

UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,

Plaintiff,

v.

TRACY D. WADE and
CAROLYN D. WADE,

CASE NO. 23-CR-60173

Defendant.

MOTION TO UNSEAL TRANSCRIPT DISCUSSED AT DOCKET ENTRY

100

Tracy D. Wade and Carolyn D. Wade, spouses and co-defendants, were convicted at trial of conspiracy, wire fraud, and false statement counts related to Paycheck Protection Program (PPP) loan applications. They filed timely Notices of Appeal and appeals are pending in the Eleventh Circuit, cases 25-11132 and 25-11133. Undersigned counsel was retained for appeal after the trial conviction and was not present at trial or for pretrial hearings. Undersigned counsel has submitted Transcript Order Forms to obtain the transcripts of all trial and pretrial hearings, as is necessary for appeal. One of the transcripts undersigned counsel ordered is Docket Entry 100, a Report Re: Counsel Hearing held on 7/15/24 as to both defendants. The court reporter has reached out to undersigned counsel and informed him that the transcript cannot be prepared unless and until the docket entry is unsealed.

Based on undersigned counsel's conversations with the prosecutor as well as his clients, he believes the reason the docket entry/transcript was sealed is because as part of the *Garcia* hearing regarding possible conflicts of interest the Court had *ex parte* conversations with the defendants after excusing the government from the courtroom, presumably so the government would not become aware of any privileged defense information disclosed during questioning regarding both defendants being represented by the same counsel.

The defendants understand that if the transcript/docket entry is unsealed, the matters contained therein will become public record, will become known to the government, and that any claim of privilege will be waived. The defendants nevertheless wish to unseal this docket entry/transcript. They wish for undersigned counsel to have access to all potentially relevant information and transcripts in order to diligently represent the defendants on appeal. Although undersigned counsel does not know if any issues that could or would be raised on appeal arose at this hearing, the only way for counsel to determine that is to order and review the transcript. The defense has ordered all pretrial and trial transcripts in this case for the same reason.

Therefore, the defense moves this Court to unseal Docket Entry 100 so that the transcript of the in-court pretrial hearing regarding defense

counsel held on 7/15/24 can be prepared and utilized in the pending appeal.

Undersigned counsel has consulted with opposing counsel, Assistant United States Attorney David Snider, who states that the government has no objection to unsealing the portion of the 7/15/24 proceeding that counsel for the government was present for, and as to the portion of the 7/15/24 proceeding held *ex parte* without the presence of the government counsel, the government takes no position on unsealing.

WHEREFORE, the defense moves this Court to unseal the transcript referenced in Docket Entry 100, the Report Re: Counsel Hearing held 7/15/24.

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on all counsel of record in this cause, this 28th day of April, 2025, via CM/ECF.

Respectfully submitted,

/s/ Daniel Tibbitt
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