

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

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|---------------------------|---|----------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | 1:10-cr-0061-SEB-KPF |
| |) | 1:12-cr-0013-SEB-KPF |
| |) | |
| DANIEL A. KRUK, |) | |
| |) | |
| Defendant. |) | |

**COMBINED ENTRY ON THE GOVERNMENT'S MOTION FOR
PROTECTIVE ORDER, THE DEFENDANT'S MOTION TO COMPEL
PRODUCTION OF BRADY MATERIAL,
AND
THE GOVERNMENT'S EMERGENCY MOTION TO SEAL DOCUMENTS**
(Dkt. Nos. 43, 45 & 47 and 20, 22 & 24)

This matter is before the Court on the Government's Motion for a Protective Order authorizing it to withhold certain sensitive materials from the discovery requested by Defendant as not relevant and/or privileged. In support of its motion, the Government has filed, *ex parte* and under seal, a separate Submission containing documents for the Court's *in camera* review. Defendant has responded by filing a Motion to Compel Production of *Brady* Material together with a supporting brief and exhibits.

The Court, having carefully and completely reviewed the parties' filings as well as all of the referenced exhibits, now finds that the materials requested by defense counsel and summarized in Government counsel's responsive letter dated March 13,

2012, do not contain exculpatory *Brady-type* material and otherwise are not relevant and/or privileged. Those documents are thus ordered withheld from the defendant.

Accordingly, the Government's Motion for Protective Order [Dkt. Nos. 43 & 20] is GRANTED and Defendant's Motion to Compel [Dkt. Nos. 45 & 22] is DENIED, except that the Court will permit counsel for Defendant Kruk along with their client to review, but not to have possession of or make copies of: (1) the transcript of the sentencing hearing for Defendant David Agranoff conducted on January 13, 2012, before the Honorable Tanya Walton Pratt; (2) Agranoff's plea agreement [Dkt. Nos. 44-3 & 21-3]; and (3) the Agranoff pre-sentence investigation report [Dkt. Nos. 44-6 & 21-6], in order to fully prepare for the upcoming change of plea and sentencing hearing scheduled for Mr. Kruk, on the chance that said materials may prove relevant to rebut or distinguish the appropriateness of a sentencing enhancement sought by the Government.

Also before the Court is the Government's Emergency Motion to Seal. The Court, having reviewed that motion, now finds that Defendant's Motion to Compel the Production of *Brady* Material and supporting brief with exhibits contain information that is law enforcement sensitive, discusses information that is not public and should not become public, and references documents that are otherwise under seal on the Court's docket. The Government's Motion to Seal [Dkt. Nos. 47 and 24] is thus GRANTED. The Clerk is directed to SEAL the filings at Docket Nos. 45 and 46 in Cause No. 1:10-cr-61-01 and Docket Nos. 22 and 23 in Cause No. 1:12-cr-13-01, and those filings shall remain under seal until further order of the Court.

The Court further ORDERS that before the parties file or attempt to file any other documents in this cause that pertain to or otherwise contain sensitive law enforcement matters, confidential information, or other non-public information, they shall first file an appropriate motion alerting the Court to the sensitivity of the documents, the need to file said documents under seal, and seek prior permission from the Court to do so.

IT IS SO ORDERED.

Date: 04/12/2012


SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana

Distribution to:

Electronically registered counsel of record