

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	
	:	Case No. 21-mj-47 (ZMF)
v.	:	
	:	<u>UNDER SEAL</u>
DOMINIC PEZZOLA,	:	
	:	
Defendant.	:	
_____	:	

GOVERNMENT’S MOTION TO AMEND SEALING ORDER

The United States of America, moving by and through its undersigned counsel, respectfully moves the Court to amend the Order it issued on January 13, 2021 placing the above-captioned warrant, complaint, and the application and affidavit in support thereof, and all attachments thereto and other related materials (collectively herein the “Arrest Warrant”) under seal. The Government requests that the Court amend the Order to say that the redacted complaint and affidavit will automatically unseal upon the defendant's arrest. In support of this motion, the government states:

1. The Court has the inherent power to seal court filings when appropriate, including the Arrest Warrant. *United States v. Hubbard*, 650 F.2d 293, 315-16 (D.C. Cir. 1980) (citing *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598 (1978)). More particularly, the Court may seal the Arrest Warrant to prevent serious jeopardy to an ongoing criminal investigation when, as in the present case, such jeopardy creates a compelling governmental interest in preserving the confidentiality of the Arrest Warrant. *See Washington Post v. Robinson*, 935 F.2d 282, 287-89 (D.C. Cir. 1991).

2. January 13, 2021, the government applied for an Arrest Warrant in this matter. The Arrest Warrant details the facts supporting probable cause to believe that Dominic Pezzola violated

Title 18, United States Code, Sections 1361, 1512(c)(2), and 1752(a). The Court signed the complaint and warrant, and it ordered the documents sealed until further order of the Court.

3. On January 14, 2021, the government received word through an attorney for the defendant that the defendant is prepared to turn himself in or around Rochester, New York, at approximately 11:00 a.m. on January 15, 2021. At that point, the government will have the defendant in custody, where he will have diminished ability to flee and/or destroy evidence.

4. For the foregoing reasons, the government respectfully requests that Court sign the proposed modified sealing order attached hereto, which is consistent with the government's request in this motion.

Respectfully submitted,

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_____	:	

MODIFIED ORDER

The United States has filed a motion to modify this Court’s order seal the above-captioned complaint and warrant and related documents, including the application and affidavit in support thereof and all attachments thereto and other related materials (collectively the “Arrest Warrant”). This order supersedes previous orders issued in this case.

The Court finds that the United States has established that a compelling governmental interest exists to justify the requested sealing, and that there is reason to believe that disclosure of the Arrest Warrant would jeopardize the investigation by providing the subject of the investigation an opportunity to destroy evidence or flee and jeopardize the investigation by disclosing the details of facts known to investigators, the identities of witnesses, and the investigative strategy.

IT IS FURTHER ORDERED that, notwithstanding this Order to Seal, the Government may disclose the Arrest Warrant to (1) appropriate U.S. and foreign law enforcement officials and other officials and personnel to the extent that such disclosure is in furtherance of national security or efforts to locate, arrest, detain, transfer, extradite, or expel the defendant, and (2) the court, court officials, and defense counsel in this district or any other appropriate district as necessary to conduct any court proceedings in that district.

IT IS FURTHER ORDERED that the redacted complaint and redacted affidavit in support of an arrest warrant will become automatically unsealed at such time as the defendant is taken into custody in connection with this case. As soon as practicable thereafter, the government shall alert the clerk's office in this Court to the defendant's arrest, and the Clerk will unseal the docket in a timely manner thereafter. Notwithstanding whether the Clerk has unsealed the docket, the government may treat the redacted complaint and redacted affidavit in support thereof as unsealed once the defendant has been taken into custody in connection with this case.

It is, therefore, this 14th day of January, 2021,

ORDERED that the motion is hereby GRANTED, and that the Arrest Warrant, Complaint, Related Documents, the instant motion to seal, and this Order be SEALED until the defendant's arrest as described above, or further order of this Court, whichever occurs first.

ZIA M. FARUQUI
UNITED STATES MAGISTRATE JUDGE