

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**UNITED STATES OF AMERICA**

[illegible]

**Criminal No.: 1:22-cr-392 (DLF)**

**V.**

**UNDER SEAL**

**Abu Agila Mohammad Mas'ud Kheir**

**Al-Marimi,**

**a/k/a Abu Agila Muhammad Mas'ud Kheir**

**Al-Marimi,**

**a/k/a Abu Agila Muhammad Mas'ud Kheir,**

**a/k/a Hasan Abu Ojalya Ibrahim,**

**Defendant.**

**MOTION FOR LIMITED UNSEALING OF THE INDICTMENT FOR PURPOSES  
CONSISTENT WITH THE CRIME VICTIMS' RIGHTS ACT**

The United States of America, by its attorney, Matthew M. Graves, the United States Attorney for the District of Columbia, hereby moves the Court pursuant to Federal Rule of Criminal Procedure 6(e)(4), and consistent with 18 U.S.C. § 3771 (the Crime Victims' Rights Act or "CVRA") to unseal for limited purposes the Indictment of Abu Agila Mohammad Mas'ud Kheir al-Marimi, a/k/a Abu Agila Muhammad Mas'ud Kheir Al-Marimi, a/k/a Abu Agila Muhammad Mas'ud Kheir, a/k/a Hasan Abu Ojalya Ibrahim (hereinafter, "the Defendant") in the above-captioned case.

The Defendant is charged via sealed indictment with crimes related to the destruction of Pan Am Flight 103 over Lockerbie, Scotland, on December 21, 1988. The attack killed 270 people, including 190 Americans. The United States makes this request for limited unsealing in

accord with the principles outlined in the CVRA, so that the many family members of the 270 victims who were killed will be able to receive advance notice – by telephone and e-mail – of the charges in the Indictment before any initial appearance he will make in open court. Currently, the Indictment is under the Court’s seal. Given the nature of the Defendant’s alleged criminal acts – a high-profile terrorist attack on a civilian aircraft – it is important that the victims be provided this information before anything becomes public on the Court’s docket.

If the court unseals this matter for this limited purpose, the United States requests that the Court continue to seal the Indictment, Arrest Warrant, and related documents until the United States moves, by oral motion, to unseal this matter during Defendant’s initial presentment in Court. In support of its motion, the government asserts the following:

1. On November 29, 2022, a federal grand jury returned a three-count Indictment against the Defendant charging him with criminal offenses for his involvement in the mid-air bombing of Pan Am Flight 103, which occurred over Lockerbie, Scotland, on December 21, 1988. Pan Am 103 was *in route* from London Heathrow to John F. Kennedy Airport in New York.

2. The bombing killed 270 people: all 259 persons on the aircraft to include 243 passengers and 16 crew members, who were citizens of the following countries: United States of America (190 killed), United Kingdom (43 killed), Switzerland, France, Canada, Israel, Argentina, Sweden, Ireland, Italy, Hungary, South Africa, Germany, Spain, Jamaica, Philippines, India, Belgium, Trinidad and Tobago, Japan, and Bolivia. Eleven citizens of Lockerbie were killed in a powerful inferno when an entire city block was destroyed by the aircraft’s falling fuselage containing jet fuel.

3. The Defendant had previously been charged for these crimes in the United States

District Court for the District of Columbia by a sealed Criminal Complaint in Case No. 20-mj-252. Upon motion of the United States, the Criminal Complaint was unsealed on December 21, 2020. At that time, the United States announced its charges against the Defendant for his role in the offenses for which he is now charged in the Indictment.

4. Since that time, the United States has made continuous efforts to obtain custody of the Defendant, and the United States expects that it will soon lawfully obtain custody of the Defendant. It does not yet have custody of him, however, and full unsealing of the Indictment could jeopardize the United States' efforts to take lawful custody of the defendant. Accordingly, at the United States' request, the magistrate issued a Sealing Order under F. R. Crim. P. 6 (e)(4) at the Indictment return, ensuring that the lawful apprehension process of Defendant could proceed unimpeded in that foreign country, and without causing irreparable harm to any and all personnel and or the United States' ability to obtain physical custody of Defendant to prosecute him in a court of law.

5. Accordingly, the Court determined that the facts presented by the United States exhibited an extraordinary situation and a compelling governmental interest to justify the sealing of the Indictment, the Arrest Warrant, and related documents, until such time as the Defendant was arrested or in the custody of the United States. *See Washington Post v. Robinson*, 935 F. 2d 282, 289 n.10 (D.C. Cir. 1991). The United States was limited in the Court's sealing order to disclosure of the Indictment, the Arrest Warrant, and the Order to Seal only to appropriate U.S. and foreign law enforcement agents and officials in so far as disclosure would be in furtherance of national security or efforts to locate, arrest, detain, transfer, extradite or expel the Defendant. *See "Sealing Order,"* Honorable Zia M. Faruqi, U.S. Magistrate, District of Columbia, Dated:

November 29, 2022.

8. In light of the possible lawful apprehension of the Defendant and successful transfer to United States custody, and in recognition of the substantial rights that victims of crime have concerning this matter, the United States seeks to unseal the Indictment for limited purposes after the Defendant is in United States custody but before the Defendant appears for his initial presentment. There is a compelling governmental interest to do so.

9. The relevant portions of the Crime Victims' Rights Act outline the rights that a victim of federal crime has, and those rights include the right to reasonable, accurate, and timely notice of any public court proceeding...involving the crime...of the accused. 18 U.S.C. § 3771(a)(2). Crime victims also have the right to not be excluded from any such public court proceeding, and the reasonable right to confer with the attorney for the government in the case. *Id.*, §§ 3771 (a)(3), (a)(5). Crime victims also have the right to be treated fairly and with respect for their dignity. *Id.* § (a)(8).

10. Accordingly, the United States seeks an Order from this Court for the limited unsealing of the Defendant's Indictment in order for attorneys from the U.S. government to be able to: (a) notify the victims of the existence of the Defendant's November 29, 2022 Indictment after the Defendant is in United States custody but before his initial court appearance; and (b) notify the victims about Defendant's expected initial appearance in the United States District Court for the District of Columbia. For all of the reasons outlined above concerning the rights of crime victims, it is critical that the victims of the December 21, 1988 Pan Am Flight 103 Lockerbie bombing be provided this information, via telephone or by e-mail, before any public hearing or public docketing takes place.

11. We further request that the Court's Order permitting the limited unsealing of the Defendant's Indictment also be sealed until the United States' oral motion to the Court to unseal the Indictment, Arrest Warrant, and related documents at the beginning of the Defendant's initial presentment in U.S. District Court.

**CONCLUSION**

WHEREFORE, for all the foregoing reasons, the United States of America respectfully requests that the Court issue an Order for limited unsealing of the Indictment, so that the United States may respectfully inform the victims of the Indictment against this Defendant after he is in United States custody but before he makes his initial appearance in court. A proposed Order is submitted herewith.

Respectfully submitted,

MATTHEW M. GRAVES  
UNITED STATES ATTORNEY  
D.C. Bar No. 481052

Date: December 9, 2022

By: /s/ Erik M. Kenerson

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**UNITED STATES OF AMERICA**

**v.**

**Abu Agila Mohammad Mas’ud Kheir  
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**ORDER FOR LIMITED UNSEALING OF THE INDICTMENT FOR PURPOSES  
CONSISTENT WITH THE CRIME VICTIMS’ RIGHTS ACT**

Having considered the United States’ Motion to for limited unsealing of the Indictment for purposes consistent with The Crime Victims’ Rights Act” (or “CVRA”) 18 U.S.C. § 3771 *et seq.*, and for good cause stated therein, the Motion is hereby

GRANTED, and it is hereby

ORDERED that, in the above-captioned matter, pursuant to 18 U.S.C. § 3771 (the Crime victims’ rights act, “CVRA”), and relevant portions of Federal Rule of Criminal Procedure 6(e)(4), the Indictment shall be unsealed for the limited purpose of permitting attorneys from the U.S. government to be able to: (a) notify the victims of the existence of the Defendant’s November 29, 2022 Indictment after the Defendant is in United States custody but before his initial court appearance; and (b) notify the victims about Defendant’s expected initial appearance in the United

States District Court for the District of Columbia.

It is FURTHER ORDERED that the Clerk's office shall not make any entry on the public docket in this case of the Indictment until further order of this Court.

It is FURTHER ORDERED that the Indictment shall be unsealed upon oral motion of the United States to this Court or to any Court where the defendant is first presented.

Date: December \_\_, 2022

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DABNEY L. FRIEDRICH  
UNITED STATES DISTRICT JUDGE