

FILED

FEB 2 2023

IN THE CIRCUIT COURT OF LAKE COUNTY
CRIMINAL DIVISION

PEOPLE OF THE STATE OF ILLINOIS,)
Plaintiff,)
)
)
vs.)
)
MARVIN WILLIFORD,)
)
Defendants.)

Case No. 00 CF 1920
Hon. Judge Daniel Shanes,
presiding

Eni Cantaret Weinstein
CIRCUIT CLERK

NOTICE OF FILING

TO: Lake County State's Attorney Office
18 N. County Street
Waukegan, IL 60085

Please take notice that on February 2, 2023, I caused to be filed the attached **RESPONSE IN OPPOSITION TO MOTION TO "CLOSE THE COURT"** in the above-entitled cause to the Clerk of Circuit Court of the Circuit Court of Lake County, Criminal Division and delivered a copy to the State's Attorney of Lake County.

Dated: February 2, 2023

Respectfully submitted,

/s/ David B. Owens
Attorney for Petitioner

David B. Owens

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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of February 2023, I caused a copy of the foregoing Notice of Filing for the Response in Opposition to Motion to "Close the Court" to be served upon listed counsel by electronic mail as follows:

TO: Lake County State's Attorney Office
18 N. County Street
Waukegan, IL 60085

Dated: February 2, 2023

/s/ David B. Owens
Attorney for Petitioner

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Attorneys for Petitioner

IN THE CIRCUIT COURT OF LAKE COUNTY, ILLINOIS

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PEOPLE OF THE STATE OF ILLINOIS, Plaintiff, v. MARVIN WILLIFORD, Defendant

Case No. 00 CF 1920

FEB 2 2023

Hon. Daniel Shanes, Presiding Judge, Circuit Clerk

RESPONSE IN OPPOSITION TO MOTION TO "CLOSE THE COURT"

Now comes Defendant, Marvin Williford, by his attorneys, in response and opposition to the State's motion to "close the court," and states:

- 1. There is no dispute that the State seeks an extreme remedy: closing a public courtroom. The request is all the more extreme given the fact that the subject of the Defense motions concern whether Marvin Williford will obtain evidence in the State's possession that he believes corroborates his claims of innocence.
2. "The first amendment embodies a right of access to court records and criminal proceedings." In re Gee, 2010 IL App (4th) 100275, ¶ 21. "Open criminal proceedings play an important role in our society, and '[c]losed proceedings, although not absolutely precluded, must be rare and only for cause shown that outweighs the value of openness.'" People v. LaGrone, 361 Ill. App. 3d 532, 535 (2005) (quoting Press-Enterprise Co. v. Superior Court, 464 U.S. 501, 509 (1984)). The First amendment Right of access cannot be overcome by "conclusory assertions," but must can only potentially overcome by concrete and compelling circumstances.
3. Here, the State's purported justification for its extreme request is paltry and speculative. The State claims that "will be necessary to reference the contents of some of the reports created by the outside agency" in argument for not producing additional evidence to

the Defense. The Defense does not understand why it would be necessary for the State to discuss these reports in this hearing, given the legal standards at issue. The State, it seems wants to erroneously pre-argue the value of the discovery *before* Williford has been given all of the relevant discovery. But, that is not what this hearing is about. From Williford's perspective, the basic facts relevant to the current motions are not sensitive or even in dispute—there is an ongoing investigation based upon the DNA testing done in the *Foxworth* case being used to primarily focus on a separate crime that Williford seeks because the same person's DNA was found at both scenes. This information was already extensively set out in an evidentiary hearing to which the many media attended and the proceedings were entirely open. The present motions do not, in Williford's view, require discussion of anything more specific than that.

4. In addition, Williford is compelled to point out that the State's claims that legal argument about a motion to compel or a motion for discovery must be so sacrosanct that the courtroom must be cleared out and closed run contrary to the State's actions before the media. *See* Holly Staker murder: New lead gives Waukegan police hope in solving cold case, FOX 32 CHICAGO, Holly Staker murder: New lead gives Waukegan police hope in solving cold case (August 17, 2022) (including footage of the current chief of police inside the Waukegan police department, making statements about the ongoing investigation, claiming they have a new "lead" in the case, saying it is not a "simple" lead but calling it a "viable lead" and including extensive discussion of the case).
5. At the same time, Williford recognizes that there is potentially sensitive information contained in the discovery. Williford has worked with the state to keep that information private, even when the Waukegan Police Chief was parading around in the media.
6. However, the State's motion must be denied because lesser remedies are available.

Should, in the course of the hearing, the State (or defense for that matter) believe it is necessary to address confidential information, that can be done at sidebar and limited to discussion of that issue for that particular phase of the argument. The request to *ex ante* close the entire proceedings for the entire argument is overbroad and inconsistent with the First and Sixth Amendments. This is why, for example, redaction of documents rather than sealing them is preferred. A parallel is available here, which should be adopted.

7. Finally, it must be pointed out that Williford will be present for this hearing and has substantial family support as he has steadfastly maintained his innocence. As this court may recall, Williford's family and supporters attended many court hearings, even after the media fuss went away. They—and Williford himself—have an extremely strong interest in being able to observe these proceedings and they should not be faced with the prospect of traveling to the courthouse and then turned away entirely.
8. Accordingly, Williford asks that the State's motion be respectfully denied and a lesser remedy adopted *if* it becomes necessary.

WHEREFORE, for the reasons above, Mr. Williford respectfully requests that this Court deny the State's motion to "close the court."

Dated: February 2, 2022

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read 'D. Owens', is written over a horizontal line.

David B. Owens
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