

APPROVED FOR PUBLIC RELEASE

~~TOP SECRET//SI//ORCON/NOFORN~~

Filed
United States Foreign
Intelligence Surveillance Court

Classified by: NSICG [REDACTED]

Reason: 1.4 (C, D)

UNITED STATES

APR 02 2019

Declassify on: 12/31/2043

Date: 11/22/2021 FOREIGN INTELLIGENCE SURVEILLANCE COURT

LeeAnn Flynn Hall, Clerk of Court

WASHINGTON, D.C.

IN RE [REDACTED]

[REDACTED]

[REDACTED] NON-U.S.

PERSONS

Docket No: 19-218

b1 per FBI

b3 per FBI

b6/b7C per FBI

b7E per FBI

CORRECTED ORDER APPOINTING AN AMICUS CURIAE¹

Pursuant to section 103(i)(2)(B) of the Foreign Intelligence Surveillance Act of 1978, as amended (FISA), codified at 50 U.S.C. § 1803(i)(2)(B), the Court appoints David S. Kris, Esq., to serve as amicus curiae for the purpose of assisting the Court in considering the proposed application submitted in the above-captioned matter. This Order also addresses certain administrative matters relating to the participation of the amicus curiae.

Background

[REDACTED]

[REDACTED] Due to the complexity of this proposal, the Court finds that it would be helpful to have the assistance of an amicus curiae with relevant legal expertise in its consideration of this matter.

[REDACTED]

~~TOP SECRET//SI//ORCON/NOFORN~~

Appointment of Amicus Curiae

Pursuant to section 103(i)(1), the Presiding Judges of this Court and the Foreign Intelligence Surveillance Court of Review have designated individuals whose qualifications “may lend legal or technical expertise” to the courts and “who are determined to be eligible for access to classified information necessary to participate in matters before the courts.” Section 103(i)(3)(A), (B). Mr. Kris is among those designated by this Court to serve as amicus curiae pursuant to section 103(i)(1).

Section 103(i)(2)(B) provides that the Court “may appoint an individual or organization to serve as amicus curiae, including to provide technical expertise, in any instance as such court deems appropriate.” Persons appointed under this provision shall “be persons who are determined to be eligible for access to classified information, if such access is necessary to participate in the matters in which they may be appointed.” § 103(i)(3)(B).

Here, the Court finds it appropriate to appoint Mr. Kris as amicus curiae under section 103(i)(2)(B). Mr. Kris is well qualified to assist the Court in considering the issues raised by the proposed application in this matter. The Security and Emergency Planning Staff (SEPS) of the Department of Justice has advised that he is eligible for access to classified information.

Accordingly, it is HEREBY ORDERED as follows:

(1) David S. Kris is appointed as amicus curiae in this matter pursuant to section 103(i)(2)(B). His service as amicus curiae in this matter does not involve representation of any person or entity;

(2) Pursuant to section 103(i)(6)(A)(i), the Court has determined that the materials identified in Exhibit A (attached hereto) are relevant to the duties of the amicus curiae. The

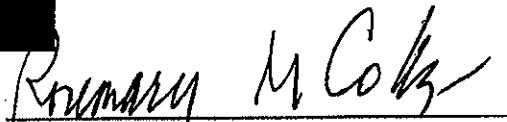
Clerk of the Court shall make the materials identified in Exhibit A available to the amicus curiae [REDACTED] or as soon as practicable thereafter;

(3) With the guidance and assistance of the Security and Emergency Planning Staff (SEPS) of the United States Department of Justice, the amicus curiae shall handle classified information in accordance with the Security Procedures Established Pursuant to Public Law No. 95-511, 92 Stat. 1783, as Amended, By the Chief Justice of the United States for the Foreign Intelligence Surveillance Court And the Foreign Intelligence Surveillance Court of Review (Feb. 21, 2013) ("Security Procedures") (copy attached at Exhibit B). For purposes of the Security Procedures, the amicus curiae shall be regarded as court personnel;

(4) Section 103(i)(6)(C) provides: "An amicus curiae designated or appointed by the court may have access to classified documents, information, and other materials or proceedings only if that individual is eligible for access to classified information and to the extent consistent with the national security of the United States." The Court believes that, in this matter, the amicus curiae's access to classified information pursuant to paragraphs (2) and (3) above is consistent with the national security of the United States. If, however, the government believes otherwise, it shall notify the Court forthwith;

(5) The attorney for the government shall ensure that the Attorney General receives a copy of this Order pursuant to the notification requirement at section 103(i)(7).

ENTERED this [REDACTED]



ROSEMARY M. COLLYER
Judge, United States Foreign
Intelligence Surveillance Court

[REDACTED], Chief Deputy Clerk, FISC, certify that this document is a true and correct copy of the original.

b6, b7C