

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA	:	Magistrate No. 12-665
	:	
v.	:	<u>UNDER SEAL</u>
	:	
JAMES F. HITSELBERGER,	:	
	:	
Defendant.	:	

MOTION TO MODIFY SEALING ORDER

The United States of America, through its undersigned attorneys, moves for an order modifying the sealing order in this matter. On August 6, 2012, Magistrate Judge Kay signed a criminal complaint charging the defendant, Jeffrey F. Hitselberger, with unlawful retention of classified information in violation of 18 U.S.C. § 793(e). Magistrate Judge Kay also signed an order sealing the complaint, the bench warrant, and the case file, but permitting the government to share the complaint and bench warrant with both domestic and foreign law enforcement partners in an effort to locate the defendant.

Hitselberger, while working as a linguist at the Naval Support Activity in Bahrain, on April 11, 2012, removed two classified documents from a secure facility after concealing them in his backpack. He was later stopped outside the facility and relinquished the classified materials. A subsequent search of his quarters revealed another classified document there, from which he had removed the header and footer indicating that the document was classified.

On April 12, 2012, Hitselberger's employer sent him back to the United States. During a layover in Germany, he left the airport and has remained in Europe, traveling among Germany, Sweden, Malta, Bulgaria, the United Kingdom, and Bulgaria. Hitselberger was scheduled to


return to the United States on August 7, 2012. However, he did not use his reservation on that date, and re-booked his flight for approximately a year later. Cooperating individuals have provided the government with recent communications from Hitselberger, and he is aware of the government's investigation into his activities.

The government has learned that Hitselberger will be traveling to Kuwait on October 24, 2012. The Government of Kuwait has agreed to expel Hitselberger into the custody of the U.S. government if Hitselberger arrives in Kuwait without a valid U.S. passport. The State Department today revoked Hitselberger's passport. However, when Hitselberger is denied entry in Kuwait, a consular official from the U.S. Embassy will need to tell him that the reason for the cancellation of his passport is that there is an outstanding complaint and warrant for his arrest. Accordingly, the government requests that the Court modify the sealing order to permit U.S. officials overseas to advise Hitselberger that he has been charged in the criminal complaint and that there is an outstanding bench warrant for him.

For the foregoing reasons, the Court should grant the government's motion to modify the sealing order.

Respectfully submitted

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