

J. Aguero

DEPUTY

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND/ODESSA AND PECOS DIVISIONS**

IN THE MATTER OF PUBLIC	§	
ACCESS TO CRIMINAL CASE	§	ALL CRIMINAL CASES
DOCUMENTS	§	

**ORDER REGARDING PUBLIC ACCESS TO PLEA AGREEMENTS
AND SENTENCING DOCUMENTS FILED IN THE
MIDLAND/ODESSA AND PECOS DIVISIONS**

This Order is effective July 20, 2020, and shall apply to all Plea Agreements and Sentencing Documents filed in the Midland/Odessa and Pecos Divisions beginning on that date, irrespective of the date of the return of the Indictment or the filing of the Information. Nothing in this Order shall be construed as contravening or diminishing the application of the local rule or federal statute. Furthermore, all sealed documents will remain unavailable on CM/ECF, but Plea Agreements only will continue to be available at the U.S District Clerk's office, absent an order to the contrary.

Except for documents identified herein to always be sealed, decisions on sealing a particular pleading will be made on a case-by-case basis with information specific enough that the Court may determine the propriety of sealing. Absent an order to the contrary, all documents, other than those identified herein and others which are ordered sealed, are accessible to the public.

It is therefore **ORDERED**:

1. Plea Agreements shall include a factual basis and any matters not closely related to cooperation. The Plea Agreement shall not reference past, current or future cooperation.
2. Plea Agreements shall be accompanied by a document captioned "Sealed Addendum to Plea Agreement." The provisions contained in the Sealed Addendum to Plea Agreement are part of the Defendant's agreement with the Government. Stipulations and agreements related to safety valve statement, any applicable specific offense characteristics, role adjustments and substantial assistance which may reveal cooperation shall be included in this separate Sealed Addendum to Plea

Agreement. If no substantial assistance agreement has been made, this Sealed Addendum to Plea Agreement shall state, "The parties have not entered into a cooperation agreement." Any portion of a factual basis that reveals cooperation should also be included in this Sealed Addendum to Plea Agreement.

3. Objections to the Presentence Report (PSR), if any, **shall not be filed, electronically or otherwise.** Objections and responses will be submitted through letter addressed to the U.S. Probation Officer assigned to prepare the PSR, with a copy to opposing counsel. The Probation Officer will forward objection letters and responses to the Court. Objection letters and responses will be made part of the record.

4. Though not required, all Sentencing Memoranda will be filed no later than **three (3) days** prior to the sentencing hearing without regard to the existence of a Plea Agreement.

5. The Clerk of the Court is instructed to make part of the record for appeal, or other post-conviction proceedings, the documents identified herein.

The following documents shall be filed under seal without need of a motion to seal or certification by counsel:

- i) Sealed Addendum to Plea Agreement;
- ii) Government's Motion for Sentence Reduction Pursuant to § 5K1.1 or §3553(e), and related orders; and
- iii) Motions for reduction of sentence under Fed. R. Crim. P. 35(b), and related orders.

The word SEALED shall appear on the front page of any such filing.

Signed and entered this 15th day of July, 2020.



DAVID COUNTS
UNITED STATES DISTRICT JUDGE