

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
El Paso Division**

UNITED STATES OF AMERICA)	
)	Case N. EP-07-CR-87
v.)	
)	The Honorable Kathleen Cardone
LUIS POSADA CARRILES)	

**PROTECTIVE ORDER PURSUANT TO SECTION 4 OF THE CLASSIFIED
INFORMATION PROCEDURES ACT AND RULE 16(d)(1) OF THE
FEDERAL RULES OF CRIMINAL PROCEDURE**

This action is before the Court on the classified, *ex parte* and *in camera* Supplemental Motion of the United States for a protective order pursuant to Section 4 of the Classified Information Procedures Act, 18 U.S.C. app. 3 (CIPA), and Rule 16(d)(1) of the Federal Rules of Criminal Procedure, and accompanying exhibits (hereinafter, the “Submission”), filed with the Court on May 11, 2010.

After *ex parte* and *in camera* inspection and consideration of the Submission, the Court finds, pursuant to Section 4 of CIPA and Rule 16(d)(1), that the Submission of the United States contains classified information that requires protection against unauthorized disclosure for reasons of national security. Specifically, the Court finds that disclosure of the classified documents in their entirety to the defendant, or to the public, reasonably could be expected to cause serious damage to national security. The Court finds that the interest of the United States in protecting the national security and preventing the unnecessary dissemination of classified information outweighs the defendant’s and the public’s right to access these materials in their present form. *See Haig v. Agee*, 453 U.S. 280, 307 (1981) (“[N]o governmental interest is more compelling

than the security of the Nation.”); *Snepp v. United States*, 444 U.S. 507, 509 n.3 (1980) (“The Government has a compelling interest in protecting both the secrecy of information important to our national security and the appearance of confidentiality so essential to the effective operation of our foreign intelligence service.”); *see also Globe Newspaper Co. v. Superior Ct.*, 457 U.S. 596, 606-07 (1982) (noting that common law right of access to court documents may be curtailed if the limitation is “narrowly tailored to serve that interest”).

The Court therefore finds that the redactions or substitutions proposed by the United States in its Submission are adequate to fulfill any of its discovery obligations to the defendant under *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*, 405 U.S. 150 (1972), and their progeny, or Rule 16 of the Federal Rules of Criminal Procedure. The Court further finds that the Submission by the United States is so interrelated with classified information as to make impracticable the public filing of meaningful redacted materials that do not divulge classified information. No less reasonable alternative to closure and sealing will protect the interest of the United States in preventing the unauthorized dissemination of this information, and this sealing order is drawn as narrowly as possible under the circumstances.


Therefore, it is hereby

ORDERED, that the Submission of the United States may be filed *ex parte* for *in camera* consideration and shall be sealed and maintained in a facility appropriate for the storage of classified information at the identified level by the Court Security Officer as the designee of the Clerk of Court, in accordance with established security procedures,

until further order of this Court. After *ex parte* and *in camera* inspection and consideration of the Submission, it is hereby further

ORDERED, that the Motion by the United States is GRANTED pursuant to Section 4 of CIPA and Rule 16(d)(1). Further details are described in a classified, *ex parte* Order filed under seal herewith by this Court.

June 3, 2010
DATE


THE HONORABLE KATHLEEN CARDONE
UNITED STATES DISTRICT JUDGE