

March 12, 2024

The Honorable Juan M. Merchan
New York State Supreme Court, Criminal Term, Part 59

Dear Justice Merchan,

This Court should deny leave for defendant to file a motion regarding (1) unsealing and public access to all pleadings, orders, and written communications between the Court and parties; and (2) immediate public access to all future such documents or communications.

Defendant's first request is unnecessary. The Court's substantive orders and the parties' pleadings filed in compliance with the Court's May 4, 2023 Order regarding filing procedures are presumptively public. We note that the Unified Court System recently began posting the Court's substantive orders on nycourts.gov. If there are prior substantive orders that the Court has not had an opportunity to place in the case file, the People do not oppose the Court doing so. Regarding the rest of defendant's first request, there is no legal requirement that other emails between the Court and the parties must be publicly docketed. To the extent defendant believes any such emails are necessary exhibits to an authorized motion for relief, he may seek leave to file them following the procedures in the Court's May 4, 2023 Order, which (as explained below) help prevent both evasion of the Court's protective orders as well as disclosures of confidential information.

Defendant's second request is a rehash of his objections to the Court's well-settled redaction procedures. There is no need to revisit this question. The Court's streamlined procedures have effectively reduced the risk of disclosing protected information in this high-profile case, do not impair defendant's rights, and cause no prejudice, while simultaneously providing reasonably timely public access to appropriately redacted documents.

The Court established the redaction procedures in this case on May 4, 2023—more than ten months ago—explaining that these procedures ensure that sensitive information is not disclosed in public filings. *See* May 4, 2023 Hearing Tr. 45-48. Under those procedures, the parties have 48 hours to confer on proposed redactions and then to bring any disagreements to the Court's attention for resolution. The parties have followed those procedures for nearly the past year and have sought the Court's assistance to resolve disagreements in just four instances out of the parties' many filings. *See* Dec. 6, 2023 Order; Nov. 28, 2023 Order; Nov. 15, 2023 Order; Oct. 16, 2023 Order. In three of those four instances, the Court resolved the moving party's application in less than 24 hours. The redaction procedures have thus caused no unnecessary delay. And the legitimate concerns that provided good cause for the Court's order last May have only increased, rather than decreased, in light of the approaching trial date and the accompanying public attention on this case. This is particularly so given defense counsel's stated intent to generate press attention in connection with this case based on their disagreement with the Court's protective orders. *See* Mar. 4 Blanche Ltr. at 11 (because of "the extensive redactions you have convinced Judge Merchan to authorize in otherwise-public filings, we will be making this letter public").

Finally, as the Court has now held three times, defendant suffers absolutely no prejudice from the redaction procedure. *See* Nov. 29, 2023 Order; Nov. 15, 2023 Order; May 4, 2023 Hearing Tr. at 47.

Respectfully Submitted,

/s/ Matthew Colangelo

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