IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA, v. JAMES B. COMEY, JR., *Defendant*.	Criminal No. 1:25-cr-272-MSN

ORDER

This matter comes before the Court on the government's appeal of Magistrate Judge William E. Fitzpatrick's November 5, 2025 Order (ECF 161) requiring the government to file with the Court, under seal, grand jury materials and produce the same to Defendant by 5:00 p.m. on November 6, 2025. ECF 164. The government contends that Judge Fitzpatrick exceeded his designated authority, prematurely disposed of Defendant's pending Motion for Disclosure of Grand Jury Proceedings (ECF 106) ("Disclosure Motion"), and failed to make the "required findings that particularized and factually-based grounds exist and that the defendant's need for disclosure outweighs the public interest in grand jury secrecy." ECF 164 at 3. The government thus asks that the Court either vacate Judge Fitzpatrick's Order or stay the order pending full briefing and oral argument on Defendant's Disclosure Motion. ECF 164 at 6.

Judge Fitzpatrick's Order regarding the disclosure of the grand jury materials falls within the matter referred to him by this Court. By Order of this Court, Judge Fitzpatrick was designated to "preside over all proceedings related to the potential review of privileged materials in this case." ECF 102. This Court finds that Judge Fitzpatrick's ruling falls within the ambit of this referral. Indeed, the topic of a potential privilege spill was raised by Defendant in both his opposition to the government's motion to expedite the ruling on the filter protocol motion, ECF 55 at 3, and in

his opposition to the motion for a filter protocol, ECF 71 at 6. Subsequently, during Judge Fitzpatrick's hearing on the filter protocol motion, Defendant raised substantial questions regarding whether this material was shown to the grand jury. As a result, Judge Fitzpatrick properly addressed the need for disclosure of the grand jury transcripts.

Accordingly, it is hereby

ORDERED that the matter of disclosure of the grand jury transcripts to the Defendant is remanded to Judge Fitzpatrick for further proceedings to analyze whether there are particularized and factually based grounds for disclosure.

IT IS SO ORDERED.

/s/
Michael S. Nachmanoff
United States District Judge

November 7, 2025
Alexandria, Virginia