

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA

v.

CRIMINAL CASE NO. 3:07CR192-b-a

DAVID ZACHARY SCRUGGS

PETITIONER'S RESPONSE REGARDING MOTION TO SEAL

The Government has moved to seal an exhibit consisting of Anthony Farese's response to a bar complaint levied against him by the Petitioner. D.E. 327. The Government cites no authority in support of its Motion, and Petitioner is unaware of any authority requiring the Court to seal such a document or prohibiting public discussion of a bar complaint or a response thereto. Nor does the Government provide a request from the Mississippi Bar or Mr. Farese requesting such a sealing.

Nor has the Government explained what practical purpose would be served by sealing this document, after the Government's own prosecutor has already written a book about this case, detailing Mr. Farese's wrongdoing, and after the Government has made representations about its contents in a public court filing. D.E. 328, at 3-4. Petitioner is concerned that a blanket order sealing such documents may create uncertainty for the parties regarding what can and cannot be said or written about that bar complaint in briefing or in open-court. *Similarly, see* Order, D.E. 207 ("Sentencings in open court often involve discussions concerning letters that have been written to the sentencing judge" which thus counseled towards allowing media access to those same letters). Petitioner also intends to place before the Court the bar complaint, and the rebuttal thereto, so that the Court can have a complete record of those proceedings.

All that said, Petitioner has no objection to narrow Order sealing Mr. Farese's bar complaint response, provided the Order does not limit the parties or witnesses in referring to the bar materials, or quoting therefrom.

/s/Edward D. Robertson, Jr.
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CERTIFICATE OF SERVICE

I, Edward D. Robertson, Jr., hereby certify that on March 14, 2011, I served copies of this Motion the Office of the United States Attorney for the Northern District of Mississippi by way of the Electronic Court Filing (ECF) system.

/s/ Edward D. Robertson, Jr.