**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA   *

     v.   *   **Criminal No. 1:10-cr-0181-RDB**

THOMAS ANDREWS DRAKE   *

CONSENT MOTION FOR RELIEF FROM PROTECTIVE ORDER

The defendant, Thomas Drake, through his attorneys, hereby moves this Honorable Court

for an Order granting partial relief from the Protective Order governing unclassified information

that was entered in this case by consent of the parties on April 29, 2010. *See* Docket No. 13.

The Protective Order provides that unclassified discovery may be disclosed only in connection

with the criminal proceedings, but it allows that the Court may enter an Order permitting the

disclosure of unclassified discovery beyond the criminal case. *See* Protective Order ¶ 4. The

defense respectfully requests an Order of the Court that permits defense expert witness, J.

William Leonard, the former Director of the Information Security Oversight Office (ISOO), to

file a formal letter of complaint to the current Director of ISOO, John P. Fitzpatrick, regarding

the government's decision to classify and its reasons for classification of the document charged

in Count One of the Indictment, entitled "What a Success." During the criminal case, the

government took the position that the "What a Success" document was classified at the "Secret"

level when it was found on Mr. Drake's home computer and at the time of the Indictment in

April 2010. The National Security Agency declassified the document in July 2010. The now-

unclassified "What a Success" document, as well as the government's unclassified expert witness

summaries, were shared with Mr. Leonard during the criminal proceedings. If this case had gone

to trial, Mr. Leonard was prepared to testify that the "What a Success" document did not contain

classified information and never should have been classified. His complaint to the Director of

ISOO regarding the document is based on the unclassified information he received as an expert

witness pursuant to the Protective Order. As a result, the defense is seeking an Order of the

Court allowing him to disclose the unclassified information for the purpose of filing a complaint

with ISOO and to discuss the issues raised in his complaint with any investigating authorities.

The government consents to the relief requested in this motion.

WHEREFORE, Thomas Drake respectfully moves this Court for an Order granting J.

William Leonard permission to submit his complaint regarding the "What a Success" document

to ISOO Director John P. Fitzpatrick and to discuss the issues raised in the complaint with the

complaint's recipients and any other government officials who may respond to the complaint or

investigate the matter.

Respectfully submitted,

/s/

JAMES WYDA, #25298
Federal Public Defender
DEBORAH L. BOARDMAN, #28655
Assistant Federal Public Defender
Office of the Federal Public Defender
100 South Charles Street
Tower II, Ninth Floor
Baltimore, Maryland 21201
Phone: 410-962-3962
Fax: 410-962-0872
Email: Jim_Wyda@fd.org
        Deborah_Boardman@fd.org

2

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA   *

    v.   *   **Criminal No. 1:10-cr-0181-RDB**

THOMAS ANDREWS DRAKE   *

ORDER

Upon consideration of the Defendant's Motion for Relief from the Protective Order, to which the United States consents, and for the reasons stated in the motion and for good cause shown, it is hereby ORDERED that defense expert witness, J. William Leonard, the former Director of the Information Security Oversight Office (ISOO), may file a formal letter of complaint to the current Director of ISOO, John P. Fitzpatrick, regarding the government's decision to classify and its reasons for classification of the document charged in Count One of the Indictment, entitled "What a Success." It is further ORDERED that Mr. Leonard may discuss the unclassified discovery referenced in the complaint with the complaint's recipients and any other government official who may respond to the complaint or investigate the matter.

_____
THE HONORABLE RICHARD D. BENNETT
United States District Judge