

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,

Plaintiff,

v.

AMMON BUNDY, et al.,

Defendants.

GARY HUNT,

Respondent.

3:16-cr-00051-BR

ORDER DENYING REQUEST TO  
DISMISS CONTEMPT  
PROCEEDINGS FOR LACK OF  
PERSONAL JURISDICTION

BROWN, Judge.

This matter comes before this Court on its Order (#1901) to Show Cause, Respondent Gary Hunt's Memorandum of Law (#2077) in which Hunt requests this Court dismiss these contempt proceedings for lack of personal jurisdiction, the government's Response (#2079) to Hunt's Memorandum, Hunt's Reply Memorandum (#2085), and Declaration of Gary Hunt (#2086). The Court heard oral argument on May 9, 2017, and Hunt personally appeared.

As stated on the record, the Court concludes Hunt's

challenges to this Court's personal jurisdiction over him to adjudicate whether he should be held in contempt are inextricably intertwined with the merits of the contempt allegations themselves. The contempt allegations are based on disputed factual contentions that Hunt knowingly or intentionally aided and abetted a party to this criminal case in the violation of this Court's Protective Orders (#342, #1692) that precluded reproduction or dissemination of certain discovery materials to any other person or entity. If the government ultimately proves Hunt aided and abetted a party in the violation of the Court's Protective Orders (#342, #1692), the Court finds as a matter of law that personal jurisdiction over Hunt would lie in this District. *See Reebok Int'l Ltd. v. McLaughlin*, 49 F.3d 1387, 1391 (9th Cir. 1995). *See also Waffenschmidt v. MacKay*, 763 F.2d 711, 714 (5th Cir. 1985).

In particular, the Court finds the government has made a sufficient preliminary showing that evidence exists to support its theory that Hunt intentionally or knowingly aided and abetted a party to this litigation in the violation of the Protective Order (#382). That preliminary showing requires this Court to proceed to litigate the combined jurisdictional and merits-related issues. *See Augustine v. United States*, 704 F.2d 1074, 1077 (9th Cir. 1983) (When "the jurisdictional issue and the substantive issue are so intertwined that the question of

jurisdiction is dependent on factual issues going to the merits, the jurisdictional determination should await a determination of the relevant facts on either a motion going to the merits or at trial." ). See also *Young v. United States*, 769 F.3d 1047, 1052-53 (9th Cir. 2014).

Thus, to the extent that Hunt seeks an order dismissing these contempt show-cause proceedings on the basis that this Court lacks personal jurisdiction over him or requiring the transfer of these proceedings to the Eastern District of California where Hunt lives, the Court denies those requests. Instead the Court requires the parties to make additional filings to be followed by another hearing as set out below:

1. **No later than June 12, 2017**, the government must file a memorandum that confirms it is seeking a finding of contempt on the basis that Hunt knowingly or intentionally aided and abetted a party to this criminal case to violate the Protective Orders (#342, #1692), specifies any other factual basis for a finding of contempt against Hunt as to which this Court also has personal jurisdiction over Hunt to proceed, sets out the appropriate legal standards for the Court to apply, and makes any necessary legal argument. The government must support its memorandum with a complete and admissible factual record that establishes these disputed facts by the applicable burden of proof. To the extent that the government seeks a sanction against Hunt for publishing

protected discovery information that ultimately was disclosed during the public jury trials in this matter, the government must justify such position with particularity. Finally, the government's memorandum must also itemize the specific sanction(s) together with authorities to support the sanction(s) that the government requests the Court to impose against Hunt in the event the Court finds it has jurisdiction over him and finds him in contempt.

2. **No later than July 21, 2017**, Hunt may file an opposing memorandum in which he responds to any issues raised by the government and sets out any other defensive arguments together with any admissible, factual information that refutes the government's factual showing.

3. Because the government ultimately has the burden of proof, it may file a reply memorandum **no later than August 4, 2017**.

4. The Court will conduct a hearing at a date to be set after the parties' conferral. **No later than May 19, 2017**, the parties must provide the Court with at least two alternate dates between August 18, 2017, and September 12, 2017, on which they are available to proceed with the show-cause hearing together with their estimate of the time necessary to complete the hearing. At the hearing the parties also may offer live

testimony to supplement the written evidentiary record, and the Court will hear the parties' final arguments as to the jurisdictional issues and will make a final ruling from the bench. If the Court confirms its jurisdiction over Hunt, the Court will then proceed to receive any additional evidence the parties deem necessary; to hear the parties' arguments to determine whether Hunt is in contempt; and, if so, to determine the sanction(s) to impose.

IT IS SO ORDERED.

DATED this 11th day of May, 2017.

/s/ Anna J. Brown

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ANNA J. BROWN  
United States District Judge