

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

CENTER FOR CONSTITUTIONAL
RIGHTS, et al.,

Plaintiffs,

v.

CHIEF JUDGE COL. DENISE LIND,
et al.,

Defendants.

Civil Action No. _____

[PROPOSED] ORDER

This Court, having considered plaintiffs' Complaint and Motion for Preliminary Injunction pursuant to Fed. R. Civ. Proc. 65, the opposition thereto, and the entire record herein, finds as follows:

- (a) This Court has jurisdiction over the parties and the subject matter of this case, and venue lies properly in this court; and
- (b) Plaintiffs are likely to succeed on the merits of their claims that defendants have violated the First Amendment right of access to the court-martial proceedings for PFC Bradley Manning, and have demonstrated immediate and irreparable harm, and that weighing the equities and considering plaintiffs' likelihood of ultimate success, the issuance of this Order is in the public interest.

Therefore, for good cause shown, this Court:

DECLARES that the First Amendment and common law rights of public access apply to the court-martial proceedings of PFC Bradley Manning, and

ORDERS defendants to make available to the plaintiffs and to the general public copies of all judicial orders, filings by the parties, and transcripts of proceedings conducted in open court (or substitutes for transcripts such as audio files) in a timely fashion, contemporaneous with the proceedings to which they relate; and

ORDERS that the defendants apply First Amendment principles to any restrictions on public access to such judicial records during the *Manning* proceedings, including (i) enforcing the right to public notice of any request for sealing (or other such restrictions), (ii) allowing opportunity for interested parties to be heard, and (iii) mandating that the court-martial be required to make case-by-case specific findings that a compelling government interest justifies any restrictions, and that no less-restrictive alternatives are available; and

ORDERS that individual documents already generated or filed in the court-martial may only be withheld from public release if the government expeditiously provides such notice in the trial court and can make a document-specific showing to the court-martial that meets the requirements of strict scrutiny; and

DECLARES that the First Amendment and common law rights of public access apply to off-the-record conferences in the *Manning* court-martial proceedings, held pursuant to R.C.M. 802; and

ORDERS defendants to disclose on the public record the arguments advanced by the parties and the rulings made by the court-martial in any such conferences in sufficient detail to satisfy those rights of public access, or to reconstitute past R.C.M. 802 conferences in open court if the foregoing should not prove possible.

FURTHER ORDERED that that no bond shall be required.

SO ORDERED.

Dated:

HON.
United States District Judge