

Democrat and Chronicle

Nov. 29, 2011

Dear U.S. Magistrate Judge Baxter;

I am a reporter with the Democrat and Chronicle in Rochester. As you're well aware, multiple news reports have noted there was a law enforcement search last week of the DeWitt home of former Syracuse University assistant basketball coach Bernie Fine. Also, there has been an acknowledgement by federal authorities – namely the Secret Service – that they are involved in the investigation that prompted the search. It appears, based on what has been reported and confirmed, that the search warrant was likely executed by federal authorities.

Given that, I recognize that the affidavit for the warrant and the return could be public information unless filed with a request for sealing by prosecutors. I have looked occasionally at CM/ECF filings for the Northern District and have not seen the documents filed there. In turn, I'm requesting that the documents, should they be filed with the Northern District Court, be unsealed.

While typically there can be investigative rationale for the sealing of documents of this sort, I suggest that this investigation is different. Rarely will you find a criminal investigation that has yet to lead to criminal charges with as much news coverage, public interest, and, to be fair, perhaps uninformed speculation as this one. If anything, more light and accuracy could be shed on the investigation with the public release of the affidavit for the search warrant. Given the rampant publicity, it's hard to argue that the release would impinge on either the search for truth or, should the day come, a trial.

While I do think the unsealing of the warrant affidavit and return is justifiable, I also believe that no case can be made for the sealing of the return. The multitude of news organizations at the home during the search revealed what was removed from the house. There is no secret here. Should you determine that the affidavit that led to approval of the search should remain sealed, I request that you then consider the warrant return documents separately.

Thanks for your willingness to consider my request. If you or anyone on your staff need to reach me, my telephone number is (585)258-2479 and my email is gcraig@democratandchronicle.com. Thanks again for your time and consideration.

Sincerely,


Gary W. Craig

