

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

FILED
JAN 24 2023

Zina Constant Weinstock
CIRCUIT CLERK

**IN THE CIRCUIT COURT OF THE NINETEENTH
JUDICIAL CIRCUIT, LAKE COUNTY, ILLINOIS**

PEOPLE OF THE STATE OF ILLINOIS)
)
) **GENERAL NO. 00 CF 1920**
)
)
MARVIN WILLIFORD)

STATE’S AMENDED MOTION TO CLOSE THE COURT

Now come the People of the State of Illinois, by and through Eric F. Rinehart, Lake County State's Attorney, and Kevin Malia, Assistant State's Attorney, and move this Honorable Court to close the court to any non-essential persons for the hearing on Defendant’s Motions to Compel Discovery and to Conduct Limited Discovery.

1. On August 28, 2004, the defendant was found guilty of first-degree murder (in addition to other offenses).
2. On October 6, 2004, he was sentenced to eighty (80) years in the Illinois Department of Corrections.
3. In 2014, as a result of post-conviction DNA testing, ordered pursuant to 725 ILCS 5/116-3, it was determined that DNA found on an item used in the commission of this offense (a 2x4 board) matched the DNA profile of biological evidence from a separate rape and murder of Holly Staker that occurred in Waukegan in 1992 (“Staker case”).
4. In an effort to connect the DNA profile identified on both the 2x4 used in the commission of this offense and the biological evidence found in the Staker case to an actual person, additional investigation and analysis has been done by law enforcement and an outside agency.
5. The State has tendered to the defendant copies of four (4) reports created by an outside agency and an “investigative update” of the work done by the Waukegan Police Department.

6. Because the investigation of the Staker case is ongoing, said reports were tendered pursuant to a Confidentiality Agreement and a subsequent Addendum, entered into by the defendant, through his counsel, and the Lake County State's Attorney's Office.
7. The investigation into the Staker case is still active and ongoing and the information contained in the referenced supplemental disclosures to the defense, if made public, could jeopardize said investigation.
8. The defendant now seeks an order to compel the State to provide the defendant additional discovery material and is also seeking leave to conduct limited discovery in this matter.
9. The State does not believe the defendant is entitled to the additional discovery requested and is objecting to his request for additional limited discovery.
10. In order to fully articulate the State's position on the defendant's motions, it believes it will be necessary to reference the contents of some of the reports created by the outside agency.
11. However, the investigation of the Staker case would be jeopardized if any of that information were to be made public.
12. As a result, the State is compelled to request that the Court order the courtroom to be closed to all but essential personnel if it becomes necessary for the State to reference certain information in its argument that could jeopardize the previously referenced ongoing investigation.
13. The State concedes that this is a highly unusual request and it is not one that it takes lightly.
14. Closing a criminal courtroom to the public implicates both the 1st and the 6th Amendments of the U.S. Constitution.
15. "Whether a court is determining the propriety of closure under either the first or the sixth amendments, the analysis is the same." *People v. R. Kelly*, 397 Ill.App.3d 232, 258 (2009).
16. "The constitutional presumption applies to court proceedings and records (1) which have been historically open to the public; and (2) which have a purpose and function that would be furthered by disclosure." *Id.* at 256.

17. Therefore, it is incumbent upon the Court to determine whether there is a presumption of public access that applies to the nature of this proceeding and the information that may be conveyed during this hearing. *People v. Van Dyke*, 2020 IL App. (1st) 191384 (2020).
18. The information in question, sensitive details of a highly publicized ongoing investigation, is not the type of information that the public would typically have access to nor is it information that would serve some higher purpose or function by being disclosed to the public.
19. Even if the Court were to find that the presumption of public access does apply to this proceeding, the Court still has the discretion to close the courtroom under these circumstances. (“The ‘presumption of openness’ is overcome only when ‘closure is essential to preserve higher values and is narrowly tailored to serve that interest.’” *People v. Potts*, 196 N.E.3d 961, 1013 (2021) (quoting *Press-Enterprise Co. v. Superior Court of California*, 464 U.S. 501, 510, 104 S.Ct. 819, 78 L.Ed.2d 629 (1984)) (*Press-Enterprise I*)).)
20. It is clear that preserving the integrity of the ongoing investigation of the aforementioned case warrants the Court taking the extraordinary step of closing the courtroom to the public if information that could jeopardize that investigation will be disclosed.

WHEREFORE, the People of the State of Illinois respectfully move this Honorable Court to close the court to any non-essential persons for the hearing on Defendant’s Motions to Compel Discovery and to Conduct Limited Discovery.

Respectfully submitted,
ERIC F. RINEHART
State's Attorney for Lake County



Kevin Malia
Assistant State's Attorney