

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

*In re* GRAND JURY INVESTIGATION

Grand Jury Action No. 18-34 (BAH)

Chief Judge Beryl A. Howell

**FILED UNDER SEAL**

**ORDER**

Upon consideration of the witness's Motion to Be Held in Civil Contempt and to Stay Any Such Order ("Witness's Mot."), ECF No. 33, the government's Motion to Compel and for Order to Show Cause ("Gov't's Mot."), ECF No. 34, the related legal memoranda in support and opposition to these motions, the arguments raised at the hearing held on August 10, 2018, and the entire record herein, the Court makes the following Findings of Fact:

1. On May 10, 2018, the government served on the witness two grand jury subpoenas to produce documents and to appear before the grand jury on May 18, 2018, but following the witness's initial agreement and then retraction to meet voluntarily with the government, he failed to appear before the grand jury on that date, as one of the subpoenas had required.
2. On May 23, 2018, the government emailed the witness's counsel a second set of subpoenas to testify before the grand jury and produce documents by June 1, 2018, which date for testimony was postponed at the witness's request until June 8, 2018. On June 8, 2018, the witness again failed to appear before the grand jury.
3. The government thereafter moved to compel the witness's testimony and for an order to show cause why the witness should not be held in contempt for failure to appear before the grand jury, which motions were granted at a hearing on June 18, 2018, at

which hearing the witness was directed to appear before the grand jury on June 29, 2018.

4. On June 28, 2018, the witness retained additional counsel, who that day filed a second motion to quash the pending grand jury subpoenas and to stay the Court's order directing his appearance before the grand jury that day, raising two arguments as to the constitutionality of the Special Counsel's appointment.
5. On July 31, 2018, the Court issued an order, accompanied by a Memorandum Opinion explaining the Court's reasoning, denying the witness's second motion to quash and directing the witness to appear before the grand jury to provide testimony at the earliest date available to the grand jury and to complete production of the subpoenaed records promptly.
6. Following the Order's issuance, the government requested that the witness appear before the grand jury on August 10, 2018, but the witness again failed to appear. Instead, on August 9, 2018, the witness filed a motion seeking to be held in civil contempt for refusing to testify before the grand jury, as directed by the Court. *See* Witness's Mot. at 1.
7. On August 10, 2018, the government moved to compel the witness's testimony and for an order to show cause why the witness should not be held in contempt. *See* Gov't's Mot.
8. That same day, the parties appeared before the Court for a hearing.

Accordingly, it is hereby

**ORDERED** that the Witness's Motion is GRANTED in part and DENIED in part; and it is further

**ORDERED** that the Government's Motion is GRANTED; and it is further

**ORDERED** that the witness, Andrew Miller, is found in civil contempt of the Court's July 31, 2018 Order, ECF No. 22; and it is further

**ORDERED** that the witness shall be confined at the District of Columbia Jail, as that facility is nearest to the Grand Jury, until such time as the witness is willing to give such testimony or provide such information as required by the Court's July 31, 2018 Order, provided that such period of confinement shall not exceed the life of the term of the grand jury, including extensions, before which such refusal to comply with the Court's Order occurred, and in no event shall such confinement exceed eighteen months; and it is further

**ORDERED** that this Order is STAYED until Tuesday, August 14, 2018 at 9:00 AM, at which time the stay shall be lifted, except that the stay shall remain in place if the witness has filed a Notice of Appeal or the witness and the government have filed a Stipulation setting out an alternative arrangement.

**SO ORDERED.**

Date: August 10, 2018

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BERYL A. HOWELL  
Chief Judge