

**IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY,
PENNSYLVANIA**

IN RE: SEALED ARREST WARRANT :
PURSUANT TO PA. R. CRIM. 513.1 :
 : No. 801 MD 2022
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EMERGENCY MOTION TO INTERVENE AND UNSEAL

The Herald-Standard - Uniontown Newspapers, Inc. (“Herald-Standard”), the Mon Valley Independent (“MVI”), and the Observer-Reporter (collectively, “Media Intervenors”) hereby move for leave to intervene in the above-captioned case for the limited purpose of unsealing the docket in the criminal proceeding *Commonwealth v. Keven Van Lam* and judicial records filed in this case and *Lam*.

This Motion is made on the following grounds:

1. The Herald-Standard is an independent family-owned media company with a business address at 8 East Church Street, Uniontown, Pennsylvania. The Herald-Standard provides news coverage for Fayette County and the surrounding area.
2. MVI is a news media company with a business address at 1719 Grand Boulevard, Monessen, PA 15062. MVI provides news coverage for Westmoreland County and nearby western Pennsylvania communities.

3. The Observer-Reporter is a news media company with a business address at 122 South Main Street, Washington, PA 15301. The Observer-Reporter provides news coverage for Washington County, Greene County, and the Mon Valley.

4. Reporters for Media Intervenors routinely cover criminal proceedings in the Westmoreland County Court of Common Pleas. To provide their readers with timely and important information about criminal activity and other news impacting their community, those reporters frequently rely on court dockets and filings, including records filed with Magisterial District Judges and Clerks of Courts.

5. On November 6, 2022, this Court issued a sealing order in the above-captioned action (hereinafter, the “Sealing Order”). The Sealing Order is attached hereto as **Exhibit A**.

6. According to the minimal details available in the Sealing Order, the above-captioned proceeding commenced when the Westmoreland County District Attorney’s office filed a petition asking this Court to seal the arrest warrant information in *Commonwealth v. Keven Van Lam*. Ex. A.

7. The Sealing Order sealed the arrest warrant information in the *Lam* case for 60 days and delayed the disclosure of arrest warrant information to the defendant by 30 days. *Id.*

8. The Sealing Order also sealed the County’s Petition to Seal Arrest Warrant Information filed in the above-captioned case. *Id.*

9. The Sealing Order states that the Court found “good cause has been shown” to support sealing, but does not provide any information about what the Court found constituted good cause. *Id.*

10. Although the Sealing Order included the case name of “*Commonwealth v. Keven Van Lam*,” it did not provide a docket number for the *Lam* case. Further, the Sealing Order did not purport to seal the *Lam* docket or any judicial records in the *Lam* case other than the arrest warrant information. *Id.*

11. On information and belief, the docket in the above-captioned case, No. 801 MD 2022, is not itself sealed.

12. On November 7, 2022, a further order of this Court in the above-captioned proceeding transferred *Lam* to Magisterial District Judge Wayne Vlastic, Magisterial District 10-1-03, from another Magisterial District Judge due to the location of the shooting. That order did not provide a docket number for the *Lam* case, nor did it seal the *Lam* docket. The November 7, 2022 Order is attached hereto as **Exhibit B**.

13. On information and belief, there is *no* court order that purports to seal the *Lam* docket or any judicial records filed in *Lam* or the above-captioned case other than the County’s petition and the arrest warrant information. *See* Ex. A.

14. Despite the apparent lack of a court order sealing the entire *Lam* case, Media Intervenors and the public have been unable to access the *Lam* docket sheet or any filings. The *Lam* docket does not appear in the online Unified Judicial System (“UJS”) case search portal. Media Intervenors have been informed by the Westmoreland County Court Administrator, the Westmoreland County Clerk of Courts office, Magisterial District Judge Vlastic, the Administrative Office of Pennsylvania Courts (“AOPC”), and the Westmoreland County District Attorney’s office that the *Lam* docket and all filings in that case are sealed. *See* Declaration of Mike Jones (“Jones Decl.”) (attached hereto as **Exhibit C**); Declaration of Kristie Linden (“Linden Decl.”) (attached hereto as **Exhibit D**).

15. On November 17, 2022, MVI assistant editor Kristie Linden contacted AOPC spokesperson Stacey Witalec, who stated that Mr. Lam’s preliminary hearing is currently scheduled for December 19, 2022 at 10 a.m., but that the *Lam* docket was entirely sealed. Ms. Witalec cited Pennsylvania Rule of Criminal Procedure 513.1, Sealing of Arrest Warrant, as the basis for the sealing of the entire case. *See* Ex. D, Linden Decl. ¶¶ 10–13.

16. Media Intervenors have been able to learn certain basic information about the *Lam* case through their newsgathering.

17. Upon information and belief, according to Media Intervenors’ reporting, the defendant Keven Van Lam, age 55, was arrested on unknown

charges on or about November 6 or 7, 2022 following the shooting death of a man in Rostraver Square.¹

18. According to Media Intervenors' reporting, and the Westmoreland County Prison Inmate Locator, Mr. Lam was committed to the Westmoreland County Prison on November 8, 2022, and is located in Unit C. His booking number is 3016-2022.²

19. Media Intervenors have also determined through their newsgathering that the victim was Boyke Budiarachman, age 49. *Id.*

20. However, due to the pervasive secrecy surrounding the *Lam* case, basic information—including the charges filed against Mr. Lam or the docket number of his case—remains unavailable to Media Intervenors and the public. The date of Mr. Lam's arraignment is likewise unavailable. Similarly, any information about Mr. Lam's bail status is unknown, as is any information about which lawyer, if any, is representing him.

¹ See Mike Jones, *Indonesian Man Killed in Rostraver Shooting Laid to Rest in Homeland*, Observer-Reporter (Nov. 15, 2022), https://observer-reporter.com/news/localnews/indonesian-man-killed-in-rostraver-shooting-laid-to-rest-in-homeland/article_bcb5f3b4-645a-11ed-b426-931279f1ef8e.html; Mike Jones, *Suspect Revealed in Case Involving Fatal Rostraver Township Shooting*, Observer-Reporter (Nov. 16, 2022), https://observer-reporter.com/news/localnews/suspect-revealed-in-case-involving-fatal-rostraver-township-shooting/article_5e180f26-6523-11ed-b119-d7c343fcadc3.html; Kristie Linden, *Officials Remain Secretive in Murder Case*, Mon Valley Independent, Nov. 18, 2022, at A1 (abbreviated version available online at <https://monvalleyindependent.com/2022/11/officials-remain-secretive-in-murder-case>).

² *Westmoreland County Prison Inmate Locator*, <https://www.co.westmoreland.pa.us/1265/Active-Inmates-Display-Options> (last accessed Nov. 21, 2022).

21. Because they cannot access the docket, Media Intervenors will not know if the preliminary hearing date changes unless AOPC or other court or County officials decide to share this information with them.

22. Reporters for Media Intervenors should be permitted to intervene for the limited purpose of unsealing the *Lam* docket and judicial records filed in *Lam* and the above-captioned case. *See Commonwealth v. Long*, 922 A.2d 892, 895 n.1 (Pa. 2007); *Commonwealth v. Fenstermaker*, 530 A.2d 414, 416 n.1 (Pa. 1987).

23. Media Intervenors have a constitutional right to access the *Lam* docket and the sealed judicial records under the First Amendment to the U.S. Constitution and article 1, section 11 of the Pennsylvania Constitution. *See Fenstermaker*, 530 A.2d at 417; *Commonwealth v. Curley*, 189 A.3d 467, 473 (Pa. Super. Ct. 2018).

24. Media Intervenors have a common law right to access the *Lam* docket and the sealed judicial records. *See Commonwealth v. Upshur*, 924 A.2d 642, 647 (Pa. 2007) (citing *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 591 (1978)).

25. To the extent compelling countervailing interests overcome Media Intervenors' constitutional and common law rights of access, the *Lam* docket should be unsealed and any sealing of judicial records must be no broader than necessary to serve those interests. *See Long*, 922 A.2d at 905; *In re M.B.*, 819 A.2d 59, 63 (Pa. Super. Ct. 2003). Any such sealing must also be supported by specific, on-the-record factual findings, including discussion of alternatives to

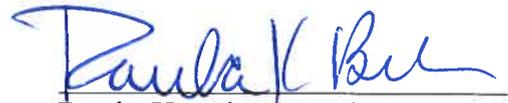
closures. *See Press-Enter. Co. v. Superior Court*, 464 U.S. 501, 510 (1984);
United States v. Criden, 675 F.2d 550, 560 (3d Cir. 1982).

RELIEF SOUGHT

Media Intervenors respectfully request that the Court grant their motion to intervene, vacate the November 6, 2022 Sealing Order, and enter an order (1) unsealing the docket in *Commonwealth v. Keven Van Lam* and identifying that case by its docket number, (2) unsealing all sealed judicial records filed in *Commonwealth v. Keven Van Lam*, and (3) unsealing all sealed judicial records filed in the above-captioned proceeding. Media Intervenors respectfully request that they be heard on this Motion as soon as possible, and if the Court deems it appropriate, to schedule such hearing as a virtual proceeding.

Dated: November 22, 2022

Respectfully submitted,



Paula Knudsen Burke

PA ID 87607

REPORTERS COMMITTEE FOR
FREEDOM OF THE PRESS

PO Box 1328

Lancaster, PA 17608

(717) 370-6884

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Counsel for Media Intervenors

**CERTIFICATE OF SERVICE AND
COMPLIANCE WITH PUBLIC ACCESS POLICY**

I certify that on this 22nd day of November, 2022, I caused a true and correct copy of the foregoing document to be served by overnight mail on the Court, and served via email on the following:

James Lazar
Assistant District Attorney, Westmoreland County
2 N Main St., Ste 206
Greensburg, PA 15601
(724) 830-3949
jlazar@co.westmoreland.pa.us

Counsel for the Commonwealth

Wayne P. McGrew
Public Defender, Westmoreland County
2 N Main St., Ste 404
Greensburg, PA 15601
(724) 830-3535
wmcgrew@co.westmoreland.pa.us
pd@co.westmoreland.pa.us

Counsel for Defendant

I further certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.



Paula Knudsen Burke (No. 87607)

**IN THE COURT OF COMMON PLEAS OF WESTMORELAND
COUNTY,
PENNSYLVANIA**

**IN RE: SEALED ARREST WARRANT
PURSUANT TO PA. R. CRIM. 513.1**

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No. 801 MD 2022

[PROPOSED] ORDER

Upon consideration of the Emergency Motion to Intervene and Unseal filed by Media Intervenors Herald-Standard – Uniontown Newspapers, Inc. (“Herald-Standard”), the Mon Valley Independent (“MVI”), and the Observer-Reporter, it is hereby **ORDERED** that:

1. Media Intervenors’ motion to intervene is **GRANTED**;
2. Media Intervenors’ motion to unseal the docket in *Commonwealth v. Keven Van Lam* is **GRANTED**;
3. Media Intervenors’ motion to unseal judicial records filed in the above-captioned proceeding, No. 801 MD 2022, is **GRANTED**;
4. Media Intervenors’ motion to unseal judicial records filed in the case *Commonwealth v. Keven Van Lam* is **GRANTED**;
5. The Clerk shall place on the public docket complete, unredacted copies of all heretofore sealed judicial records previously filed in the above-captioned

proceeding and in the *Lam* case, including the County's Petition to Seal Arrest Warrant Information, the arrest warrant information, and any scheduling orders;

6. The Court shall conduct the preliminary hearing in the *Lam* case in open court and shall permit Media Intervenors and members of the public to attend.

SO ORDERED this ____ day of _____, 2022

BY THE COURT:

Hon. Christopher A. Feliciani
Westmoreland County Court of Common Pleas

Exhibit A

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

IN RE:)

SEALED ARREST WARRANT)
PURSUANT TO PA.R.CRIM. 513.1)

NO. 801 MD 2022)

ORDER OF COURT

AND NOW, to wit, this 6th day of November, 2022, upon motion of the Commonwealth, it appearing to the Court that good cause has been shown, the arrest warrant information filed in Commonwealth v. Keven Van Lam and the Petition to Seal Arrest Warrant Information are HEREBY ORDERED SEALED for a period of sixty (60) days.

IT IS FURTHER ORDERED that the disclosure of arrest warrant information to the defendant shall be delayed for thirty (30) days, unless further extended by this Court.

A copy of the arrest warrant information, excluding the affidavit of probable cause, may also be provided to the Westmoreland County Prison for the sole purpose of effecting Lam's commitment. The Westmoreland County Prison shall not disclose or release the arrest warrant information.

The case against the defendant shall proceed for prosecution before Magisterial District Judge Charles Christner, Magisterial District 10-2-06, upon execution of the warrant.

11-7-2022
Sent documents
to 10-1-03 - as per
request of
James Lopez

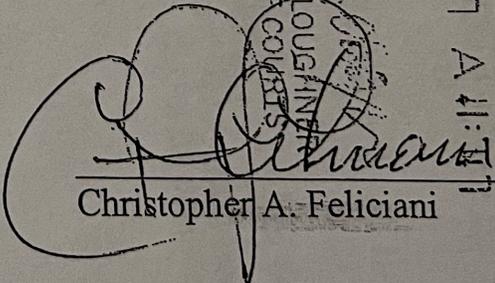
BY THE COURT

Christopher A. Feliciani
MEGAN A. LOUGHEIN
CLERK OF COURTS
2022 NOV - 7 A 11:17
CERTIFIED FROM

Exhibit B

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

IN RE:

SEALED ARREST WARRANT
PURSUANT TO PA.R.CRIM. 513.1

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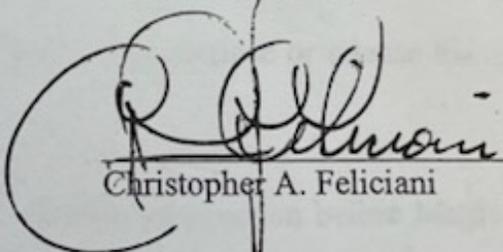
ORDER OF COURT

AND NOW, to wit, this 7th day of November, 2022, it appearing that the geographical location of this incident falls within Magisterial District 10-1-03, the Order of Court dated November 6, 2022 is hereby amended to direct that:

The case against the defendant shall proceed for prosecution before Magisterial District Judge Wayne Vlastic, Magisterial District 10-1-03, upon execution of the warrant.

All other terms of the November 6, 2022 order remain in full force and effect.

BY THE COURT:



Christopher A. Feliciani J.

Megan A. Loughner
MEGAN A. LOUGHNER
CLERK OF COURTS

2022 NOV -7 A 11:47

CERTIFIED FROM
FILED

Exhibit C

**IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY,
PENNSYLVANIA**

IN RE: SEALED ARREST WARRANT :
PURSUANT TO PA. R. CRIM. 513.1 :
 : No. 801 MD 2022
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DECLARATION OF MIKE JONES

I, Mike Jones, declare as follows:

1. I am the government and courts reporter for the Observer-Reporter. I have personal knowledge of the matters stated in this declaration.
2. A critical component of my work as a government and courts reporter is reviewing criminal and civil court records that are stored in government filing offices, including the offices of Magisterial District Judges and the Westmoreland County Clerk of Courts.
3. Following the Saturday, November 5, 2022 shooting death of a man in Rostraver Township, Westmoreland County, I was looking for information about a suspect or defendant for the shooting. I could not find any information on the Unified Judicial System (“UJS”) portal, which provides online public access to docket sheets.

4. On November 10, I learned that an arrest had been made when Westmoreland County Chief Detective Ronald Zona announced the arrest and said the case was sealed.
5. On Monday, November 14, I tried to get information about the defendant from the staff of Magisterial District Judge Vlastic, whose office covers the location of the shooting. His staff said the case was sealed and that I needed to talk to the Westmoreland County District Attorney's office.
6. Also on November 14, I spoke with Amy Mears DeMatt, the Westmoreland County Court Administrator, who told me that "her hands were tied" because the Westmoreland County District Attorney's office had successfully moved to seal the case.
7. On November 14, I reached out to the Westmoreland County District Attorney's office. Through a spokesperson, they said they could not provide me any information.
8. That same day, I spoke with AOPC spokesperson Stacey Witalec, who told me that the case was sealed.
9. I spoke with Ms. Witalec again on November 15, and she informed me that I would be permitted to review the sealing order.

10. Accordingly, on November 15, I went to the Westmoreland County Courthouse in Greensburg to view the sealing order and try to find out more about the case.
11. When I arrived at the courthouse, I went to the Westmoreland County Clerk of Courts office. There, I asked to view the docket and sealing order for the November 5 shooting in Rostraver Township. I was shown a sealed manila envelope, but could not touch or open it. On the front was taped a seal order dated November 6, 2022 issued by Judge Feliciani of the Westmoreland County Court of Common Pleas in case number 801 MD 2022.
12. The November 6 order sealed the arrest warrant information in the case *Commonwealth v. Keven Van Lam*, as well as the County's petition asking to seal that information.
13. I could also see on the envelope the dates of the filings in case number 801 MD 2022, and the name of Assistant District Attorney James Lazar, who filed the petition to seal.
14. I asked to see any scheduling orders in the case, such as for the preliminary hearing, but was denied access.
15. After I reviewed the seal order, I went to the chambers of Judge Christopher A. Feliciani and spoke with him in the waiting area outside of his chambers.

The judge said he could not provide any information beyond what was in the seal order.

16. Then I went to the District Attorney's office and asked to speak with either a spokesperson or Mr. Lazar. Mr. Lazar came down and said that he did not know when the preliminary hearing would be and that I would have to ask Magisterial District Judge Vlastic.
17. Next, I went to the Court Administration office and a staffer there said she could not find anything for Lam in her system.
18. On Thursday, November 17, Ms. Witalec contacted me and said Lam's preliminary hearing was scheduled for Monday, December 19 at 10 a.m. before Magisterial District Judge Vlastic.
19. To date, I have not been able to access the docket or any filings in the case against Keven Van Lam, either in person at the Westmoreland County Clerk of Courts office or online through the UJS portal.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 21, 2022

/s/ Mike Jones
Mike Jones
Observer-Reporter
122 S. Main Street
Washington, PA 15301

Exhibit D

**IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY,
PENNSYLVANIA**

IN RE: SEALED ARREST WARRANTS PURSUANT TO :
PA.R. CRIM. 513.1 :
 : No. 801 MD 2022
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DECLARATION OF KRISTIE LINDEN

I, Kristie Linden, declare as follows:

1. I am an assistant editor for the Mon Valley Independent (“MVI”), where I also report and write articles about news occurring in and around the Mon Valley. I have personal knowledge of the matters stated in this declaration.
2. A critical component of my work as an assistant editor is reviewing criminal and civil court records that are stored in government filing offices, including the offices of Magisterial District Judges, Prothonotaries, and Clerks of Courts.
3. On Saturday, November 5, 2022, I learned of the shooting death of a man in Rostraver Square from a news alert on my phone. All MVI could report on immediately was that there had been a shooting and that someone died. This information came from Rostraver Township Police Chief John Christner. Police would not share the name of the victim or suspect.
4. When my colleague, MVI reporter John Rectenwald, called the police for follow-up information, the police chief said they would not be providing any because the case was now with the Westmoreland County District Attorney’s office.

5. I started reporting on this case on November 16, 2022. As of that date, the name of the victim, Boyke Budiarachman, and suspect, Keven Van Lam, had been reported by other area news organizations.
6. I could not find any information about the *Lam* case on the online Unified Judicial System (“UJS”) portal, which has publicly available docket sheets for criminal cases.
7. I have been unable to learn even the docket number for the *Lam* case, or the charges against Mr. Lam.
8. On November 17, 2022, I was able to view a November 6, 2022 sealing order issued by Westmoreland County Court of Common Pleas Judge Christopher Feliciani. Mr. Rechtenwald obtained the order in person at the courthouse and showed me a copy of it.
9. The order granted the Westmoreland County District Attorney’s petition to seal the arrest warrant information for Mr. Lam for 60 days, saying “good cause has been shown.”
10. Also on November 17, 2022, I spoke with Stacey Witalec, a spokesperson for the Administrative Office of Pennsylvania Courts (“AOPC”), to try to learn more about the *Lam* case, including why the docket was sealed.
11. Ms. Witalec told me that the *Lam* docket was sealed and unavailable on the UJS Portal pursuant to Rule 513.1 of the Pennsylvania Rules of Criminal Procedure, which she read to me in part.
12. Rule 513.1 sets a procedure for judges to seal arrest warrant information, which it defines as “the criminal complaint in cases in which an arrest warrant is issued, the arrest warrant, any affidavits of probable cause and documents or information related to the case.”
13. Ms. Witalec read me this definition and stressed the words “information related to the case,” saying that Rule 513.1 was broad enough to cover the whole docket.

14. I told Ms. Witalec that because the *Lam* docket is not on the UJS Portal, I cannot see when proceedings in the case are scheduled, such as the arraignment or preliminary hearing.
15. Ms. Witalec told me that Mr. Lam is scheduled to have a preliminary hearing on December 19, 2022 at 10 a.m. before Magisterial District Judge Wayne Vlastic.
16. Ms. Witalec said the preliminary hearing had been scheduled for an earlier date, but that the defense attorney had requested a continuance.
17. I asked Ms. Witalec how I would know if the hearing was continued again, but she reiterated that the case was sealed under Rule 513.1.
18. For the same reason, I do not know the original preliminary hearing date or the date of Mr. Lam's arraignment, which I understand has already occurred.
19. On November 17, 2022, I spoke with Melanie Jones, public information officer for Westmoreland County District Attorney Nicole Ziccarelli. Ms. Jones also stated that the Lam case was sealed, but confirmed the December 19, 2022 preliminary hearing date.
20. I asked her how I would know if the hearing was continued again, and Ms. Jones told me that she would update the media.
21. I also asked her to confirm that the preliminary hearing would be open to the public, since the public is not able to access information about when the hearing is scheduled to occur. Ms. Jones stated that the hearing would be open.
22. Because the docket is not publicly accessible, I will not know if the preliminary hearing date changes unless Ms. Jones or someone else with that information decides to tell me.
23. I also have been unable to obtain information about the victim from the Westmoreland County Coroner's office, including the victim's name. After the coroner refused to release

the victim's name to MVI, it appeared he gave it to other organizations later that night, but never to MVI.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 22, 2022

/s/ Kristie L. Linden
Kristie Linden
The Mon Valley Independent
1719 Grand Boulevard
Monessen, PA 15062