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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

UNITED STATES OF AMERICA	**3:16-CR-00051-BR**
v.	**AFFIDAVIT OF FBI SPECIAL AGENT RONNIE WALKER IN SUPPORT OF GOVERNMENT'S MOTION FOR AN ORDER TO SHOW CAUSE**
AMMON BUNDY, et al.,	
Defendants.	

STATE OF OREGON)
) ss.
County of Multnomah)

1. I, Ronnie Walker, being first duly sworn, hereby depose and state as follows:

I. INTRODUCTION AND AGENT BACKGROUND

2. I make this affidavit in support of the government's motion for an order to show cause.

3. I am a Special Agent with the Federal Bureau of Investigation and have been since 1996. My training and experience includes agency specific training in all aspects of conducting federal criminal investigations. I am an "investigative or law enforcement officer of the United States" within the meaning of Title 18, United States Code, Section 2510(7), authorized to conduct investigations into alleged violations of federal law. Over the course of my career, I have led or participated in numerous federal criminal investigations. I am currently assigned to the Portland Division of the FBI and have been assigned to assist with the investigation surrounding the January 2016 occupation of the Malheur National Wildlife Refuge (MNWR), a federal wildlife refuge operated by the United States Fish and Wildlife located south of Burns, Oregon.

4. This affidavit is intended to show only facts pertinent for the requested motion and does not set forth all of my knowledge about this matter.

II. RELEVANT FACTS

5. On January 2, 2016, and continuing through February 11, 2016, several individuals to include Dylan ANDERSON, Sandra ANDERSON, Sean ANDERSON, Jeff Wayne BANTA, Jason BLOMGREN, Ammon BUNDY, Ryan BUNDY, Brian CAVALIER, Blaine COOPER, Shawna COX, Travis COX, Duane Leo EHMER, Eric Lee FLORES, David Lee FRY, Wesley KJAR, Corey LEQUIEU, Kenneth MEDENBACH, Joseph O'SHAUGHNESSY, Jason PATRICK, Ryan PAYNE, Jon RITZHEIMER, Jake RYAN, Pete SANTILLI, Geoffrey STANEK, Darryl William THORN, Neil WAMPLER, and others participated in the illegal occupation of the MNWR.

/ / /

6. As a result of the occupation, all of the above-named individuals were charged with conspiracy to impede by force, intimidation, or threat, officers of the United States from discharging their duties in violation of Title 18, United States Code, Section 372. Some of the above-named individuals were also charged with possessing a firearm and dangerous weapon in a federal facility in violation of Title 18, United States Code, Section 930(b); theft of government property in violation of Title 18, United States Code, Section 641; and/or depredation of government property in violation of Title 18, United States Code, Section 1361. Charges against Pete SANTILLI were subsequently dismissed. *United States v. Ammon Bundy, et al.*, was assigned case number 3:16-CR-00051-BR.

7. On February 25, 2016, the Honorable Anna J. Brown, United States District Judge, District of Oregon, ordered the government to provide discovery to the defendants. The first volume of discovery materials was provided to defense counsel on March 4, 2016. Fifty total volumes of discovery materials were provided from March 4, 2016, to October 13, 2016.

8. On March 9, 2016, Judge Brown entered an Interim Protective Order, court record 288, which stated that defense counsel may provide copies of discovery only to individuals further described in the Order.

9. On March 24, 2016, Judge Brown entered the final Protective Order, court record 342, which stated defense counsel may provide copies of discovery only to: 1) the defendants in this case; 2) persons employed by the attorney of record who are necessary to assist counsel of record in preparation for trial or other proceedings in this case; and 3) persons who defense counsel deems necessary to further legitimate investigations and preparations of this case.

10. The Protective Order further ordered that defense counsel shall provide a copy of the Protective Order to any person who receives copies of discovery and that any person who receives copies of discovery from defense counsel shall use the discovery only to assist the defense in the investigation and preparation of this case and shall not reproduce or disseminate the discovery material to any other person or entity. The Protective Order applied only to 1) statements by witnesses and defendants to government officials, 2) sealed documents, and 3) evidence received from searches of electronic media.

11. Every document provided to defense counsel in discovery was marked in the lower left hand column "Dissemination Limited by Court Order."

12. On September 7, 2016, trial began for seven of the above-named defendants. The trial concluded on October 27, 2016, and all seven defendants were acquitted of the charged conspiracy. Prior to the first trial, eleven defendants pled guilty. A second trial for the remaining seven defendants is scheduled to begin February 14, 2017.

13. Beginning November 15, 2016, Gary HUNT began publishing excerpts from the discovery materials on the Outpost of Freedom blog at http://outpost-of-freedom.com.

14. On January 5, 2017, Special Agent Matthew Catalano served HUNT with a cease and desist letter which directed him to stop publishing excerpts from the above-described discovery materials that were in his possession and in violation of the Protective Order. HUNT later posted details of this meeting on his blog.

15. On January 11, 2017, Judge Brown issued an Order, court record #1691, directing HUNT to remove all protected material from his website within 24 hours. The Order enjoined

HUNT from further dissemination of material covered by the Protective Order. Later that same day, HUNT was personally served with the original Protective Order, the new Order (court record #1691), and a Supplement to the original Protective Order, court record #1692, which prohibits any individual or entity from disseminating those materials or any information derived therefrom to any other individual or entity by any means.

16. On January 12, 2017, HUNT posted a lengthy article about the January 11, 2017, meeting with SA Catalano. HUNT quoted extensively from each of the three court Orders (#342, #1690, and #1691) and acknowledged he received copies of the Orders. A copy of the article is attached hereto.

17. On January 23, 2017, I reviewed the Outpost of Freedom blog at http://outpost-of-freedom.com and observed that HUNT not only had not removed the protected material but had posted new additional discovery information subject to this Court's original Protective Order (#342), January 11, 2017, Order (#1691), and January 11, 2017, Supplement to Protective Order (#1692). The new CHS discovery information was posted January 23, 2017, in an article by HUNT titled "Burns Chronicles No 55." In this post, HUNT alleges two individuals are FBI CHSs. HUNT fully identifies one of the individuals and refers to the second individual only by first name and physical description. HUNT draws conclusions based on five FD-1023 reports provided in the CHS discovery. HUNT quoted verbatim text from the CHS discovery reports.

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18. On January 30, 2017, I again reviewed the Outpost of Freedom blog at http://outpost-of-freedom.com and observed that HUNT has not yet removed the protected material from his website.

Ronnie Walker
Special Agent
Federal Bureau of Investigation

SUBSCRIBED and SWORN to before me this 30th day of January 2017.

OFFICIAL STAMP
VIRGINIA SUE MARSHALL
NOTARY PUBLIC-OREGON
COMMISSION NO. 945379
MY COMMISSION EXPIRES DECEMBER 22, 2019

Notary Public for Oregon

Outpost of Freedom

when the government is pointing their guns in the wrong direction

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Freedom of the Press #4 – The Order

January 12, 2017, 2:23 pm

Freedom of the Press #4
The Order

Gary Hunt
Outpost of Freedom
January 12, 2017

I got a call from FBI Special Agent Matthew Catalano, earlier today, January 11, 2017. He told me that he had an Order to serve. We made the same arrangements to meet at the restaurant in Los Molinos. The restaurant only serves breakfast and lunch, so it was closed, but I figured that this wouldn't take very long.

I arrived at about 4:15 pm, and he said that he had to serve me. He handed me the Order, I looked at it and said, "I refuse this service, it is for the District of Oregon, and I am not within that jurisdiction." I held the paperwork out toward him, but he did not take it, so, I said, "I will keep this, but I want you to tell Judge Anna Brown that I refuse service, as I am not subject to the Oregon District's jurisdiction." He agreed to convey the

message, and then he proceeded to read certain portions of the Order to me. When he was finished, I reminded him that I wanted Brown to receive my message, and he assured me that he would pass it on. I feel certain that he will. After all, that is his job. We shook hands, and we departed.

Though I had already received two copies of the Order from other sources, I hadn't read it. The news traveled so rapidly that my phone was in near constant use. However, between calls, I read portions of the Order. As I did so, a smile crept across my face. Now, you may wonder why I would smile after receiving the Order, but my first thought was that Judge Brown had not had an opportunity to read my article, that had gone out just a few hours before. The Order had been docketed, and I received copies just minutes after posting my article. Judge Brown had not had the opportunity to read my response to the Memorandum that had refuted most, if not all, of what she was provided by the US Attorney in the form of the Memorandum to prepare the Order.

Quite frankly, when Brown filed the Minute Order (See Freedom of the Press Update - A Grateful Thank You), there were two possibilities. First, that she really was holding the government's feet to the fire, seeking real legal justification for issuing an Order. The other, that she simply wanted the government to give her the paperwork she needed, in the form of a Memorandum, to provide justification to issue such an Order. I decided to act on the former. I had said many things about Anna Brown in the past, few of them complimentary, but if she had turned to the right side, she was deserving of the benefit of the doubt. Her actions, in the past, had been nigh onto dictatorial, and had no foundation in law or justice.

So, let's look at her Order, and I will comment, as we go. It is dated January 11, 2017.

> This matter comes before the Court on the government's Motion (#1680) to Enforce Protective Order in which the government seeks to enjoin a third party, Gary Hunt, from further dissemination of discovery materials that are protected by the Court's Protective Order (#342) issued March 24, 2016.
>
> Through the Affidavits (#1681, #1690) of FBI Special Agent Ronnie Walker, the government asserts Hunt published excerpts from protected discovery materials on his website beginning on November 15, 2016, and continuing through the present. In particular, the government contends the postings on Hunt's website identify some of the confidential human sources (CHSs) that the government used during the occupation of the Malheur National Wildlife Refuge. <u>This information is not only protected by the Protective Order</u> (#342), but <u>the Court also found in its Order (#1453) issued October 18, 2016, that the government had provided to Defendants all information regarding CHSs that was relevant and helpful to the defense</u> and, in particular, <u>that the government was not obligated to disclose to Defendants the identities of the CHSs.</u> Thus, the information in Hunt's postings should not be publicly available.

Well, that is cute. Have I not said, from the beginning, that I was not subject to the Protective Order? Now, she says that the "information is protected by the Protective Order." That means that those subject to the Protective Order have an obligation to protect the information. She is right in line with my thinking. But, that will change a little later.

Then, she finds that "*the government had provided to Defendants all information regarding CHSs that was relevant and helpful to the defense.*" That information was relayed to the defense on October 18, about ten days before the jury returned the not guilty verdict. She also stated, "*that the government was not obligated to disclose to Defendants the identities of the CHSs.*"

So, let's get real. The government gave out redacted copies of the 1023 forms. The defense could not call any witnesses who had been informants. Obviously the information the government, and Judge Anna Brown, were willing to allow the defense to have was totally insufficient for them to prepare their defenses, especially with regard to possible exculpatory testimony those informants might have provided. The Judge, well let's just go with Brown, from this point on, disregarded the fact that two of the government's informants testified. Terri Linnell came forward voluntarily, against the wishes of the Prosecution, and testified for the defense. A diligent effort by the defense teams in tracking down Fabio Monoggio, another informant, whose testimony also was beneficial to the defense. Both gave testimony, which may well have turned the tide on the jury's verdict. This testimony would have been denied the defense under the enforcement of the Protective Order and the subsequent statement on October 18.

This is absolutely contrary to the right protected by the Sixth Amendment to the Constitution, which says that the accused has the right, "*to be confronted by the witnesses against him*". Now, some have claimed that informants, unless they testify, are not witness. However, that is not what the Protective Order (March 24, 2016) says. That Protective Order clearly states what the prohibitions are, to wit:

> IT IS FURTHER ORDERED that this Protective Order applies only to:
>
> (1) Statements by witnesses and defendants to government officials;
>
> (2) Sealed documents; and
>
> (3) Evidence received from searches of electronic media.

Now, there are only two human objects in the Protective Order. It applies to "witnesses" and "defendants". Well, I am not exposing defendants, so if the informants are not witnesses, then I am not in violation of the Protective Order. *Ergo*, the informants are witnesses, so saith Brown.

Therefore, Brown has denied the constitutionally protected right of the defendants to confront those witnesses.

> The record reflects FBI Special Agent Matthew Catalano met Hunt, who resides in Los Molinos, California, on January 5, 2017, and personally served him with a cease-and-desist letter from the government that demanded Hunt remove all discovery materials from his website. Special Agent Catalano also provided Hunt with a copy of this Court's Protective Order (#342). According to SA Walker, Hunt stated he did not intend to comply with the cease- and-desist letter and did not believe that the Protective Order applied to him. It appears Hunt has not removed the protected discovery materials from his website.

Now, SA Ronnie Walker is quite a character. In the Affidavit upon which the government based the current Order, he uses a Facebook post to allege *facts*. Well, the *fact* that

something was said is not really a *fact*, unless what was said was really a statement of a *fact* (See Freedom of the Press #3 – "Contemptuous Postings".) Now, SA Walker does the same. I have never spoken with SA Walker, so, how could SA Walker know that I "*stated that [I] did not intend to comply with the cease and desist letter...*" At best, that is hearsay, and he probably heard it from Matthew Catalano. However, unlike the Facebook comment in the Affidavit, which was attributed to a source, albeit the *fact* was not verified, Now, he states a *fact*, but provides no attribution. And, Brown perpetuates that absolutely arbitrary method of creating *facts* out of thin air. I doubt, seriously, that the defense could ever get away with such an outrageous approach to *evidence*.

> To the knowledge of the government, Hunt is not a member of the staff of any defense counsel representing any Defendant in this case.
>
> The Court issued the Protective Order in order to obviate "a risk of harm and intimidation to some witnesses and other individuals referenced in discovery." Order (#285) issued Mar. 9, 2016, at 2. The Protective Order (#342) states defense counsel may only provide copies of the discovery in this case to:
>
> (1) The defendants in this case;
>
> (2) Persons employed by the attorney of record who are necessary to assist counsel of record in preparation for trial or other proceedings in this case; and
>
> (3) Persons who defense counsel deems necessary to further legitimate investigation and preparation of this case.

Here, clearly stated, is Brown's argument to deny the names of the informants to the defense, "a risk of harm and intimidation to some *witnesses* and *other individuals* referenced in discovery."

This brings to mind a couple of things. First, the Protective Order only addresses *witnesses* and *defendants*. Now, we have "*other individual*" added to this list. And, I suppose, rewritten, without hesitation. What gives? What is the fact about who is protected, and who is not?

This leads us to the most significant of these very duplicitous statements that have been advanced by Brown. If a *risk of harm or intimidation* really does exist, why did the government expose Mark McConnell as an informant back in September? The government set the stage for exposing informants, and now they tell me that I cannot expose informants. What sort of judicial double standard is this? It reeks of hypocrisy and extinguishes any concept of equal justice, under the law.

> Protective Order (#342) at 1. The Protective Order requires any person who receives a copy of the discovery to "use the discovery only to assist the defense in the investigation and preparation of this case and shall not reproduce or disseminate the discovery material to any other person or entity." Id. (emphasis added). Defense counsel are further required to "provide a copy of this Protective Order to any person above who receives copies of discovery." Id.
>
> The Court notes although the literal terms of the Protective Order do not apply to third parties who obtain protected materials from a source other than defense counsel, it is well-settled that the Court may, nonetheless, prohibit a third party

> from violating a court order when that third party "'actively aid[s] and abet[s]'" a violation of such an order. Reebok Int'l Ltd. v. McLaughlin, 49 F.3d 1387, 1391 (9th Cir. 1995)(quoting Waffenschmidt v. MacKay, 763 F.2d 711, 714 (5th Cir. 1985)). Moreover, the Court has jurisdiction to enforce its orders within the jurisdiction of the United States. Reebok Int'l, 49 F.3d at 1391.

Well, that is what I have been saying, all along. Thank you, Brown, for pointing out that the Protective Order does not apply to *third parties*. Since that is what is written, I have pursued my efforts, in total compliance with what was written — by you, Judge Brown, I might add. After all, we are a nation of laws, and we cannot be expected to live by *house rules* that can be changed at any time. If it is not written, how can one understand what he can, or cannot, do? I went into my efforts based upon what was written. Now, you sort of say that, "well, I didn't mean what I said (wrote), now, here is what I mean, but failed to say." It don't work that way, Brown.

Now, as far as "*it is well-settled*", let me suggest that it is only in your mind, and, further, that *well-settled* only came into existence in your mind when you realized that you screwed up. Your dictatorial highness still has the obligation to be honest, forthright, and to take responsibility for your actions. You are nothing more than a citizen of this country with a job that holds you to a higher standard than it holds me, as you work for the people. You may think that you have a higher privilege; however, really, you have a higher responsibility, especially to the defendants.

Let's jump in to a little history. Back in the early 19th century, in a country, which lived under a government created by a new concept and a Constitution, it was rightfully stated that judges were the arbiters that the people could rely upon to keep the government within the government's constitutional limits. They were considered the protectors of the people's rights. Perhaps a bit more history and a little less arrogance might make you a decent judge. However, as explained above, I have lost hope in you.

> In order to make clear in the public record that the Protective Order prohibits even third parties from disseminating protected materials and information, the Court is filing a Supplement to the Protective Order together with this Order.

Perhaps this should have been made clear in the first Protective Order. I believe that the legal term is *estoppel*. So, I had reliance from the wording of the Protective Order, and a pursued a course of action. Subsequently, as my efforts yielded results, I began, in October, writing articles that contained the information developed from documents I had received. There is no doubt that the US Attorney's Office and most likely, nearly every judge and clerk in your courthouse, were aware of my articles, and I have that on good authority, should the need arise to establish the veracity of what I just said.

At the time, I received no notice from the Court or the US Attorney. That absence of action from October to January can be described three ways: 1) Silence; 2) Acquiescence; 3) Estoppel.

To more fully understand the implications and ramifications of this inactivity and subsequent activity, you have proven my point by, at this late date, after understanding my challenge to the recent activities of the Court and the US Attorney's Office, decide that you had screwed up, and now you have now decided to file "*a Supplement to the Protective Order*". Sorry, Brown, there are no "do-overs", you don't even get a

"participation award". The Framers of the Constitution foresaw that possibility when they forestalled both legislative and judicial tyranny by incorporating Article I, § 9, clause 3, into the Constitution. And, if the legislative branch cannot enact *ex post facto* laws, then surely, a Court with limited jurisdiction has no less a prohibition.

Here is a rather interesting statement, "the Court may, nonetheless, prohibit a third party from violating a court order when that third party 'actively aid[s] and abet[s]'." Now, I will have to refer the reader to my previous article, Freedom of the Press #3 - "Contemptuous Postings", where I addressed this whole matter of allegations of "*aiding and abetting*". This also extends to the cases cited in Brown's Order. As explained in the above linked article, the US Attorney simply grabbed stuff, threw it in, and hoped that nobody would pay attention to the fact that the cases cited do not lead to the conclusions that have been suggested. Apparently, even Brown and her clerks, have fallen prey to the devious deception. However, I didn't, as I pulled all but the obscure District Court citations, and have seen that they have no relevance to the subject at hand.

> On this record, therefore, the Court concludes the government has sufficiently demonstrated that Hunt has aided and abetted the dissemination of materials covered by the Protective Order, and, therefore, the Court GRANTS in part the government's Motion (#1680) to Enforce Protective Order as follows:

Once again, the words flow wantonly. *Aiding and abetting* is a potential criminal charge, and, thusly, must be proven. Merely writing those words does not make it true, and cannot provide justification to imply that such an act occurred in order to impose punishment as a result of an activity that has not been tried, only applied. I'm going to toss out a phrase, where, there should be fair warning to the more astute players on the government's side of the aisle. That phrase, simply put, is "prior restraint".

> 1. The Court DIRECTS Hunt to remove all protected material and/or information derived from material covered by the Protective Order from his website(s) within 24 hours of the service of this Order;
>
> 2. The Court ENJOINS Hunt from further dissemination of material covered by the Protective Order or information derived therefrom to any person or entity.
>
> 3. The Court DIRECTS the government to serve Hunt personally with a copy of this Order together with a copy of the Protective Order (#342) and the Supplement (#1692) thereto as soon as possible and to file immediately in the record a certificate stating it has effectuated such personal service or otherwise ensured Hunt has personal knowledge of the contents thereof.
>
> 4. In the event that Hunt fails to comply with this Order after he is served, the government may initiate contempt or other enforcement proceedings in a court of competent jurisdiction. [1]

Here, we are getting some rather interesting insight. Does She, or Doesn't She? And, I am not talking about hair coloring, rather, jurisdiction. This will be discussed more, shortly.

> 5. In the event that the government obtains reliable evidence regarding the source from which Hunt obtained the protected materials, the Court trusts the

government will seek appropriate relief from the Court without delay.

Now, this appears to be a disguised attempt to intimidate me into providing the source of the information, because they really have nothing on me. The Cease & Desist Letter had no effect; this Order has no effect, in my pursuit of bringing to the public, through the Freedom of the Press, their right to know the workings of their own government. This might be an appropriate place to quote from John Adam:

"[W]e have nothing to expect from their justice but everything to hope from their fears."

Adams to James Warren, July 17, 1774, "Papers of John Adams"

[Footnote]

1 Because the question is not presently before it, the Court does not express any opinion regarding which United States District Court would have jurisdiction to require Hunt to appear personally in such enforcement proceedings.

I have made my case before you, the public. My case has not been lost on only you, since both the defense and the prosecution await my scribblings. The former with anticipation, the latter with dread. So, there can be little doubt that this sudden concession to the jurisdictional issue is a consequence of their dread.

Now, we can move to another aspect of my writings, that being as to whether the Protective Order extends to me, or stops at those named. This is the *ex post facto* violation. This is where the Court has now determined, at this late date, to incorporate, and I hate to say it, anybody and everybody that has read any of my articles and/or simply posted or shared them on Facebook. What follows is the Supplement to the Order:

BROWN, Judge.

For the reasons stated in the Court's Order (#1691)Granting in Part the Government's Motion to Enforce Protective Order, the Court supplements the Protective Order (#342) issued March 23, 2016, as follows:

Any individual or entity that obtains materials protected by the Court's Protective Order (#342) is prohibited from disseminating those materials or any information derived therefrom to any other individual or entity by any means.

IT IS SO ORDERED.

DATED this 11th day of January, 2017.

Now is the time to refresh your memory to what John Adams said, and I will repeat at the end of this article. We must decide not to be civilly disobedient, rather we need to stand strong and be civilly defiant — to challenge the presumed authority of the Court in their efforts to quash me, but, more importantly, to defend, at whatever cost, your absolute right, under the First Amendment to the Constitution, specifically the Freedom the Press, and your right to know the workings of YOUR government.

"[W]e have nothing to expect from their justice but everything to hope from their fears."

Adams to James Warren, July 17, 1774, "Papers of John Adams"