IN THE DISTRICT COURT OF DOUGLAS COUNTY, KANSAS
UNDER SEAL

FILED
DOUGLAS COUNTY
DISTRICT COURT
2015 MAR 30 A 9:56
BY

State of Kansas,
vs.
[redacted]

Case No. [redacted]

and
State of Kansas,
vs.
[redacted]

Case No. [redacted]

**ORDER GRANTING REQUEST BY LAWRENCE JOURNAL-WORLD TO WITHDRAW MOTION TO UNSEAL AFFIDAVITS AND CANCELLING HEARING REGARDING SAME**

NOW ON THIS 30th day of March, 2015, upon review of motions and briefing by all interested parties, this Court rules as follows:

FINDINGS OF FACT

The Lawrence Journal-World requested disclosure of probable cause affidavits on or about October 23, 2014 in these cases. Both the State prosecutor and defense counsel opposed disclosure and asked that the affidavits remain sealed. The court timely granted their motion to seal the affidavits. The World Company, publisher of the Lawrence Journal-World newspaper, subsequently filed a motion to intervene in the case on or about November 21, 2014. That motion was scheduled to be heard on December 19, 2014. The underlying criminal cases captioned above were dismissed on or about December 18, 2014, before a preliminary hearing was held. On December 19, 2014, this court denied Intervenor's motion to unseal the affidavits at a hearing.

Intervenor then filed a petition in mandamus on December 29, 2014, requesting that the Supreme Court order this district court to "make specific findings sufficient to justify any decision to seal or redact under K.S.A. 22-2302."

On or about January 27, 2015, the district court expunged the arrest records in these cases upon defense counsels' requests, pursuant to K.S.A. 22-2410. By statute, arrest records and information related to the arrest are not disclosed absent consent by the person whose record is being expunged or absent exceptions contained in the expungement order or the statute. See K.S.A. 22-2410(e), (g) and (h).

On February 19, 2015, the Kansas Supreme Court ordered that this court respond to Intervenor's mandamus petition on or before March 23, 2015. On March 5, 2015, this court ordered scheduling in these cases and a hearing on April 10, 2015. On March 10, 2015, Intervenor objected to any possible closure of the hearing. Furthermore, the Intervenor believed that the affidavits should have been disclosed immediately upon request. However, in light of the expungement of the criminal cases, Intervenor has asked to withdraw its requests for the affidavits and its motion to unseal the affidavits. Intervenor also asked that the hearing be canceled.

The Court notes that the State prosecutor and defense counsel were asked to brief this issue, which briefing has been completed. The parties have raised a number of issues in support of the original sealing of the affidavits, including the welfare and wellbeing of the alleged victims under K.S.A. 22-2303(c)(4)(A),(G) and (I). The State also points to K.S.A. 45-221(a)(30) and K.S.A. 60-2617. The parties also concur that the matter is moot at this time because of the subsequent expungement sealing court records. Accordingly, the court cancels the April 10th, 2015 hearing before this court.

Because of the expungement, as well as the withdrawal of the Journal-World's motion to unseal the affidavits, this court does not further consider whether the affidavits are required to be provided to the Journal-World and to the public or whether an exception lies under K.S.A. 22-

2302.

IT IS SO ORDERED this 30th day of March, 2015.

B. Kay Huff
District Judge

cc: Tom Erker
Adam Hall
Patrick Hurley
Max Kautsch