

CITING “CONSIDERABLE DETAIL” IN AFFIDAVITS, JUDGE DENIES BID TO UNSEAL PROJECT VERITAS WARRANTS

Magistrate judge Sarah Cave just denied a bid by the Reporter’s Committee for the Freedom of the Press to unseal the warrant affidavits targeting James O’Keefe and other Project Veritas personnel. While she rejected the government’s claim there was an exemption for warrant applications in ongoing criminal investigations, she found that a balancing test supported the government’s bid to keep the affidavits secret.

Of particular note, Cave conducted an *in camera* review of the affidavit and determined that there was so much information about individuals who, “voluntarily or involuntarily,” had provided information for the investigation, releasing the affidavits would thwart cooperation in the investigation.

Third, the Court has reviewed the Materials *in camera* and observes that they contain considerable detail about individuals who may have already provided information to the Government—voluntarily or involuntarily—such that unsealing of the Materials “could subject [them] to witness tampering, harassment, or retaliation.” *In re Sealed Search Warrants Issued June 4 & 5, 2008*, 2008 WL 5667021 at *4; see *Amodeo II*, 71 F.3d at 1050 (noting that if the confidentiality of cooperating witnesses “cannot be assured, cooperation will not be forthcoming”); *Smith* 985 F. Supp. 2d at 531–32 (noting that disclosure of search warrant materials would undermine ongoing investigation by, *inter alia*

“officially confirm[ing] who some of the cooperating witnesses in these investigations are,” which “could lead to efforts by [the targets of the investigation] to frustrate the ongoing investigations”). Release of the information in the Materials “is likely to cause persons in [this] or future cases to resist involvement where cooperation is desirable,” and thereby undermine law enforcement interests. Amodeo II, 71 F.3d at 1050.

Cave describes that “the Materials include references to a number of individuals employed by or associated with Project Veritas. Their conduct in relation to the alleged criminal activity is described in considerable detail, although not all of that conduct may be criminal.”

Cave also determined that, because of the amount of detail the government obtained there was no way to redact the names in the affidavit to make it available that way.

Finally, the Court has carefully examined the Materials to determine whether redactions would be sufficient to protect the countervailing interests that outweigh the presumption of public access, and concludes that “no portion of those documents may be unsealed without compromising the interest in the integrity and security of the [I]nvestigation” and the privacy interests of third parties. In re Sealed Search Warrants Issued June 4 & 5, 2008, 2008 WL 5667021, at *5. As noted above, the Materials contain not only the legal theories of the Investigation, but also details about the information the Government has obtained and from which sources. The nature and extent of any possible redactions to omit this information would “render[] unintelligible” the contents of the

Materials, and could be “more likely to mislead than to inform the public” in the way that RCFP predicts. Amodeo II, 71 F.3d at 1052. Accordingly, the Court concludes that unsealing the Materials, “even in redacted form, cannot be accomplished at this stage without serious risk to the [I]nvestigation,” and they must therefore remain sealed at this time. In re Sealed Search Warrant Issued June 4 & 5, 2008, 2008 WL 5667021, at *5

We’ll have to wait to see what the government’s case is or was against Project Veritas.

But it sounds like there’s a good deal behind these warrants.