

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

UNITED STATES OF AMERICA

VS.

CASE NO: 6:17-cr-18-Orl-40KRS

NOOR ZAHI SALMAN

ORDER

This cause is before the Court upon its *sua sponte* review of the file. On July 21, 2017, Defendant Noor Salman filed a motion under seal in violation of the local rules established by this Court. (Doc. 66). After reviewing the Defendant's motion, the Court has determined there is no legitimate basis for the motion to have been filed under seal. Accordingly, the Court directs the Clerk of Court to unseal the motion.

I. BACKGROUND

On April 10, 2017, this Court entered an Order setting the initial scheduling conference in this cause. (Doc. 32). In anticipation of the scheduling conference, the Court directed lead counsel for the Government and for the Defendant to discuss their respective discovery obligations, including the exchange of electronically stored information, a deadline for disclosure of expert testimony, and a deadline for *Daubert* motions. (*Id.* at p. 2). The parties thereafter filed a Joint Notice Regarding Initial Conference, wherein the parties identified deadlines for the production of discovery and the disclosure of expert reports. (Doc. 40).

The Court entered a Protective Order Regarding Discovery on April 20, 2017, (Doc. 47), and a hearing on the status conference was conducted on that date. (Doc. 43).

An Amended Scheduling Order was issued after the hearing memorializing the deadlines agreed to by the parties. (Doc. 48). The Defendant now seeks an extension of time to disclose the expert report of Mr. Joshua Horowitz. (Doc. 66). The motion for an extension of time was filed under seal without prior leave of this Court.

II. ANALYSIS

The United States District Court for the Middle District of Florida has enacted local rules pursuant to 28 U.S.C. § 2071 and Rule 57, Fed.R.Cr.P. Rule 1.01(a) of the Local Rules clearly states that the local rules “shall apply to all proceedings in this Court, whether civil or criminal, unless specifically provided to the contrary or necessarily restricted by inference from the context ...” of the rule. The Local Rules of this Court may be found on the Court’s website and all counsel appearing before this Court are required to be familiar with and follow the Local Rules.

Local Rule 1.09(a) addresses filing motions under seal, and it provides, in pertinent part, the following:

Unless filing under seal is authorized by statute, rule, or order, a party seeking to file under seal any paper or other matter in any ... case shall file and serve a motion, the title of which includes the words “Motion to Seal” and which includes (i) an identification and description of each item proposed for sealing; (ii) the reason that filing each item is necessary; (iii) the reason that sealing each item is necessary; (iv) the reason that a means other than sealing is unavailable or unsatisfactory to preserve the interest advanced by the movant in support of the seal; (v) a statement of the proposed duration of the seal; and (vi) a memorandum of legal authority supporting the seal. The movant shall not file or otherwise tender to the Clerk any item proposed for sealing unless the Court has granted the motion required by this section....

Defendant Salman clearly violated this Local Rule by filing the instant motion under seal without first seeking leave of this Court. The Defendant attempts to justify her decision to

file the motion under seal without Court approval by stating “this Motion references previous defense filings which were filed under seal” and by requesting the “instant motion ... be filed under seal to protect the financial information of the defendant, Noor Salman.” (Doc. 66, ¶ 21). However, the document reveals that a copy of the motion was provided to the Government, (*Id.* at p. 7), resulting in the disclosure of Defendant Salman’s financial information to a third party.¹


In *United States v. Ochoa-Vasquez*, 428 F.3d 1015, 1028 (11th Cir. 2005), the Court observed that “[t]he press and public enjoy a qualified First Amendment right of access to criminal trial proceedings. (citations omitted). This is because “[p]ublic trials and judicial proceedings are ‘rooted in the principle that justice cannot survive behind walls of silence,’ and in the ‘traditional Anglo-American distrust for secret trials.’” (citations omitted). In view of the long-held belief that transparency is of fundamental importance in judicial proceedings, this Court prohibits parties from filing motions under seal without leave of Court unless specifically provided for by statute or rule. The instant defense motion was improperly filed under seal and its contents do not support continuing the seal in contravention of clearly established jurisprudence.

III. CONCLUSION

Wherefore, the Court directs the Clerk of Court to unseal the Defendant’s Motion at Docket Number 66, and counsel for the Defendant are directed to comply with the Court’s Local Rules going forward under penalty of sanctions.

¹ The Court notes that the Defendant’s financial information would be contained in her motion to proceed in forma pauperis which is not disclosed in the instant motion and which is properly submitted to the Magistrate Judge under seal. An order approving the Defendant’s Application to Proceed without Prepaying Fees was approved by the Magistrate Judge. (Doc. 69).

DONE AND ORDERED in Orlando, Florida on July 24, 2017.



PAUL G. BYRON
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties