

File Name: 12a0366p.06

**UNITED STATES COURT OF APPEALS**  
**FOR THE SIXTH CIRCUIT**

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UNITED STATES OF AMERICA, <i>Plaintiff-Appellee,</i>	}	No. 12-5294
v.		
JOHNNY E. HATCHER, <i>Defendant-Appellant.</i>	}	

Filed: October 23, 2012

Before: BOYCE F. MARTIN, JR., Circuit Judge.

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**ORDER**

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Johnny E. Hatcher is appealing his conviction for conspiring to distribute and possess with the intent to distribute 1,000 kilograms or more of marijuana. He moves to file his appendix under seal to prevent the public disclosure of personal identifying information. Hatcher tendered the appendix, and it has been sealed pending a ruling on his motion. The government has not responded to Hatcher's motion.

Documents filed in this Court generally must be made available to the public. *Procter & Gamble Co. v. Bankers Trust Co.*, 78 F.3d 219, 227 (6th Cir. 1996). Nonetheless, documents sealed in the district court must continue to be filed under seal in this Court. 6th Cir. R. 25(h)(5). Additionally, documents "whose privacy protection was governed by . . . Federal Rule of Criminal Procedure 49.1 [are] governed by the same rule on appeal." Fed. R. App. P. 25(a)(5). Rule 49.1 permits the redaction of certain personal identifying information, including social security numbers and home addresses. Fed. R. Crim. P. 49.1(a)(1), (5). The rule does not permit the redaction of

court filings related to certain charging documents in various criminal matters. Fed. R. Crim. P. 49.1(b)(7), (9).

The tendered appendix contains exhibits that were admitted during Hatcher's sentencing hearing, but are not included in the record on appeal. It does not appear that these exhibits were sealed before the district court. There are limited references in these documents to information permitted to be redacted under Rule 49.1. Given the limited redactable information contained in the appendix, it does not appear that the appendix, as a whole, should be sealed.

Therefore, the motion to file the appendix under seal is granted in part. Hatcher is directed to file sealed and public versions of the appendix, redacting any confidential matters that were sealed before the district court or that fall within Rule 49.1.

ENTERED BY ORDER OF THE COURT

/s/ Deborah S. Hunt

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Clerk