

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
23-80101-CR-CANNON/REINHART
CASE NO. _____

Jun 8, 2023
ANGELA E. NOBLE
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

IN RE SEALED INDICTMENT

_____ /

MOTION TO SEAL

The Special Counsel, by and through its undersigned Assistant Special Counsel, respectfully requests that the Indictment, judicial summonses, related paperwork, and any resulting order be SEALED until the initial appearance of the first defendant or until further order of this Court, with the exceptions noted below. In support of this motion, the Special Counsel’s Office submits as follows:

1. On June 8, 2023, the Grand Jury returned an Indictment charging Donald J. Trump with 31 counts of Willful Retention of National Defense Information, in violation of 18 U.S.C. § 793(e). The Indictment also charges Trump and Waltine Nauta with Conspiracy to Obstruct Justice, in violation of 18 U.S.C. § 1512(k); Withholding a Document or Record, in violation of 18 U.S.C. § 1512(b)(2)(A); Corruptly Concealing a Document or Record, in violation of 18 U.S.C. § 1512(c)(1); Concealing a Document in a Federal Investigation, in violation of 18 U.S.C. § 1519; Scheme to Conceal, in violation of 18 U.S.C. § 1001(a)(1); and False Statements and Representations, in violation of 18 U.S.C. § 1001(a)(2).

2. As alleged in the Indictment, the charges arise from Trump’s unlawful possession and retention of classified documents after his term as President of the United States ended, and the defendants’ conspiracy to hide and conceal that from the FBI and a federal grand jury.

3. The Special Counsel’s Office informed Trump on May 19, 2023, and Nauta on May 24, 2023, of their status as targets of the Grand Jury’s investigation. The Special Counsel’s Office

has not confirmed to Trump or Nauta the decision to seek an indictment or of the Grand Jury's return of the Indictment.

4. The events leading to the Indictment have been the subject of extensive public scrutiny and media reporting. The Special Counsel's Office anticipates that public disclosure of the Indictment will generate additional public and media interest, which may require steps to maintain public order and security.

5. The Special Counsel's Office has requested that the Court issue a judicial summons commanding the defendants to appear on Tuesday, June 13, 2023.

6. The above considerations mitigate in favor of delaying public disclosure of the Indictment and keeping the case under seal until the Trump and/or Nauta's first appearance or further order of the Court. *See United States v. Edwards*, 777 F.2d 644, 648 (11th Cir. 1985) (explaining that reasons other than taking a defendant into custody validly support the sealing of an indictment, including "[w]here the public interest requires it, or for other sufficient reason' or 'for sound reasons of policy'") (quoting *United States v. Southland*, 760 F.2d 1366, 1379-80 (2d Cir. 1985)).

7. The same reasons supporting the sealing of the case and delaying public disclosure of the Indictment until Trump and/or Nauta's first appearance or further order of the Court support authorizing the Special Counsel's Office to make limited disclosure of the fact that the Grand Jury has returned an Indictment and that there will be an initial court appearance on June 13, 2023, as follows:

- a. To attorneys for Trump and Nauta to effectuate service of the judicial summonses, make arrangements for their court appearances and booking, discuss court procedures and scheduling, and make arrangements for producing discovery;
- b. To local and federal law enforcement and other government agencies for the purposes of ensuring public order, witness security, the integrity of the judicial proceedings, and other government interests, as well as to make logistical preparations for the defendants' court appearances and booking;

- c. To witnesses and their attorneys to protect against harassment and intimidation;
- d. To the United States District Court of the District of Columbia, under seal, in relation to grand jury and sealed matters in that jurisdiction; and
- e. As necessary to advance the law enforcement and security purposes and equities set forth above.

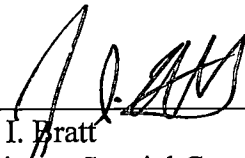
A proposed order is attached.

Date: 6/8/23

Respectfully submitted,

JACK SMITH
Special Counsel

By:



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