UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 6:21−cr−141−RBD−EJK
	)	
EMMET BOWENS,	)	
	)	
Defendant.	)	
	)	

DEFENDANT EMMET BOWENS' UNOPPOSED MOTION FOR LEAVE TO FILE DEFENDANT'S WRITTEN COMPETENCY EVALUATION REPORT UNDER SEAL

The Defendant, Emmet Bowens ("Mr. Bowens"), by and through the undersigned counsel, hereby respectfully moves for leave to file under seal the written report from Mr. Bowens' competency evaluation in this case. In support thereof, Mr. Bowens states as follows:

STATEMENT OF FACTS

Relevant Procedural History

1. On May 6, 2022, Mr. Bowens filed an Unopposed Motion for a Hearing and Out-Patient Examination to Determine Mental Competency ("the competency motion"). Doc. 47.

2. On May 16, 2022, the Court granted the competency motion and appointed Jeffrey A. Danziger, M.D. ("Dr. Danziger") to perform a competency evaluation of Mr. Bowens. Docs. 52, 55.

3. The deadline for the submission of Dr. Danziger's competency report to the Court is today, June 27, 2022. Doc. 57.

4. Dr. Danziger has completed his competency evaluation of Mr. Bowens and submitted to the undersigned his written report.

5. In order to comply with the Court's Order, the undersigned will be submitting a copy of the competency evaluation report to the Court. However, the undersigned respectfully requests leave of this Court to file the report under seal.

6. The undersigned is informed by AUSA Amanda Daniels that the government has no objection to the filing of the competency evaluation report under seal.

MEMORANDUM OF LAW

The Middle District of Florida Local Rules provide, in relevant part, that:

> a motion for leave to file under seal:
> (1) must include in the title "Motion for Leave to File Under Seal";
> (2) must describe the item proposed for sealing;
> (3) must state the reason:
> (A) filing the item is necessary,
> (B) sealing the item is necessary, and
> (C) partial sealing, redaction, or means other than sealing

> are unavailable or unsatisfactory;
> (4) must propose a duration of the seal; . . . . . .
> (6) must include a legal memorandum supporting the seal; but
> (7) must not include the item proposed for sealing.

See Rule 1.11, M.D. Fla. Local Rules.

Courts have historically recognized a "general right to inspect and copy public records and documents, including judicial records and documents." *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 597 & n. 7 (1978). The right to public access to judicial records, however, is not absolute. *Id.* at 598. The presumption of openness may be overcome, however, where a party shows "an overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest." *United States v. Ochoa-Vazquez*, 428 F. 3d. 1015, 1029 (11th Cir. 2005) (internal citations omitted).

The sealing of Dr. Danziger's entire report in this case is necessary to prevent the public disclosure of sensitive information concerning Mr. Bowens' psychological condition. Redaction of the report is insufficient because almost the entire report would have to be redacted in order to protect the sensitive information contained within the report. Mr. Bowens requests that the report be sealed until further order from the Court.

CERTIFICATION OF CONFERRING WITH OPPOSING COUNSEL

Pursuant to the Court's Criminal Scheduling Order (Doc. 16), the undersigned certifies: (1) that the undersigned counsel conferred with opposing

counsel; (2) that the motion is unopposed; and (3) that the motion concerns matters not covered by the scheduling order.

CONCLUSION

WHEREFORE, the Defendant, Emmet Bowens, respectfully requests that this Court enter an Order granting this motion and directing the clerk to accept and file the written competency evaluation report in this case under seal.

Respectfully submitted on this 27th day of June, 2022.

s/Andrew C. Searle
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY on June 27, 2022, I filed a copy of the foregoing with the Clerk of the Court via the CM/ECF system. I further certify that all parties to this case are equipped to receive service of documents via that system.

s/Andrew C. Searle
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