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March 21, 2011 3:24 PM

TRACEY CORDES, CLERK
U.S. DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
BY: / / SCANNED BY: / / 5/23

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

No. 1:09-CR-385

Plaintiff,

Hon. Robert Holmes Bell
United States District Judge

vs.

JESSE WILLIAM WATERS,

Defendant.

UNDER SEAL

_____ /

MOTION TO UNSEAL INDICTMENT

Now comes the United States of America by Donald A. Davis, United States Attorney for the Western District of Michigan, and Assistant United States Attorney Hagen W. Frank, and moves this Court to unseal the Indictment.

The Government presented this matter to the grand jury for indictment in December 1999 in order to comply with the requirement of 18 U.S.C. § 3295 that an indictment for arson be found within 10 years of the offense. At that time, however, one of the Government's anticipated witnesses was actively assisting the FBI as a cooperating human source (CHS) in its conduct of other arson investigations in numerous other Federal judicial districts. In order to avoid compromising the identity of that CHS before his or her investigative utility was exhausted, the Government sought and obtained an Order sealing the case for an indefinite duration.

As a result of the CHS's cooperation, a sealed indictment in an unrelated matter was returned in the Southern District of Indiana on April 14, 2010. That case was unsealed on September 14, 2010, and trial is set to commence on May 23, 2011. Accordingly, it is anticipated that the CHS's identity and activities with the FBI will be disclosed in the near future in the course of discovery in the Southern Indiana case. Further, the undersigned is informed by

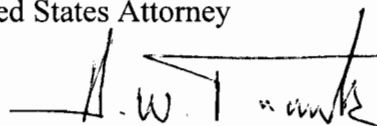
the FBI that the utility of the CHS, as such, will have been exhausted within the next few weeks, and that no other active investigations are pending in which he is involved.

Accordingly, the Government's investigative equities no longer support keeping the matter sealed, and the Government therefore requests the Court unseal this matter in order that the case may go forward.

WHEREFORE, the United States requests that the Court order the Indictment unsealed. A proposed Order is attached.

Respectfully submitted,

DONALD A. DAVIS
United States Attorney

A handwritten signature in black ink, appearing to read "H. W. Frank", is written over a horizontal line. The signature is stylized and somewhat cursive.

HAGEN W. FRANK
Assistant United States Attorney

Dated: 18 March 2011