

REDACTED / CLEARED FOR PUBLIC RELEASE



*Leave to file  
District Judge CKK  
1/30/14*

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Filed with Classified Information Security Officer  
CISO \_\_\_\_\_  
Date 12/16/13

UNITED STATES OF AMERICA,

STEPHEN HUN-WOO KIM,

Defendant.

10-225  
Criminal No. 10-225 (CKK)

**FILED**

**JAN 30 2014**

Clerk, U.S. District & Bankruptcy Courts for the District of Columbia

ORDER

(December 6, 2013)

For the reasons stated in the accompanying Memorandum Opinion, it is, this 5th day of December, 2013 hereby

ORDERED that the Defendant's [177] Fifth Motion to Compel Discovery is DENIED IN PART and HELD IN ABEYANCE IN PART as set forth in the accompanying Memorandum Opinion

IT IS FURTHER ORDERED that by no later than 12:00 PM on December 9, 2013 the Government shall provide supplemental briefing addressing (1) whether the Court is correct in presuming that the [REDACTED] was prepared by individuals with access to the [REDACTED] Report, and (2) why a list of anyone who drafted this document prior to the cut-off time should not be disclosed to Defendant as relevant and helpful in identifying additional individuals with access to the intelligence at issue.

SO ORDERED.

\_\_\_\_\_  
COLLEEN KOLLAR KOTELLY  
UNITED STATES DISTRICT JUDGE



REDACTED / CLEARED FOR PUBLIC RELEASE

REDACTED / CLEARED FOR PUBLIC RELEASE



UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA Filed with Classified Information Security Officer

CISO [Signature] Date 12/6/13

UNITED STATES OF AMERICA.

vs.

Criminal No. 10-255 (CKK)

STEPHEN JUN-WOO KIM

Defendant

MEMORANDUM OPINION (December 4, 2013)

Defendant Stephen Jun-Woo Kim is charged by indictment with one count of unauthorized disclosure of national defense information in violation of 18 U.S.C. § 793(d), and one count of making false statements in violation of 18 U.S.C. § 1001(a)(2). Presently before the Court is the Defendant's [177] Sixth Motion to Compel. Upon consideration of the pleadings, the relevant legal authorities, and the record as a whole, the Defendant's Sixth Motion to Compel is DENIED IN PART and HELD IN ABEYANCE IN PART, as set forth below.

I. BACKGROUND

The Court presumes familiarity with the factual background set forth in the Memorandum Opinions regarding the Defendant's First, Second, Third, Fourth, and Fifth Motions to Compel.<sup>2</sup> In its opinion ruling on the Defendant's Fifth Motion to Compel Discovery, the Court reserved ruling on two items raised for the first time in Defendant's reply brief: (1) a [redacted] on

<sup>1</sup> Def.'s Sixth Mot. to Compel ("Def.'s Mot."), ECF No. [177]; Gov't's Opp'n, ECF No. [186]; Gov't's Ex Parte, In Camera Classified Addendum to its Opp'n, ECF No. [187]; Def.'s Reply, ECF No. [191]; Gov't's Sur-Reply, ECF No. [212]; Addendum to the Gov't's Opp'n, ECF No. [221].

<sup>2</sup> Redacted versions of the Memorandum Opinions are available on the public docket as docket numbers [133], [135], [137], [139], and [200]. Unredacted copies are maintained by the Court.



REDACTED / CLEARED FOR PUBLIC RELEASE

REDACTED / CLEARED FOR PUBLIC RELEASE

[REDACTED]

the intelligence report at issue; and (2) proposed revisions to the [REDACTED] Mem. Op. re Intell. Mot. to Compel, 1:11 No. [200] at 12-13. The Court instructed the parties "to meet and confer regarding the materials and seek further relief through the Defendant's sixth motion to compel." *Id.* at 3. Pursuant to the Court's Order, on October 18, 2013, the parties met and conferred regarding the [REDACTED] and proposed revisions to the [REDACTED] Def.'s Mot. at 7. The Government denied the Defense's requests for these materials. *Id.* Subsequently, Defendant filed the present motion seeking to compel the production of these materials, as well as additional discovery materials. This motion also requested clarification regarding two issues addressed by the parties at the closed hearing held in this matter on September 27, 2013. *Id.* at 7.

1. However, the subsequent Opposition filed by the Government substantially narrowed the scope of this motion. As Defendant stated in his Reply, the Government's Opposition addressed all but one of the concerns raised in Defendant's motion. Def.'s Reply at 2. Accordingly, the only issue pending before the Court with respect to Defendant's Sixth Motion to Compel is Defendant's request for any [REDACTED] on the contents of the intelligence report at issue. *Id.*

In its Opposition, the Government initially stated that it "had searched for the [REDACTED] [REDACTED] for the [REDACTED] [REDACTED] related to the [REDACTED] Report and had located no such document that pre-dates [REDACTED] on June 11, 2009." Gov't's Opp'n at 4. Based on these unsuccessful searches for the document sought by Defendant, the Government contended that the Defendant's motion to compel the production of the [REDACTED] should be denied as moot. *Id.*

In his Reply, Defendant asserted that the Government has focused its search too narrowly, and that his motion sought "any [REDACTED] on the [REDACTED]

[REDACTED]

REDACTED / CLEARED FOR PUBLIC RELEASE

REDACTED / CLEARED FOR PUBLIC RELEASE

[REDACTED]

including a report at issue [REDACTED].” Def.’s Reply at 2. As support for his argument that a separate [REDACTED] exists outside of the [REDACTED] searched for by the Government, Defendant pointed to an e-mail produced during e-classified discovery discussing a [REDACTED] outside the context of [REDACTED]. See Def.’s Mot., Ex. 3 (June 11, 2009 e-mail regarding Update on [REDACTED]). After reviewing this e-mail, the Court requested additional briefing from the Government as to whether this e-mail suggested the existence of a [REDACTED] separate and apart from the [REDACTED] searched for by the Government. See Order Requesting Sur-Reply Regarding Defendant’s Sixth Motion to Compel, ECF No. [202].

In response to this Order, the Government filed a Sur-Reply stating that, after consultation with the [REDACTED], the Government had determined that the e-mail attached as Exhibit 3 to Defendant’s motion did discuss a [REDACTED] separate and distinct from the [REDACTED] referenced in Exhibit 1 to Defendant’s motion. Gov’t’s Sur-Reply at 1. The Government also stated that “[d]espite the similar names, these documents are created by different [REDACTED] for different purposes.” *Id.* at 1. The Government further advised the Court that out of an abundance of caution it had re-reviewed the [REDACTED] e-mail collection for June 11, 2009 and this re-review revealed no drafts of the [REDACTED] referenced in Exhibit 3 to Defendant’s motion. *Id.* at 1-2. However, this re-review did uncover e-mails and e-mail attachments “sent prior to the cut-off” time that included proposed language for inclusion in the [REDACTED] referenced in Exhibit 3 to

Defendant acknowledged in his Reply, *see* Def.’s Reply at 4 n. 2, that the document referenced in the other e-mail attached to his motion appears to have involved [REDACTED]. See Def.’s Mot., Ex. 1 (describing the [REDACTED] as an [REDACTED] for which [REDACTED]).

REDACTED / CLEARED FOR PUBLIC RELEASE

REDACTED / CLEARED FOR PUBLIC RELEASE

[REDACTED]

Defendant's motion. *Id.* at 2. At the Court's request, the Government made these e-mails and e-mail attachments available for the Court's *ex parte, in camera* review on a read and return basis.

Subsequently, the Government filed an Addendum to its Opposition to Defendant's motion, stating that "[o]n November 26, 2013, the United States learned [REDACTED] that an [REDACTED] document identified in the last week, bears the electronic file name, [REDACTED] [REDACTED] Addendum to Gov't's Opp'n at 1. This document is entitled [REDACTED] and may be associated with the [REDACTED] discussed in Exhibit 1 to Defendant's motion. In its Addendum, the Government maintained that this document is not discoverable, and noted that it is marked [REDACTED] and [REDACTED] and would be used only in [REDACTED] files. *Id.* at 2. Again, at the Court's request, the Government made this document available for the Court's *ex parte, in camera* review on a read and return basis.<sup>4</sup>

## II. LEGAL STANDARD

Pursuant to Federal Rule of Criminal Procedure 16(a)(1)(E), "[u]pon a defendant's request, the government must permit the defendant to inspect and to copy" any item that is within the Government's "possession, custody, or control," and is "material to preparing the

<sup>4</sup> For purposes of this opinion, the Court will treat the [REDACTED] as the [REDACTED] sought by Defendant and discussed in Exhibit 1 to Defendant's motion. In addition, when discussing Defendant's request for the [REDACTED], the Court will refer to the e-mails and e-mail attachments containing proposed language for inclusion in the [REDACTED] referenced in Exhibit 3 to Defendant's motion. The Government has represented to the Court and Defendant that it has conducted a comprehensive search of computer and e-mail records of individuals involved in the drafting and review of any [REDACTED] prior to the cut-off time. See Gov't's Sur-Reply at 1-2. As of the date of this opinion, this search has revealed the two sets of documents discussed above. Should the Government subsequently uncover additional materials relating to a [REDACTED], the Court presumes it will bring the existence of these documents to the attention of the Court and the Defendant.

REDACTED / CLEARED FOR PUBLIC RELEASE

REDACTED / CLEARED FOR PUBLIC RELEASE



use.” Fed. P. Crim. P. 16(c). The Government must disclose information sought under this rule “only if such evidence enables the defendant significantly to alter the quantum of proof in his favor.” *United States v. Marshall*, 132 F.3d 63, 67 (D.C. Cir. 1998) (citation omitted).

A more stringent, three-part test applies where the Defendant seeks classified information from the Government. First, the Defendant must show that the information sought “cross[es] the boundary of relevance.” *United States v. Yous*, 867 F.2d 617, 623 (D.C. Cir. 1989). Second, the Court “should determine if the assertion of privilege by the government is at least a colorable one.” *Id.* Finally, the Defendant must show that the information sought “is at least ‘helpful to the defense of [the] accused.’” *Id.* (quoting *Roviaro v. United States*, 353 U.S. 53, 60-61 (1957)). “This standard applies with equal force to partially classified documents.” *Al Odah v. United States*, 559 F.3d 539, 544 (D.C. Cir. 2009) (citing *United States v. Rezaq*, 134 F.3d 1121, 1142 (D.C. Cir. 1998)).

The Defendant further moves to compel pursuant to *Brady v. Maryland*, 373 U.S. 83 (1983). *Brady* and its progeny hold that due process requires the disclosure of information that is “favorable to the accused, either because it is exculpatory, or because it is impeaching” of a government witness.” *United States v. Mejia*, 448 F.3d 436, 456 (D.C. Cir. 2006) (quoting *Strickler v. Green*, 527 U.S. 263, 281-82 (1999)). “While *Brady* information is plainly subsumed within the larger category of information that is ‘at least helpful’ to the defendant, information can be helpful without being ‘favorable’ in the *Brady* sense.” *Id.* Accordingly, the Defendant’s request for exculpatory information under *Brady* is subsumed within the Court’s analysis of whether requested information would be useful to the defense.



REDACTED / CLEARED FOR PUBLIC RELEASE

REDACTED / CLEARED FOR PUBLIC RELEASE

[REDACTED]

## III. DISCUSSION

In the one remaining request from his Sixth Motion to Compel, the Defendant seeks an order compelling the Government to produce any [REDACTED] on the contents of the intelligence report at issue in this case, as well as any documents that identify the individuals who drafted, received, or otherwise accessed the [REDACTED] or any drafts or revisions to the [REDACTED] from prior to 3:40 p.m. on June 11, 2009. Although the Government initially contended that no such documents existed and that Defendant's request was moot, the Government's supplemental briefing in this case has identified two sets of documents that potentially fit this request. First, the Government has identified a [REDACTED] as it relates to Exhibit 1 to Defendant's motion, that is intended to accompany the [REDACTED] Report and is saved under the file name [REDACTED]. See Addendum to Gov't's Opp'n at 1. Second, the Government has located a set of e-mails and e-mail attachments sent prior to the cut-off time that included proposed language for inclusion in the [REDACTED] referenced in Exhibit 3 to Defendant's motion. See Gov't's Sur-Reply at 1. In light of this supplemental briefing providing evidence of the [REDACTED] sought by Defendant, the Court reads Defendant's motion as a request to compel production of these two sets of documents.

In his briefing, Defendant argues that materials relating to the [REDACTED] would be relevant and helpful to the preparation of his defense for three reasons. See Def.'s Mot. at 2-3; Def.'s Reply at 3. First, he contends that these documents provide further evidence of who accessed the intelligence information at issue, and when they accessed it, prior to the "cut-off" time for publication of Mr. Rosen's article on June 11, 2009.

[REDACTED]

REDACTED / CLEARED FOR PUBLIC RELEASE

REDACTED / CLEARED FOR PUBLIC RELEASE

[REDACTED]

Def.'s Mot. at 2. He argues that in order to have prepared a [REDACTED] on the intelligence report at issue, a person must have accessed the report itself or otherwise become aware of its contents. *Id.* Accordingly, he contends that the [REDACTED] a list of anyone who drafted, received, or otherwise accessed the [REDACTED] or any drafts of it that were created prior to 5:00 pm on June 11, 2009, would be relevant and helpful in identifying those individuals who possess the intelligence information at issue prior to the cut-off time.<sup>5</sup> *Id.*

Second, Defendant focuses on the fact that an e-mail, attached as Exhibit 1 to Defendant's motion describing the [REDACTED] indicates that it was [REDACTED]. Defendant argues that obtaining the [REDACTED] will show what information was likely [REDACTED] providing relevant information for Defendant's theory that the leak at issue originated from [REDACTED]. *Id.* at 2-3 (citing Ex. 1). Further, because Mr. Rosen's article reported [REDACTED], Defendant argues that the [REDACTED] is useful for determining the content of any [REDACTED] and whether individuals involved in the drafting and dissemination of the [REDACTED] have reason to believe that the information contained in the intelligence report was being or has already been transmitted to [REDACTED]. *Id.* at 3.

Finally, Defendant argues that the [REDACTED] could prove relevant and helpful to the defense in demonstrating that [REDACTED] and that "someone in Mr. Kim's position would not reasonably have believed that disclosure of the information would damage

Throughout discovery in this matter, the Government has provided the Defense with a running list of individuals who may have accessed the [REDACTED] report, referred to as the "Access list." See generally Mem. Op. re Fourth Mot. to Compel, ECF No. [139] at 4.

REDACTED / CLEARED FOR PUBLIC RELEASE



REDACTED / CLEARED FOR PUBLIC RELEASE

[REDACTED]

the United States or help a foreign nation.” Def.’s Reply at 3 (quoting Def.’s Mot. at 3). This argument is based on the fact that an e-mail regarding the [REDACTED] attached as Exhibit 1 to Defendant’s motion, asked for [REDACTED]

[REDACTED] Def.’s Mot. at 3 (citing Ex. 3). If the [REDACTED] contains information suggesting that North Korea [REDACTED]

[REDACTED] Defendant contends, it would support his theory that someone in his position would not reasonably believe that disclosure of the information would damage the United States or help a foreign nation. *Id.* The Court addresses each of these arguments with respect to both the [REDACTED] and the e-mails and e-mail attachments relating to the [REDACTED]

A. The [REDACTED]

Having reviewed the [REDACTED] on a read and return basis, the Court concludes that this document itself is not relevant and helpful to Defendant for any of the reasons asserted in his motion. Accordingly, the Court denies Defendant’s request to compel production of the [REDACTED] itself, the [REDACTED] as well as a list of those who accessed or received the document. However, a list of individuals who drafted this document may prove relevant and helpful to the Defendant, as it may identify additional individuals who received the [REDACTED] Report at issue in order to write it. The Court holds this limited issue in abeyance in order to allow for supplemental briefing from the Government.

Defendant argues that the [REDACTED] is relevant and helpful because it may identify additional individuals who accessed the intelligence information at issue prior to the “cut-off” time for publication of Mr. Rosen’s article on June 11, 2009. Def.’s Mot. at 2. Having reviewed the [REDACTED] the Court notes that the document appears as though it was

[REDACTED]

REDACTED / CLEARED FOR PUBLIC RELEASE

REDACTED / CLEARED FOR PUBLIC RELEASE

[REDACTED]

intended to accompany the [REDACTED] Report, matching the Government's description of the document. See Addendum to Gov't's Opp'n at 1. However, although the document relates to the [REDACTED] report, it does not discuss the substance of the intelligence contained in the [REDACTED] report. Accordingly, because the document does not address the substance of the intelligence report, anyone who accessed or received the [REDACTED] would not inevitably have had access to the intelligence at issue. On this point, the Government is correct when it notes that [REDACTED] is not a potential source document for the alleged unauthorized disclosure as it does not contain any of the intelligence information in the [REDACTED] Report." *Id.* at 2. Consequently, neither the [REDACTED] itself nor a list of individuals who accessed or received the [REDACTED] would be relevant or helpful to Defendant in identifying additional individuals who accessed the intelligence information at issue prior to the cut-off time.

At the same time, given that it appears intended to accompany the [REDACTED] Report, the [REDACTED] does seem to have been prepared by an individual or individuals with access to the [REDACTED] report. In light of this, a list of individuals who drafted the document may be potentially relevant and helpful to the Defendant in identifying individuals who accessed the [REDACTED] report prior to the cut-off time. Because the Government's Opposition does not address this issue, having been filed before the Government learned of the existence of this document, the Court requests additional briefing from the Government as to (1) whether the Court is correct in presuming that this document was prepared by an individual or individuals with access to the [REDACTED] Report, and (2) why a list of anyone who drafted this document prior to the cut-off time should not be disclosed to Defendant as relevant and helpful in identifying additional individuals with access to the intelligence at

REDACTED / CLEARED FOR PUBLIC RELEASE

REDACTED / CLEARED FOR PUBLIC RELEASE

[REDACTED]

1010 This supplemental briefing should be filed by no later than 12:00 PM on December 9, 2013. Pending receipt of this additional briefing, the Court holds in abeyance Defendant's request to compel production of a list of individuals who drafted the [REDACTED] at issue, the [REDACTED]

Defendant's remaining arguments, however, do not support production of the [REDACTED] or a list of individuals who accessed or received the document. First, Defendant argues that since an e-mail produced during classified discovery refers to the [REDACTED] access to the [REDACTED] - the [REDACTED] for purposes of this opinion - will help him show what information was likely shared with [REDACTED] on June 11, 2009. Def.'s Mot. at 2-3 (citing Ex. 1). The [REDACTED] he contends, will thus provide relevant information for Defendant's theory that the leak at issue originated from [REDACTED]. Relatedly, since Mr. Rosen's article [REDACTED] Defendant argues that the [REDACTED] is useful for determining the content of any [REDACTED] and whether individuals involved in the drafting and dissemination of the [REDACTED] had reason to believe that the information contained in the intelligence report was being or had already been [REDACTED] *Id.* at 3. However, these arguments are unavailing. As discussed, a review of the [REDACTED] reveals that it does not discuss the substance of the intelligence information in the [REDACTED] report. Accordingly, none of the information contained in the document is relevant to Defendant's theory that the leak at issue originated from [REDACTED]. Similarly, because the [REDACTED] does not discuss the [REDACTED]

Moreover, as the Government notes, and Defendant concedes, there was no [REDACTED] regarding the [REDACTED] for which the [REDACTED] was being prepared on either June 11 or June 12, 2009. Gov't's Opp'n at 5 (citing Def.'s Mot. at 3).

[REDACTED]

REDACTED / CLEARED FOR PUBLIC RELEASE

REDACTED, CLEARED FOR PUBLIC RELEASE

[REDACTED]

substance of the intelligence information in the [REDACTED] report, its contents do not shed light on whether individuals involved in the drafting and dissemination of the [REDACTED] had reason to believe that the information contained in the intelligence report was being or had already been [REDACTED]. In light of these considerations, the document need not be produced on the grounds advocated by Defendant.

Also unavailing is Defendant's argument that the [REDACTED] here the [REDACTED] is useful for showing that someone in Defendant's position would not reasonably have believed that disclosure of the information would damage the United States or help a foreign nation. The Court notes that this argument relates primarily to the [REDACTED] reference in Exhibit 3, but will address it in the context of the [REDACTED] for the sake of completeness. After a review of the document itself, the Court concludes that the [REDACTED] contains no information to suggest that the [REDACTED]. The document is thus not relevant or helpful in showing that "someone in Mr. Kim's position would not reasonably have believed that disclosure of the information would damage the United States or help a foreign nation." Def.'s Reply at 3 (quoting Def.'s Mot. at 3). Accordingly, Defendant is not entitled to the [REDACTED] on these grounds.

**B. E-mails and E-mail Attachments Containing Language for [REDACTED]**

Similarly, the Court will not order production of the e-mails and e-mail attachments containing proposed language for the [REDACTED] referenced in Exhibit 3 to Defendant's motion. A review of these e-mails and e-mail attachments reveals that these documents are not relevant or helpful to Defendant for any of the reasons asserted.

REDACTED, CLEARED FOR PUBLIC RELEASE

REDACTED - CLEARED FOR PUBLIC RELEASE

[REDACTED]

First, these e-mails and e-mail attachments do not relate to the substance of the [REDACTED] report and thus those who drafted, received, and accessed these documents are not inevitably individuals with access to the intelligence information at issue. Accordingly, Defendant's first argument for compelling the production of these documents is rejected.

Defendant's next set of arguments for production are largely directed at the [REDACTED] [REDACTED] which was discussed in an e-mail as [REDACTED]. See Def.'s Mot. at 2-3 (Ex. 1). However, to the interests of comprehensively addressing Defendant's arguments, the Court considers this argument in the context of the e-mails relating to the [REDACTED] discussed in Exhibit 3 to Defendant's motion. As with the [REDACTED] these arguments are unavailing. The e-mails and e-mail attachments relating to the [REDACTED] discussed in Exhibit 3 do not discuss the substance of the Intelligence Report at issue. Accordingly, none of the information contained in these documents is relevant to Defendant's theory that the leak at issue originated from [REDACTED]. For the same reason, these e-mails do not address whether individuals involved in the drafting and dissemination of the [REDACTED] referenced in Exhibit 3 had reason to believe that the information contained in the intelligence report was being or had already been [REDACTED]. Accordingly, the e-mails and e-mail attachments relating to the [REDACTED] referenced in Exhibit 3 to Defendant's motion need not be produced on these grounds.

Finally, the Court rejects Defendant's argument that these e-mails and e-mail attachments would help demonstrate that [REDACTED] and that "someone in Mr. Kim's position would not reasonably have believed that disclosure of the information would damage the United States or help a foreign nation." Def.'s Reply at 3 (quoting Def.'s Mot. at 3). The e-mails and e-mail

[REDACTED]

REDACTED - CLEARED FOR PUBLIC RELEASE

REDACTED - CLEARED FOR PUBLIC RELEASE

[REDACTED]

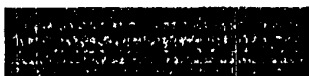
attachments relating to the [REDACTED] discussed in Exhibit 3 to Defendant's motion contain no information suggesting that North Korea [REDACTED]. Accordingly, in the absence of any indication of whether [REDACTED] these e-mails and e-mail attachments prepared or the [REDACTED] provide no support for Defendant's argument that [REDACTED] and that someone in his position would reasonably have believed that disclosure of this information would damage the United States or help a foreign nation.

#### IV. CONCLUSION

For the foregoing reasons, Defendant's [177] Sixth Motion to Compel Discovery is DENIED IN PART and HELD IN ABEYANCE IN PART. Specifically, Defendant's motion is DENIED with respect to production of the [REDACTED] for purposes of this opinion, the [REDACTED] referenced in Exhibit 1 to Defendant's motion, and the list of individuals who accessed or received this document. Defendant's motion is similarly DENIED with respect to the e-mails and e-mail attachments containing proposed language for [REDACTED] referenced in Exhibit 3 to Defendant's motion. However, Defendant's motion is HELD IN ABEYANCE as to production of a list of individuals involved in the drafting of the [REDACTED]. By no later than 12:00 PM on December 9, 2013, the Government shall file a supplemental brief addressing (1) whether the Court is correct in presuming that the [REDACTED] was prepared by individuals with access to the [REDACTED] Report, and (2) why a list of anyone who drafted this document prior to the cut-off time should not be disclosed to Defendant as relevant and helpful in identifying additional


REDACTED - CLEARED FOR PUBLIC RELEASE

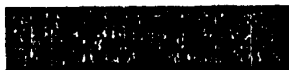
REDACTED - CLEARED FOR PUBLIC RELEASE



individuals with access to the intelligence at issue. An appropriate Order accompanies this

Memorandum Opinion.

  
COLLEEN KOLLAR KOTELLY  
UNITED STATES DISTRICT JUDGE



REDACTED - CLEARED FOR PUBLIC RELEASE