVESTIGATION REPORT**

The United States of America, by and through the undersigned Assistant United States Attorney, hereby notifies this Court that there is cause to believe that defendant Hoover, via his wife, has transmitted a copy of his Presentence Investigation Report (PSR) to certain YouTube personalities with the intention that those individuals use the PSR to create YouTube videos.

I. Factual Background

On August 1, 2023, the initial PSRs were disclosed in this case by the U.S. Probation Office (Docs. 294, 295). The PSRs are sealed and intended only to be available to the parties to the case and Court personnel. Each of the PSRs warns on the third page that “[i]t is the policy of the federal judiciary and the Department of Justice that further redisclosure of the presentence investigation report is prohibited without the consent of the sentencing judge.” Doc. 294 at 3; Doc. 295 at 3.

On August 3, 2023, at 8:23 pm, Hoover placed a recorded phone call to John Crump, who operates the YouTube channel John Crump News. Hoover informed Crump that he had received his PSR and proceeded to discuss his sentencing

guidelines with Crump as well as information contained in the PSR related to potential upward departures. Crump informed Hoover that he had received many inquiries about the sentencing, and asked if he could make a video about the information Hoover had told him about the sentencing guidelines. Hoover said “you can do whatever you want man.” Hoover stated that he did not believe he was going to have his wife cover the PSR on his own channel (CRS Firearms).

On August 3, 2023, at 8:39 pm, Hoover placed a recorded phone call to Richard Hughes, who operates the YouTube channel FlyingRich. Hoover informed Hughes of the sentencing guidelines recommendations in both his and Ervin’s PSRs. Hughes asked Hoover “should I talk about this, or not talk about this?” Hoover stated that it was “a little bit too close to home” for him, “so you and Crump can run with this one.” Hoover indicated that he believed that Crump would be able to obtain a copy of the PSR online. Hughes and Hoover continued to discuss information in the PSR. Later, Hughes added Crump to the call. Hoover said that Crump should obtain a copy of the PSR, or Hoover’s “girl” had a copy and could send it to Crump. Crump stated that he would do a video on it the next day. Hoover, Crump, and Hughes then discussed logistics for publishing the videos in order to get the most views, and Hoover stated that he would have his wife send the PSR to Hughes who could then send it to Crump. Hoover stated that his wife did not have Ervin’s PSR, but she could “text you the rough ins and outs of what it’s about.” Toward the end of the call, Hoover’s wife, Erica Hoover, joined the call. Hoover told her “babe I need you to send my PSI to Rich cuz he’s going to cover the

story [unintelligible] cover direct because it's a little too close to home and I don't want the prosecutor to try using it. So send my PSI to Rich – he's going to cover the story, they're going to talk about the shit – let me call you right back.”

On August 3, 2023, at 9:01 pm, Hoover again called Hughes, who joined Crump and Erica Hoover to the call. Hoover again discussed that he did not want to discuss the PSR on his own channel, and he wanted Crump and Hughes to do it. Crump stated he would give Erica Hoover a “heads up on some stories that are coming out that'll be, uh, big.” Hoover again stated he did not want the PSR covered on his own channel “because the prosecutor'll show it and be like, you know – babe, I dunno babe.” Hoover indicated he wanted Crump and Hughes to have this story due to all of the help that they have provided to him.

On August 3, 2023, at 9:04 pm, Hoover called his wife and told her to “get them the PSI right away” and stated “they deserve this story” because Crump had set up fundraisers for Hoover and Hughes had done “thousands of dollars worth of work” for them. Erica Hoover stated she was unsure because she did not want Hoover's attorney to yell at her, and Hoover stated “for what? Just send them the – if there is a problem, tell him to talk to me.” Erica Hoover asked “is that public information?” and Hoover stated that it was, although it was not on PACER.

On August 4, 2023, Crump posted a video titled “Auto KeyCard Update: Sentencing Update! (ft @flyingRich)” (*available at* <https://www.youtube.com/watch?v=rF2tM2kyRoQ>) and Hughes posted a video titled “CRS Firearms Sentencing @JohnCrumpNews” (*available at*

<https://www.youtube.com/watch?v=R9HokWKfUM>), which discuss materials contained in the PSRs for Ervin and Hoover.¹ The United States has preserved copies of these two videos.

On August 4 and 5, 2023, Hoover continued to make phone calls to Crump and Hughes, who confirmed that they had made videos about the PSR. Hughes

¹ These videos prompted a deluge of inflammatory and threatening comments directed primarily to the undersigned and also to this Court, including:

- “as long as there are no lethal consequences for that prosecutor, you can expect this to happen again and again” and a reply to that comment reading “That ‘persecutor’ having to deal with cancer is just the beginning of his [sic] karma. The whole matter is a travesty, and the evil pricks are loading up on bad karma big time... and they deserve every bit of it. Waiting for that ‘judge’ to get some bad news, too.”
- “Be a shame if prosecutor’s cancer was complimented with Lead Poisoning. God speed suffering ends at terminal velocity.”
- “I would hate to have the Karma that the Prosecutor has earned for herself. Then again I wouldn’t want her job, I enjoy sleeping at night.”
- “Sounds like the prosecutor is getting punished for her evil.”
- “Some times cancer can be [a] good thing.” With a reply: “the body’s side reaction to cancer treatment I would not wish on anyone..... but the likes of this EVIL prosecutor, an exception is granted.”
- “‘Prosecutor had to have cancer treatment.’ Couldn’t have happened to a more worthy girl. [dabbing emoji] Hope it’s pancreatic.” And a reply “Nah God willing its upgraded to terminal cancer” and another reply: “Hope it spreads.”
- A comment to the effect that arresting Hoover was done to send a message, and a reply stating “Its [sic] a message that will get them killed.”
- “Court system is really only good at breaking up the family unit” and a reply reading “Should’ve never gotten to that point. These men should’ve just started dropping cops.”
- “I’m glad the prosecutor isn’t happy. In fact I hope cancer is happily doing it’s [sic] work.”
- “He shouldn’t get any time at all. The judge and prosecutor should be locked up for their obvious lack of a brain and being a danger to society.”

Several of these comments that were left on Crump’s video were “liked” by Crump.

stated that he had received the PSR from Erica Hoover, but he did not see it until after he published his video.

II. Pertinent Legal Authority

“Presentence reports are not public records but rather confidential reports to the trial judge for use in his effort to arrive at a fair sentence.” *United States v. Martinello*, 556 F.2d 1215, 1216 (5th Cir. 1977).² There is a “general presumption that courts will not grant third parties access to the presentence reports of other individuals.” *United States v. Huckaby*, 43 F.3d 135, 138 (5th Cir. 1995) (internal quotation and citation omitted). Additionally, the local rules of the Middle District of Florida state that a lawyer, “directly or through a surrogate must not extrajudicially and publicly disclose” information including several categories of information that are contained in the PSR. Local Rule 3.11. Disclosure of the PSR “chills’ this Court’s administration of justice as it may affect the willingness of individuals who contribute to such reports to assist in the report’s creation.” Doc. 103 at 5 in *United States v. Phillips*, Case No. 3:18-cr-142-BJD-MCR (M.D. Fla. Apr. 28, 2022).

As described above, the PSRs for both defendants contain warnings that it is against the policy of the federal judiciary and the Department of Justice to disseminate the PSR without the consent of the Court. Doc. 294 at 3; Doc. 295 at 3.

² In *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc), the Eleventh Circuit adopted as binding precedent all the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

No such consent has been granted in this case. Moreover, the initial PSR that Crump and Hughes reported on at Hoover's behest contains only preliminary calculations and statements of fact that routinely are amended before the sentencing hearing via the process outlined in Federal Rule of Criminal Procedure 32 and as overseen by the probation officer – which process is generally not public. Finally, the publication of non-final and non-public information about this case serves no legitimate purpose and rather appears to be aimed at generating vitriol against the undersigned and this Court with the intent to intimidate and obstruct these proceedings while generating views and profits for Hoover, Crump, and Hughes.

CONCLUSION

WHEREFORE, the government requests that this Court issue an order reiterating that the PSRs are non-public documents and may not be disseminated beyond court personnel, the defense teams, and the U.S. Attorney's Office, and order that any individuals who possess a copy of the PSR without authority (including Crump, Hughes, and Erica Hoover) destroy it and confirm its destruction in writing,

and any other relief this Court deems necessary to protect the sentencing process in this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 7, 2023, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

Alex King, Esq.
Counsel for defendant KRISTOPHER JUSTINBOYER ERVIN

Zachary Z. Zermay
Matthew LaRosiere
Counsel for defendant MATTHEW RAYMOND HOOVER

s/ Laura Cofer Taylor _____
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