

THE MANAFORT UNSEALING AND KONSTANTIN KILIMNIK

Earlier this week, the court unsealed the filings in Paul Manafort's case pertaining to his breach determination. I've put most of the filings below.

Much of what has been unsealed is not new. Because Manafort's attorneys failed to actually redact their first response, the five topics about which the government claimed he lied were clear from early on, which made sussing out the rest possible. As one example, here's a post from close to the end of the process that laid out a lot of what we knew and did not know.

That said, in part because of some big gaps in the Manafort docket, and in part because of the government's increasing outspokenness about Konstantin Kilimnik, I want to lay out what has been released in significant fashion and what hasn't.

When the WaPo first asked for this material, the government said no because of "ongoing investigations" and the privacy of uncharged people. When the parties came up with proposed redactions in July 2020, per a subsequently filed ABJ order, the redactions served to hide grand jury information and uncharged individuals; that is, the ongoing investigations were done. Then the WaPo pointed out several things that might be grand jury information, but should be released anyway, including people who have since been charged, including Greg Craig and Roger Stone by name, and grand jury information made public by Mueller.

Petitioner recognizes that grand jury proceedings are confidential under Rule 6(e) but asserts that "at least some" of the grand jury material in this matter should be unsealed because it has become public. Supp. Mem. at 12-13 (noting

particularly the inadvertent disclosure of allegations that the defendant transferred presidential campaign polling data to Konstantin Kilimnik in the summer of 2016); see also Reply at 11 (noting certain information was made public in the March 2019 report of Special Counsel Robert Mueller). Petitioner also asserts that some of the individuals whose names and information were sealed in the court documents because they were not charged with any crimes had since been indicted. See Reply at 1 & n.2 (noting the indictments of Roger Stone and Gregory Craig).

Upon consideration of the parties' arguments, the joint submission of the government and defendant Manafort, the applicable law, and the privacy interests of individuals who have not been charged, the Court finds that some of the information sought by petitioner may be unsealed but that some must remain sealed to protect grand jury materials and the identities or identifying information of uncharged individuals.

That's what should be unsealed: people who have not been charged or stuff that's not grand jury information.

As you can see below, virtually the only area where significantly new information was provided pertained to Manafort's relationship with Kilimnik, starting with the August 2, 2016 meeting and extending for two years. That makes the delay in release (which admittedly could be COVID related) of particular interest: in that time, FBI released a wanted poster for Kilimnik with a \$250,000 reward, and then Treasury stated as fact, just weeks before this release, that Kilimnik had, indeed, shared polling data and campaign strategy with Russian intelligence officers. In addition, as shown below, there are big unexplained gaps in the numbering of the

docket, suggesting sealed filings (I had thought it related to the forfeiture, and it still might, but most of that was moved to a different docket).

FBI Agent Jeffrey Weiland's declaration (here's the original), laying out the five matters about which Manafort lied, is the best way to track what kinds of things have been unsealed or not. Here are the five topics about which Manafort lied, with a summary of what got newly unsealed in each:

Payment to Wilmer Hale: Manafort engaged in some kind of dodgy accounting to get money to pay his lawyers, who represented Manafort until August 2017. The investigation into this allegation was unsealed (along with other investigations that had been dropped) by September 2020. About the only thing that is newly released in all this is that Wilmer Hale was the firm in question, which would seem to be either an uncharged corporate entity or grand jury information that got publicly released.

Manafort's efforts to protect Konstantin Kilimnik in the witness tampering conspiracy: In 2018, Kilimnik and Manafort were charged for conspiring to hide aspects of their Hapsburg project by trying to coach witnesses. The names of those former Hapsburg project associates, Alan Friedman and Eckart Sager, were redacted in the original and remain redacted.

Interactions with Kilimnik: In addition to trying to downplay Kilimnik's role in the witness tampering conspiracy, Manafort was not forthcoming about the August 2, 2016 meeting with Kilimnik (though by the end of the breach agreement, Manafort had proven that prosecutors had misunderstood what happened with a printout of polling data that day), and he blatantly lied about their ongoing meetings about a Ukraine "peace" deal. This is where the most new material was released.

Some of this was already released in the Mueller Report. But there are passages that include

information beyond the Mueller Report, both in Rick Gates filings (which also were released to BuzzFeed), or – for example – in this passage from a Manafort filing.

The OSC contends that Mr. Manafort lied about his meeting with Mr. Kilimnik and [redacted: probably Georgiy Oganov] January 2017. (Doc. 464 at 14-15, ¶¶33-35). In particular, the OSC alleges that in one interview Mr. Manafort stated [redacted] did not present a plan for peace at the meeting or ask Mr. Manafort for anything and, subsequently, Mr. Manafort said that he discussed a peace plan during the meeting. Contrary to the OSC's allegations, these statements are not inconsistent. First, during the interview, Mr. Manafort noted that while [redacted] did not present a peace plan or ask for anything, they did discuss Ukraine, in general, and Eastern Ukraine and Crimea, in particular.

Kilimnik has been charged. But not – as far as is public – for this stuff.

Another DOJ investigation: Little new is unredacted in a passage that describes the investigation in another district that Manafort first told a damning story to, and then reneged on that story: but what is unredacted is actually key. First, a footnote that must modify the overview section links to Michael Cohen's Criminal Information. Given the timing, the issue in question is probably the effort to buy off Karen McDougal. Another filing describes that the information implicated Senior Administration Officials, which would seem to rule out Don Jr or Cohen himself, so must implicate Trump himself and, likely, Kushner. (I'll return to this, because other discussions of this implicate a Roger Stone email to Manafort.)

Manafort's Contact with the Administration: This section also remains largely the same with one

big exception: it describes that some lobbying he was helping people do targeted Department of Labor and pertained to ERISA. That contact has nothing to do with Igor Fruman (with whom Manafort does have ties) and Lev Parnas, who were beginning to sidle up to Trump in this period. ABJ ruled that the government hadn't proven their case on this point, and the ERISA focus sure helps make that case.

Documents

Exhibit 1. Government's Submission in Support of its Breach Determination: 461 (675)

Exhibit 2. Defendant Paul J. Manafort Jr.'s Response to the Special Counsel's Submission in Support of its Breach Determination: 470 (676)

Exhibit 3. Weiland Declaration in Support of the Government's Breach Determination and Sentencing: 477 (677)

Exhibit 4. Defendant Paul J. Manafort, Jr.'s Reply to the Special Counsel's Declaration and Exhibits in Support of its Breach Determination: 481 (678)

Exhibit 5. Transcript of Sealed Hearing Hld before Judge Amy Berman Jackson on 2/4/2019

Exhibit 6. Defendant Paul J. Manafort, Jr.'s Post Hearing Memorandum: 502 (679)

Exhibit 7. Government's Supplement to the Record in Response to Defendant Manafort's Post Hearing Memorandum: 507 (680)

Exhibit 8. Transcript of Sealed Hearing Held Before Judge Amy Berman Jackson on 2/13/2019

Exhibit 9. Government's Sentencing Memorandum: 528 (681)

Exhibit 10. Government's Supplemental Memorandum with Respect to the Court's February 13, 2019 Ruling: 533/537 (682)

Exhibit 11. Defendant Paul J. Manafort's Reply and Motion to Reconsider Based on the Special Counsel's Supplemental Memorandum With Respect to the Court's February 13, 2019 Ruling: 538 (683)

Exhibit 12. Minute Order on March 1, 2019

The Manafort docket is here and the docket for the WaPo effort that liberated the files is here.

Timeline

March 7, 2019: WaPo moves to release the documents

March 13, 2019: Manafort sentencing

March 19, 2019: Michael Dreeben, still on the Mueller team, moves for a short extension until the release of the Mueller Report

March 25, 2019: Post-sentencing DC USAO replaces Mueller team with Deborah Curtis, Zia Faruqui, Jonathan Kravis

March 27, 2019: DC USAO, having inherited the case, moves for another short extension

April 15, 2019: Jonathan Kravis opposes an immediate unsealed, in part on account of "ongoing investigations," and asks for an abeyance until October 15, 2019

December 6, 2020: ABJ orders Manafort and the government to see whether documents can be unsealed

January 5, 2020: Kravis asks for a 60-day deadline to review the documents

February 11, 2020: In response to Barr's interference in Stone case, Kravis and all other Stone prosecutors quit

March 3, 2020: Molly Gaston takes over and submits a joint motion for a further 60 day

delay

April 28, 2020: Citing COVID, parties submit joint motion for further 30 day delay

June 2, 202: Parties submit joint motion for further 30 day delay

June 23, 2020: FBI releases Wanted poster for Konstantin Kilimnik offering \$250,000 for his arrest

July 20, 2020: Parties submit sealed redactions, asking to keep "information from grand jury proceedings protected by Federal Rule of Criminal Procedure 6(e) or [that is] is necessary to protect the privacy interests of certain individuals" sealed

August 19, 2020: FBI releases second package of Kilimnik wanted materials

October 13, 2020: DC USAO replaces Zia Faruqui after he becomes a magistrate judge, with Arvind Lal

06/24/2019	607	TRANSCRIPT OF PROCEEDINGS in case as to PAUL J. MANAFORT, JR before Judge Amy Berman Jackson held on April 2, 2019; Page Numbers: 1-13. Date of Issuance: April 21, 2019. Court Reporter: Janice Dickman. Telephone number: 302-354-3267. Transcripts may be ordered by submitting the -ca href="http://www.dcd.uscourts.gov/node/110">Transcript Order Form-ca href="http://www.dcd.uscourts.gov/node/110">For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats (multi-page, condensed, CD or ASCH) may be purchased from the court reporter.<P> NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty-one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov.<P><P>Redaction Request due 7/15/2019. Redacted Transcript Deadline set for 7/25/2019. Release of Transcript Restriction set for 9/22/2019.(Dickman, Janice) (Entered: 06/24/2019)
09/27/2019	628	NOTICE OF WITHDRAWAL OF APPEARANCE by USA as to PAUL J. MANAFORT, JR, RICHARD W. GATES, III, KONSTANTIN KILIMNIK (Curtis, Deborah) (Entered: 09/27/2019)
10/13/2020	668	NOTICE OF SUBSTITUTION OF COUNSEL as to USA, Attorney Lal, Arvind K. added. Substituting for attorney Zia Faruqui (Lal, Arvind) (Entered: 10/13/2020)
02/26/2021	669	MOTION for Order To Dismiss Properties and to Terminate Ancillary Proceedings by USA as to PAUL J. MANAFORT, JR. (Attachments: # 1 Exhibit A Pardon, # 2 Text of Proposed Order)(Claman, Daniel) Modified retiral on 3/1/2021 (mmw). (Entered: 02/26/2021)
02/26/2021	670	ORDER granting 669 government's motion to dismiss properties and to terminate ancillary proceedings as to PAUL J. MANAFORT JR. (1). See Order for details. Signed by Judge Amy Berman Jackson on 2/26/21. (DMK) (Entered: 02/26/2021)
05/21/2021	672	ORDER entered in IN THE MATTER OF THE APPLICATION OF WFCOMPANY LLC, 19-mc-0032, granting in part and denying in part petitioner's Motion for Public Access to Certain Sealed Court Records. The Clerk of Court is directed to file in United States v Manafort, 19-cr-0031, the documents that have been further unredacted pursuant to this order and to unseal the sealed minute order of March 1, 2019. Further, the court reporter is directed to make available less redacted versions of the February 4, 2019 and February 13, 2019 hearing transcripts pursuant to this order. Signed by Judge Amy Berman Jackson on 5/21/21. (DMK) (Entered: 05/21/2021)

April 15, 2021: Treasury states as fact that Kilimnik shared polling data and campaign strategy with Russian intelligence

May 21, 2021: ABJ orders release, protecting only grand jury information and identities that have not been charged