

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
UNITED STATES OF AMERICA,)	
)	
v.)	Criminal Action No. 12-40026-FDS
)	
JOHN J. O'BRIEN,)	
)	
<u>Defendant.</u>)	
_____)	

SUPPLEMENTAL ORDER ON MOTION TO COMPEL

March 22, 2013

SOROKIN, C.M.J.

The Court's March 13, 2013 Order directed the government to submit for in camera review documents from a state trial court responsive to the defendants' Request (3). The Court now has received copies of the documents from the government and reviewed them. They shall remain a sealed part of the court file.

The submitted documents are the types of documents typically found in a state criminal court file. They pertain to one individual, who is a person named in the Indictment as a Probation Department employee. The documents contain orders signed by a state court judge sealing the file(s). Although apparently still sealed, the state court at some point provided these documents to the government. The government has opposed disclosure both on the grounds that the documents are sealed and that they are not relevant to the pending Indictment. The defendants assert that the government contends this individual was not the "most qualified" for a position in the Probation Office in part because of a criminal record, but was hired anyway. According to the defense, the documents at issue are material because they demonstrate that the

criminal record was sealed and, therefore, not available to the defendants or the Probation Department for consideration when making their hiring decision.

After reviewing the documents, and in light of the foregoing arguments of counsel, I find that the documents are material to the preparation of the defendants' defense and shall be disclosed by the government to the defense within seven days, subject to the following protective order: As the state court orders sealing these documents appear to remain in place, neither the defendants nor any of their agents (e.g., defense counsel, staff, and investigators working on this case) shall disclose the documents, or information contained therein, without prior permission of the Court.

SO ORDERED.

/s/ Leo T. Sorokin
Leo T. Sorokin
Chief U.S. Magistrate Judge