

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA

§

Criminal No. 4:12-503-1

§

v.

§

JASON D. GANDY

§

§

**UNITED STATES' RESPONSE TO THE DEFENDANT'S MOTION
TO PROVIDE GRAND JURY TRANSCRIPTS**

The United States of America, by and through Nicholas J. Ganjei, United States Attorney and Kimberly Ann Leo, Assistant U.S. Attorney for the Southern District of Texas, requests the Court to deny the defendant's Motion to Provide Grand Jury Transcripts.

I. Procedural History

On August 15, 2012, a grand jury returned a one-count indictment against the Defendant. Doc.11.¹ Count 1 charged him with transportation of Minor Victim No. 1 with intent to engage in criminal sexual activity on or about July 19, 2012, in violation of 18 U.S.C. § 2423(a).

On September 17, 2014, a grand jury returned a three-count superseding indictment against the Defendant. Doc. 60. In addition to the original Count 1, Count 2 charged him with the sexual exploitation of Minor Victim No. 1 from on or about April 1, 2012, through on or about July 18, 2012, in violation of 18 U.S.C. 2251 (a) and (e) and Count 3 charged

¹ "Doc" refers to the docket entry in Criminal Case No. H-12-503-1 in the United States District Court for the Southern District of Texas. Page references are to the page number provided in the ecf-filing header.

him with the transportation of child pornography on or about July 19, 2012, in violation of 18 U.S.C. 2252A(a)(1) and (b).

On February 15, 2018, a grand jury returned a second superseding seven-count indictment against the Defendant:

- Count 1 charged him with transportation of Minor Victim No. 1 with intent to engage in criminal sexual activity on or about July 19, 2012, in violation of § 2423(a);
- Count 2 charged him with sexual exploitation of Minor Victim No. 1 to produce a visual depiction from on or about April 1 to July 18, 2012, in violation of 18 U.S.C. § 2251(a), (e);
- Count 3 charged him with transportation of child pornography on or about July 19, 2012, in violation of 18 U.S.C. § 2252A(a)(1), (b);
- Count 4 charged him with sex trafficking of Minor Victim No. 1 from on or about April 1 to July 19, 2012, in violation of 18 U.S.C. §§ 1591(a), (b) and 2;
- Count 5 charged him with sex trafficking of Minor Victim No. 2 from on or about November 1 to December 27, 2006, in violation of 18 U.S.C. §§ 1591(a), (b) and 2;²
- Count 6 charged him with sex trafficking of Minor Victim No. 3 from on or about June 1 to August 31, 2005, in violation of 18 U.S.C. §§ 1591(a), (b) and (2);
- Count 7 charged him with sex trafficking of Minor Victim No. 4 from on or about August 1 to November 31, 2007, in violation of 18 U.S.C. §§ 1591(a), (b) and (2).

Doc. 115. The Defendant proceeded to trial. On July 23, 2018, a jury convicted the Defendant on all seven counts. Doc. 167. On December 18, 2018, the Court sentenced the

² At trial, the district court granted the Government's request to correct, in the second superseding indictment, the dates for Count 5 to the following: November 1 to December 27, 2005. Doc. 189 at 9-11.

Defendant to 360 months' imprisonment on Counts 1-2 and 4-7, and 240 months' imprisonment on Count 3- all terms to run concurrently. Doc. 200.

The Defendant timely appealed. Doc. 202. The Fifth Circuit affirmed and the judgment issued as mandate on November 26, 2019. Doc. 229.

On February 2, 2021, the Defendant timely mailed to the Court a motion to vacate, set aside, or correct the sentence under § 2255. Doc. 238; *see* Doc. 244 (memorandum in support).

On December 6, 2021, the Court held an evidentiary hearing and on December 14, 2021, the Court denied the Defendant's 2255 motion. Doc. 262 and 267.

On October 2, 2024, the Defendant filed a Motion for Compassionate Release/to Reduce Sentence pursuant to 18 USC 3582(c)(1)(A). Doc. 292. On January 8, 2025, the Court denied the motion. Doc. 293.

On January 29, 2025, the Defendant filed a notice of appeal regarding the Court's order denying his motion for compassionate release. Doc. 295. On May 6, 2025, the appeal was dismissed for want of prosecution because the Defendant failed to timely pay the fee. Doc. 304.

On May 16, 2025, the Defendant filed the current motion to provide Grand Jury transcripts. Doc. 305.

II. Defendant's Motion

The Defendant filed a motion to provide Grand Jury transcripts. Doc.305. The Defendant claims that his illegally obtained statements were used to indict him. Doc. 305. The Defendant further claims that this would create additional grounds to dismiss his

indictments which he needs for the motions that he is filing with the Fifth Circuit. Doc. 305.

III. Government's Response

The Court should deny the Defendant's motion to produce Grand Jury transcripts. Rule 6 of the Federal Rules of Criminal Procedure prohibits the disclosure of grand jury transcripts except in very limited circumstances "when so directed by a court preliminarily to or in connection with a judicial proceeding." Fed. R. Crim. P. 6(e)(3)(E)(i). Disclosure of grand jury materials is limited to ensure the integrity of the grand jury system. *See United States v. Urquidi*, 71 F.4th 357, 366 (5th Cir. 2023) ("[S]ecrecy is essential to maintaining the integrity of the grand jury system." (citation omitted)). Because of the importance of maintaining the secrecy of grand jury proceedings, a party seeking disclosure of grand jury transcripts has the burden "to show that 'a particularized need' exists for the materials that outweighs the policy of secrecy." *United States v. Miramontez*, 995 F.2d 56, 59 (5th Cir. 1983) (citation omitted). To meet this burden, a party must demonstrate that: (1) the material is needed to avoid a possible injustice in another judicial proceeding; (2) the need for disclosure is greater than the need for continued secrecy; and (3) the request is limited to cover only that material needed. *Id.* (citing *Douglas Oil Co. v. Petrol Stops Northwest*, 441 U.S. 211, 221-22 (1979)); *Urquidi*, 71 F.4th at 366. This showing is required even if the grand jury proceeding at issue has been concluded. *Id.*

The Defendant cannot meet his burden to require the Government to produce the grand jury transcripts. First there is no pending judicial proceeding. The Defendant previously filed an appeal, a § 2255 motion, and subsequent appeal, all of which have been

denied or dismissed. Because there is no live action, the Court has no basis to consider this request and the Defendant cannot meet the first prong for the disclosure of the Grand jury transcripts. See *United States v. Hernandez-Cuellar*, 2021 WL 4484963 (5th Cir. 2021); *United States v. Newton*, 733 F. App'x 196 (5th Cir. 2018) (“[Newton] has not demonstrated the required connection to a judicial proceeding.”).

Further, the Defendant cannot seek grand jury transcripts to “conduct a ‘fishing expedition’ to find something that may support a potential Section 2255 motion.” *United States v. Brooks*, 51 F.3d 1043 (5th Cir. 1995) (quoting *United States v. Carvajal*, 989 F.2d 170 (5th Cir.1993); *Newton*, 733 F. App'x at 196-197 (same). By arguing that he needs the Grand Jury transcripts for “additional grounds to dismiss his indictments”, it is clear the Defendant is seeking the transcripts for the impermissible purpose of a fishing expedition which is prohibited.

IV. Conclusion

WHEREFORE, PREMISES CONSIDERED, the Government requests that the Court deny the defendant's motion to provide Grand Jury transcripts.

Respectfully submitted,

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United States Attorney

s/ Kimberly Ann Leo
Kimberly Ann Leo
Assistant United States Attorney