

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

Chambers of
BENSON EVERETT LEGG
United States District Judge

101 West Lombard Street
Baltimore, Maryland 21201
410-962-0723

January 21, 2011

MEMORANDUM RE: United States v. Howell, et al.,
Cr. No. L-98-0259

I have received a letter from Mr. Oloyede Johnson requesting my assistance in obtaining the dates that the grand jury convened and the racial composition of the grand jury. (Docket No. 762). I have construed this letter as a motion for disclosure of grand jury materials under Federal Rule of Criminal Procedure 6(e). The motion is hereby DENIED.

Secrecy of grand jury materials is the norm. Nevertheless, Rule 6(e)(3)(E) enumerates five situations in which a court “may authorize disclosure . . . of a grand-jury matter.” Rule 6(e)(3)(E)(i) provides for disclosure of grand jury materials “preliminarily to or in connection with a judicial proceeding.” The docket reflects that Mr. Johnson’s case has been closed since May 4, 2006. Therefore, the Court will assume that he is seeking these materials preliminarily to a motion for post-conviction relief pursuant to 28 U.S.C. § 2255.

Grand jury secrecy can only be lifted in cases of “particularized need.” United States v. Procter & Gamble Co., 356 U.S. 677, 683 (1958). In determining whether there is a “particularized need,” the trial court must “balance the petitioner’s need for release against the traditional public interest reasons for grand jury secrecy.” In re Grand Jury Proceedings GJ-76-4 & GJ-75-3, 800 F.2d 1293, 1298-99 (4th Cir. 1986). A particularized need will be found only in those cases where “the need for [disclosure] outweighs the public interest in secrecy.” Id. (quoting United States v. Sells Eng’g, Inc., 463 U.S. 418, 443 (1983)). “The moving party bears the burden of showing that the balance between secrecy and need weighs in its favor.” United States v. Foggo, 495 F. Supp. 2d 672, 673 (E.D. Va. 2009) (citing In re Grand Jury Proceedings, 800 F.2d at 1298-99).

Here, Johnson offers no evidence or argument to justify the disclosure of the grand jury material he seeks, and Johnson has failed to identify any constitutional error in the grand jury process. Moreover, there are no pending judicial proceedings that would be aided by disclosure of the grand jury materials. As mentioned above, Johnson’s direct appeal from his conviction and sentence concluded in May 2006, and, to date, he has not collaterally attacked his conviction or sentence. Under these circumstances, Johnson’s motion is DENIED.

