

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND**STATE OF MARYLAND****v.****Case No.: C-16-CR-23-001720****KAEDEN DOMINIQUE HOLLAND**

OPINION AND ORDER OF THE COURT

Upon consideration of the defendant's Motion to Seal or Close the waiver hearing having come before the court for a hearing on February 15, 2024, at which time the matter was taken under advisement, and the court having considered the arguments and law cited by the parties in support of their respective positions, it is this 23rd day of February, 2024, by the Circuit Court for Prince George's County, Maryland,

ORDERED, that the defendant's Motion to Seal or Close the Courtroom is hereby DENIED.

The right of an open, public trial furnishes the public with the opportunity to observe the judicial process thus ensuring that the judges, prosecutors, and public defenders carry out their duties responsibly. It also encourages witnesses to come forward and discourages perjury. This common law principle is fully applicable except if modified by legislative enactments or by the Supreme Court of Maryland. However, this right is not absolute.

The Constitutional right to a public trial does not require the court to relinquish its legitimate and considerable interest to maintain courtroom security and order, to preserve the dignity of the court, and to meet the state's, or any party's interest in any proceeding to safeguard witnesses, and to protect confidentiality. However, such actions should be taken sparingly and only after carefully balancing the competing interests. The presumption of openness inherent in the first amendment's right to a public trial may be overcome only by an overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest.

In this matter, the defendant does not advance by way of testimony or other evidence any concerns regarding possible witness intimidation, threatening conduct on the part of anyone affiliated with this case and/or the potential for any courtroom disruption resulting from same, or any other issue which could impair the court's ability to maintain security and order in the courtroom and preserve the dignity of the court. However, should any of this occur at any time during proceeding, the court will take appropriate action.

What the defendant does put forward is that the Department of Juvenile Services (DJS) reports contain sensitive information about the defendant's social background and mental and physical health, that these reports are confidential documents, and that a significant portion of his presentation through testimony and allocution will be devoted to a discussion of the material contained in these reports. To expose this information in open court, he argues, would thwart the purpose which lays behind the confidentiality provisions of the Courts Article {specifically, Md. Code Ann., Cts. & Jud. Proc. Section 3-8A-13 (f) (4)}, which seals the documents themselves, and, therefore, would prejudice the defendant.

Unlike a matter statutorily eligible for original juvenile court jurisdiction through a petition alleging juvenile delinquency in which the public could be excluded upon good cause being shown, the matter before the court relates to a juvenile who stands before the court charged as an adult in a regular criminal courtroom and he will remain so if, unless, or until the court were to grant the motion to remand to the jurisdiction of the juvenile court. As such, in this court's opinion, this matter does not fall within the same original juvenile court jurisdiction qualified access parameters. The defendant's request to seal or close the courtroom proceedings is not governed by the fact of the defendant's age. As the State and Intervenor point out, and this court agrees, no provision of Maryland law provides for the closure of reverse juvenile waiver hearing proceedings and the defendant should not be able to actuate his request to close the courtroom through a statute which relates only to sealing police and court records. Public access to criminal proceedings, which this is, is an indispensable part of our justice system, and these matters have historically been open to the press and the public. Open justice provides the guarantee that these proceedings, including trial and pre-trial matters, sentencings, and like settings, are conducted fairly to all concerned. It should be no less situated for reverse waiver proceedings considering the importance assigned to the court's assessment of the statutory factors, as they relate to one's amenability to treatment, in its determination to retain jurisdiction in the criminal court or to remand to juvenile court. What could be more important to promote the integrity of the court than by assuring constitutional transparency to this process?

This court has reviewed the material in the relevant DJS reports, which include the waiver Investigation report, the psychological assessment conducted by Drs. Kim R. Hall and Jason Rubenstein, and the assessment team's outcome report for the purposes of this motion only, and it has been informed of the medical subject intended to be put forward by expert testimony on the defendant's behalf during the waiver hearing. In reviewing the materials and information, it is difficult for this court to believe that the defendant would likely be prejudiced by any testimony, discussion, or argument relating to his social background, or mental or physical health, much of which could be viewed as mitigating to his circumstances. The prejudice, when weighing the possibility of embarrassment or similar stigma caused to the defendant against this backdrop would, if any, be negligible, and would not, in this courts mind, harm the defendant or unduly influence any fact finder to decide the matter on an

improper basis.

Accordingly, as to the defendant's request to close the courtroom proceedings, this court finds that the defendant has not advanced any overriding interest essential to preserve higher values of the court, which would overcome the First Amendment presumption of access and the Sixth Amendment right of a public trial. Further, even this matter could be construed to fall within the same qualified access parameters as would an individual statutorily eligible for original juvenile court jurisdiction, which is not the determination here, this court finds, under the same balancing of competing interests and reasoning given above, that the defendant has not met his burden of showing good cause to close these proceedings

Excluding the public from these proceedings would do little or nothing to advance any particular public value and would seriously undermine the First Amendment interest in protecting constitutional transparency to discussions, actions, and decisions relating to governmental affairs and the administration of justice. This is particularly true, when, as is the setting herein, this case and many others like it, which involve individuals under the age of eighteen, have taken the Metropolitan-Washington area by storm, triggering extensive discussion, debate, public interest and concern, legislative initiative and wide media coverage.

In this case, the defendant's identity and other information concerning the allegations against him have already been made public through a series of press articles, and television commentaries. How this information was obtained is unknown to this court, and neither party raises it as an issue in contention. Moreover, the law appears relatively clear on this issue that once the press has ascertained identity through its routine reporting techniques from sources outside the judicial proceedings, the court cannot generally order the media to refrain from publishing it, or similar information lawfully obtained. In this case, all police and court records will remain sealed.

If, during the waiver hearing, any other issue arises which either party may purport to be of a confidential nature not covered under this opinion and order, will be heard at the bench before any discussion of it in open court. This will enable the court to weigh the *competing interests and make the appropriate determination as to how to proceed on the issue.*

Baltimore Sun v. State, 340 MD 437 (1995)
Baltimore Sun v. Mayor and City Council of Baltimore, 359 MD 653 (2000)
Baltimore Sun v. Colbert, 323 MD 290 (1991)
Waters v. State, 328 Md. App. 38 (1992)
Walker v. State, 125 Md. App. 48 (1999)
Richmond Newspapers, Inc. v. Virginia, 448 U.S. 555 (1980)
Buzbee v. Newspapers, Inc., 465 A.2d. 426 (MD 1983)
Press-enter Co. v. Superior Court, (Press-enter#1), 464 U.S. 501 (1984)
Press-enter Co. v. Superior Court, (Press-enter#11), 478 U.S. (1986)
Harford Courant Co. v. Carroll, (986 F.3d. 211(2nd Cir. 2021)
Smith v. Daily Mail Publishing Co., 443 U.S. 97 (1979)
Md. Code Ann. Cts. & Jud. Proc. Article, Section 3-8A-27
Md. Code Ann. Cts. & Jud. Proc. Article, Section 4-202 (i) (1)
Md. Code Ann. Cts. & Jud. Proc. Article, Section 3-8A-13 (f) (4)
Md. Rule 16-934(f)

A handwritten signature in blue ink, appearing to read "Michael P. Whalen", with a horizontal line underneath.

Michael P. Whalen - Judge