

**IN THE THIRTEENTH JUDICIAL CIRCUIT COURT
FOR HILLSBOROUGH COUNTY, FLORIDA
Criminal Justice and Trial Division**

STATE OF FLORIDA

CASE NO.: 18-CF-004019

v.

DIVISION: TR1

RONNIE O'NEAL,
Defendant.

ORDER RESTRICTING DISCLOSURE OF CERTAIN MATERIALS

THIS MATTER is before the Court on the Court's own motion. After review of the court file and record in light of the relevant statutes and law, the Court finds as follows:

Public access may be denied to judicial proceedings and certain public records in limited circumstances. *Times Pub. Co. v. State*, 903 So. 2d 322, 325 (Fla. 2d DCA 2005) (*citing Fla. Freedom Newspapers, Inc. v. McCrary*, 520 So. 2d 32 (Fla. 1988)). Under its inherent power, the Court may exclude the public and press from any judicial proceeding or restrict access to certain public records to protect the rights of the litigants and to otherwise further the administration of justice. *Barron v. Florida Freedom Newspapers, Inc.*, 531 So. 2d 113, 118 (Fla. 1988) (internal citation omitted). In determining the restrictions to be placed upon access to judicial proceedings or public records, "the court must balance the rights and interests of the parties to the litigation with those of the public and press." *Id.* In *Barron*, the Supreme Court held that:

[C]losure of court proceedings or records should occur only when necessary (a) to comply with established public policy set forth in the constitution, statutes, rules, or case law; (b) to protect trade secrets; (c) to protect a compelling governmental interest [e.g. national security; confidential informants]; (d) to obtain evidence to properly determine legal issues in a case; (e) to avoid substantial injury to innocent third parties [e.g., to protect young witnesses from offensive testimony; to protect children in a divorce]; or (f) to avoid substantial injury to a party by disclosure of matters protected by a common law or privacy right not generally inherent in the specific type of civil proceeding sought to be closed. We find that, under appropriate

circumstances, the constitutional right of privacy established in Florida by the adoption of article I, section 23, could form a constitutional basis for closure under (e) or (f).

Id.

Additionally, certain materials are statutorily exempt from public disclosure. Amongst other provisions, section 119.071 provides that any information, including photographs, the name, address, or other facts, which reveals the identity of a victim of the crime of child abuse or any sexual offense, and any photograph, videotape, or image of any part of the body of the victim of a sexual offense, regardless of whether the photograph, videotape, or image identifies the victim, is confidential and exempt from public inspection and disclosure. § 119.071(2)(h)(1) Fla. Stat. (2019).

Further, the Court finds that the Florida Rules of Judicial Administration provides:

The clerk of the court shall designate and maintain the confidentiality of any information contained within a court record that is described in subdivision (d)(1)(A) or (d)(1)(B) of this rule. The following information shall be maintained as confidential:

...

(xiii) Protected information regarding victims of child abuse or sexual offenses. §§ 119.071(2)(h), 119.0714(1)(h), Fla. Stat.

Fl. R. Jud. Admin. Rule 2.420(d)(1)(B).

Additionally pursuant to section 406.135(7), upon a showing of good cause, a court may restrict or otherwise control the public disclosure of autopsy, crime scene, or other similar photographs, videos, or audio recordings. § 406.135, Fla. Stat. (2017); *Perreault v. State*, 203 So. 3d 999, 1001 (Fla. 2d DCA 2016) (stating that a court may, pursuant to section 406.135(7), restrict or control the release of autopsy photos upon a showing of good cause).

In *State v. Rolling*, 1994 WL 722891 (Fla. 8th Cir. Ct. July 27, 1994), the State, on behalf of the victims' families, sought to prevent public disclosure of photographs of the victims taken at the murder scenes and in the autopsy room. *Id.* at 1. The trial court weighed the public's right to know against the privacy interests of the victims' relatives and adopted a remedy suggested by the parties.

Id. at 6-7. The trial court made available for public viewing the photographs of the victims but did not allow those photographs to be removed from the possession of the records custodian nor reproduced in any manner. *Id.* See also *Brancheau v. Demings*, 2010 WL 7971871 (9th Cir. Ct. Dec. 15, 2010) (finding that the right to privacy of the victim's family substantially outweighed the public interest in the videos and photographs depicting the scene of the victim's death).

After consideration of the evidence presented in this case, and in particular the statutory restrictions on disclosure of certain materials regarding child-victims, the Court finds that any images depicting either the deceased or the surviving child-victim in this case are statutorily confidential and exempt from public inspection and disclosure. This includes depictions of both child-victims related to the crime scenes and from their medical examinations. The verbal testimony of the surviving minor, however, as a testifying witness in this case may be disclosed to the public. The visual identity of the surviving minor victim will not be broadcast though, and his visual identity shall be blurred or obscured by any entity seeking to broadcast or convey the surviving minor victim's courtroom testimony.

Additionally, after consideration of the balancing test detailed in *Barron*, the Court finds that images, specifically those that contain graphic depictions of the crime scene or autopsy photos of the deceased adult victim Kenyatta Barron, or either the deceased or surviving child victims, are of such a nature that public access would not only pose a serious and imminent threat to the administration of justice, but also cause unnecessary harm to the victims' family and their right to privacy if the images were reproduced and disseminated. As such, the Court finds that the public dissemination of any images from either the crime scene, or the medical examinations of the victims, depicting the deceased adult victim Kenyatta Barron, or either the deceased or surviving child-victims, shall be prohibited.

It is therefore **ORDERED AND ADJUDGED** that any images depicting the deceased adult victim Kenyatta Barron, or either the deceased or surviving child-victims, from the crime scene, or the medical examinations of these individuals, shall be prohibited from public disclosure or dissemination. Additionally, the surviving child-victim's verbal testimony from the courtroom as a testifying witness may be publicly disclosed or disseminated, as long as the surviving child-victim's visual identity is blurred or obscured, consistent with the terms of the above Order.

DONE AND ORDERED in Chambers in Hillsborough County, Florida, this 11th day of June, 2021.


MICHELLE SISCO
Circuit Judge

Copies furnished to:

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