

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

UNITED STATES OF AMERICA

V. CRIMINAL ACTION NO. 3:07CR00192-B-A

RICHARD F. "DICKIE" SCRUGGS;  
DAVID ZACHARY SCRUGGS;  
SIDNEY A. BACKSTROM;  
TIMOTHY R. BALDUCCI; AND  
STEVEN A. PATTERSON

**ORDER GRANTING ACCESS TO PRE-SENTENCING LETTERS**

This cause comes before the court upon the Motion for Access to Pre-sentencing Letters Concerning Defendants filed by Gulf Publishing Company, Inc., which publishes the *Sun Herald* newspaper in South Mississippi. Upon due consideration and having found no objections thereto, the court finds that the motion is well-taken and shall be granted.

Gulf Publishing cites *McGlatchy Newspapers, Inc. v. United States District Court*, 288 F.3d 369 (9<sup>th</sup> Cir. 2002), in support of its position that the letters should be made available to the press and public. In *McGlatchy*, the Ninth Circuit found the district court in error for its refusal to unseal proffer letters submitted by a defendant in connection with his motion to reduce his criminal sentence. *McGlatchy*, 288 F.3d at 375. Finding "[n]o adequate justification for [the letters'] redaction," the Ninth Circuit ruled that the subject matter of the letters was "of legitimate public interest." *Id.* at 374. The court acknowledged, however, that "[t]he right 'to inspect and copy judicial records is not absolute.'" *Id.* at 373 (quoting *Nixon v. Warner Comm., Inc.*, 435 U.S. 589, 598 (1978)).

The case law addressing this topic reveals that the court is granted considerable discretion in this matter. *See, e.g., United States v. Gotti*, 322 F. Supp. 2d 230 (E.D. N.Y. 2004).

It is well-settled that “a court has the inherent authority to control various aspects of the cases before that court so that [it] can ‘protect [its] proceedings and judgments in the course of discharging [its] traditional responsibilities.’” *United States v. Moussaoui*, 483 F.3d 220, 237 (4<sup>th</sup> Cir. 2007) (quoting *Degen v. United States*, 517 U.S. 820 (1996)). As the Supreme Court has noted, “[e]very court has supervisory power over its own records and files, and access has been denied where court files might have become a vehicle for improper purposes.” *Nixon*, 435 U.S. at 598.

In the case at bar, the court finds no circumstances justifying a refusal to make the pre-sentencing letters available to the public and the press. Sentencings in open court often involve discussions concerning letters that have been written to the sentencing judge, and the court is of the opinion that any letters written to influence the sentencing judge should be a matter of public record with some exceptions which should remain under seal – for example, medical information from health care providers, information which may lead to harassment from the defendant, and other information for which good cause is shown. With these limited exceptions, the court finds that no presumption of confidentiality attaches to pre-sentencing letters sent to the court. *See Gotti*, 322 F. Supp. 2d at 259.

For the foregoing reasons and finding, as noted above, that no objections to Gulf Publishing’s motion have been filed, the court finds that the motion should be and the same is hereby **GRANTED**. The movant herein may examine the requested information in the office of the court clerk on Wednesday, June 25, 2008.

**SO ORDERED AND ADJUDGED** this the 20<sup>th</sup> day of June, 2008.

/s/ Neal Biggers  
**NEAL B. BIGGERS, JR.**  
**SENIOR U.S. DISTRICT JUDGE**