

DOCKET NO: L18W - CR12 - 139084S

SUPERIOR COURT

STATE OF CONNECTICUT

G.A. #18

V.

**COPY**

T BANTAM

HECTOR MEDINA

MARCH 6, 2012

CLEK'S OFFICE  
SUPERIOR COURT  
GA-18  
BANTAM

2012 MAR -6 P 2:28

**MEMORANDUM OF DECISION**  
**RE: MOTION TO EXTEND SEALING OF ARREST WARRANT**  
**AFFIDAVIT/REDACTION OF PERSONAL INFORMATION**  
**HEARING ON FEBRUARY 28, 2012**

Pursuant to Practice Book §§ 36-2 and 42-49A, the State filed a timely motion to extend the order sealing the arrest warrant affidavit/redaction of personal information. The State seeks the extension of the order sealing the arrest warrant affidavit ("affidavit"), in order to protect the identity of the alleged victims, until such personal information can be redacted. The State would not object to the redacted affidavit being made public. The State asserts that the interest in protecting the identities of the alleged victims overrides the public's interest in viewing the affidavit, and that no reasonable alternatives exist.

The defendant, Hector Medina, did not file an objection or responsive pleading to the State's motion. A hearing was held before this court on February 28, 2012, during which the State, the defendant and the public were afforded an opportunity to be heard on the motion, pursuant to Practice Book § 42-49A (e).

At the hearing, the State requested that the identifying information of the twenty-nine alleged victims be redacted from the affidavit in order to protect the victims. The State proposed to redact each victim's name to reflect only the first initial of the victim's first and last names, as well as to redact three digits from references to the victims' marker plates. The State asserts that,

under this proposed redaction, the substance of the affidavit remains intact, and redaction is a reasonable alternative to sealing the affidavit. The defendant stated that he was satisfied with the redaction, as proposed by the State.

Mr. Kevin Litten, a reporter for the Republican-American newspaper, was also heard on the motion. See Practice Book § 42-49A (c). Mr. Litten requested that the court deny the motion to extend and redact based on the importance of the public's right of access to the information. Mr. Litten stated that the protection of the victims' identifying information under the facts of the present case would be out of line with court practice in Connecticut. Mr. Litten noted that victims' identities are usually protected only in extraordinarily sensitive cases, such as sexual assaults and cases involving minors. Mr. Litten asserted that, under the facts of the present case, the public's right to the information outweighs the interest in protecting the victims' identities. In response, the State argued that the victims' identities are ultra-sensitive information, and that the Practice Book and General Statutes are not so narrow as to only permit redaction of information in exceptional cases. Mr. Litten noted that the present case is extraordinary because it involves a police officer, but asserted that there is an overriding public interest to open the file in its entirety so that the public knows what is taking place in the case, including the victims' names. Mr. Litten also asked the State to explain, with more specificity, the nature of the harm from which it was seeking to protect the victims. The State responded that the protection it sought for the victims was protection from the public, asserting that there was no useful purpose for the press to have the victims' identifying information.

"Except as otherwise provided by law, there shall be a presumption that documents filed with the court shall be available to the public." Practice Book § 42-49A (a). In *Rosado v.*

*Bridgeport Roman Catholic Diocesan Corp.*, 292 Conn. 1, 47-48, 970 A.2d 656 (2009), our Supreme Court held that the common law right of public access is limited to “judicial documents” and “judicial documents are those filed with a court upon which the court reasonably could rely in the performance of its adjudicatory function . . . .” “An affidavit in support of an arrest warrant is necessary and relevant to the performance of the judicial function and, accordingly, is a judicial record.” *State v. Davis*, 48 Conn. Sup. 147, 152, 834 A.2d 805 (2003). The court may seal a judicial document only if (1) it concludes that a sealing order is necessary to preserve an interest which is determined to override the public’s interest in viewing the document; (2) the court first considers reasonable alternatives to any such order; (3) the order is no broader than necessary to protect the overriding interest; and (4) the court articulates the overriding interest being protected and specifies the findings underlying the sealing order. Practice Book § 42-49A (c), (d).<sup>1</sup>

In the present case, the parties contend that a reasonable alternative to sealing the affidavit is to redact the victims’ identifying information in order to protect the victims. In cases

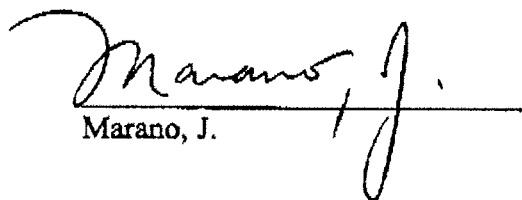
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<sup>1</sup> “Upon written motion of the prosecuting authority or of the defendant, or upon its own motion, the judicial authority may order that files, affidavits, documents, or other materials on file or lodged with the court or in connection with a court proceeding be sealed or their disclosure limited only if the judicial authority concludes that such order is necessary to preserve an interest which is determined to override the public’s interest in viewing such materials. The judicial authority shall first consider reasonable alternatives to any such order and any such order shall be no broader than necessary to protect such overriding interest. An agreement of the parties to seal or limit the disclosure of documents on file with the court or filed in connection with a court proceeding shall not constitute a sufficient basis for the issuance of such an order.” Practice Book § 42-49A (c). “In connection with any order issued pursuant to subsection (c) of this section, the judicial authority shall articulate the overriding interest being protected and shall specify its findings underlying such order and the duration of such order.” Practice Book § 42-49A (d).

involving sexual assault, injury or risk of injury to a child, or impairing the morals of a child, the clerk must redact the victims' identifying information. General Statutes § 54-86e. The defendant in the present case is not charged with a sexual assault or any crime involving a child. A review of the material contained in the affidavit reveals a listing of the victims' full names and marker plates. The affidavit also contains a separate paragraph for each victim, describing the defendant's actions concerning that victim. Those paragraphs contain the full name and marker plate of that victim. The affidavit, however, does not contain information which would cause undue harassment or embarrassment to the victims if that information was made public, nor does protecting the victims' information serve a larger public purpose, such as promoting the reporting of a crime. See, e.g., *State v. Bennett-Gibson*, 84 Conn. App. 48, 69, 851 A.2d 1214, cert. denied, 271 Conn. 916, 859 A.2d 570 (2004) (purpose underlying General Statutes § 54-86e is to reduce "unnecessary harassment and embarrassment in court, and [to encourage] the disclosure of sexual assaults").

The parties assert a general interest in the protection of the victims' identities but have failed to make any specific assertions of harm that could occur if this information is disclosed. A general interest in protecting the victims' identities, where such an interest does not stem from a sexual assault or a crime involving a child, it is not a compelling interest sufficient to overcome the presumption of public access to this information. The State's motion is denied.

BY ORDER OF THE COURT,

  
Marano, J.