

FILED ENTERED
LODGED RECEIVED

HONORABLE RICHARD A. JONES

FEB 27 2013

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE KATHERINE OLEJNIK,

CASE NO. 12-GJ-145

Grand Jury Witness,

IN RE MATTHEW DURAN,

CASE NO. 12-GJ-149

Grand Jury Witness.

ORDER

This matter comes before the court on The Stranger's motion for reconsideration of the court's February 1 order in each of the above-captioned grand jury ancillary proceedings. That order permitted the Stranger to obtain transcripts of public portions of hearings held on September 13, 26, and 27, but declined to otherwise unseal the court files for these proceedings. For the reasons stated herein, the court DENIES the motion for reconsideration.

Motions for reconsideration are "disfavored," and the court will "ordinarily deny them . . . in the absence of a showing of manifest error in the prior ruling or a showing of new facts or legal authority" that "could not have been brought to [the court's] attention earlier with reasonable diligence." Local Rules W.D. Wash. LCR 7(h)(i).

The Stranger's motion satisfies neither standard. The Stranger first asks the court to change its factual summary based on the "unrebutted" declaration of Mr. Duran's counsel that members of the public outside the courtroom were not informed when the

ORDER - 1

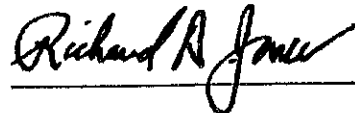
1 court opened Mr. Duran's initial contempt hearing to the public. The February 1 order
2 says nothing about what happened outside the courtroom on the date in question, in part
3 because it was (and is) immaterial to the order, and in part because the court summarized
4 only what took place within its courtroom. Mr. Duran's counsel's declaration is
5 "unrebutted" because The Stranger submitted it in conjunction with its reply brief, thus
6 giving the Government no opportunity to respond to it. There is no reason for the court
7 to change the factual summary it provided in the February 1 order.

8 The Stranger also asks the court to reconsider its decision not to unseal more of
9 the docket and court files in these proceedings. The court explained in the February 1
10 order that if "there is a point at which public disclosure of grand jury material obviates
11 the need for grand jury secrecy, The Stranger has not established that the public
12 disclosures in this case have [] reached that point." The court observed that the only
13 public disclosures that The Stranger relied on, putting aside a search warrant affidavit that
14 has been made available to the public, were those contained in media reports. The
15 Stranger had not pointed to any document from the files in these cases that had been
16 publicly disclosed. In its most recent motion, The Stranger points to no additional public
17 disclosures, much less additional public disclosures it could not have identified in its
18 original motion. The Stranger correctly points out (as the court did on February 1) that
19 grand jury witnesses are free to disclose court documents in their possession. The
20 Stranger has not pointed to any document that any grand jury witness has publicly
21 disclosed in these proceedings.

22 The Stranger contends that the court's order prevents the disclosure of even the
23 documents it and the Government filed regarding its original motion. The Stranger is
24 mistaken. The Stranger (like the grand jury witnesses) has no obligation to preserve
25 grand jury secrecy. The court's decision to maintain the files in these proceedings under
26 seal does not prevent The Stranger from disclosing portions of those files in its

1 possession. As is the case with the grand jury witnesses, however, there is no evidence
2 that The Stranger has disseminated any document from these proceedings to the public.
3 Under these circumstances, the court finds no error (much less manifest error) in its
4 decision to maintain the files in these proceedings under seal.

5 DATED this 27th day of February, 2013.

6
7 

8
9 The Honorable Richard A. Jones
10 United States District Court Judge
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28