FILED
AT 2:15 O'CLOCK P M

MAR 30 2010

Circuit Court For Lane County, Oregon
BY

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR LANE COUNTY

THE STATE OF OREGON, Plaintiff, v. RICHARD ANTHONY McANULTY, SR., Defendant.	Case No. 20-09-27458 OPINION and ORDER

THIS MATTER having come before the Court on March 12, 2010, for the purposes of oral argument on the Oregonian's Motion to Unseal Arrest and Search Warrant Materials, filed January 29, 2010; the State appearing by and through Erik V. Hasselman, Assistant District Attorney; the Defendant Angela Darlene McAnulty appearing through Counsel Kenneth C. Hadley, Jr., via conference phone, and Co-Counsel Steven L. Krasik, appearing in person; the Defendant Richard Anthony McAnulty, Sr., appearing in-custody and by and through Counsel Mark S. Rader, and Co-Counsel Gordon K. Mallon; and the Oregonian appearing through Counsel Charles F. Hinkle, via conference phone; the proceedings having been recorded by Judy Wright, Official Court Reporter; and the Court having heard the arguments of Counsel, having reviewed the file and now being fully advised; therefore,

The Court makes the following findings of fact and conclusions of law with regards to the Oregonian's Motion to Unseal Arrest and Search Warrant Materials.

THE COURT FINDS that the arrest warrants were never sealed and following the hearing they were copied by the Court and given to the Oregonian, therefore any part of the motion that addressed arrest warrants is moot.

THE COURT FURTHER FINDS that the facts regarding the investigation herein, set forth in the affidavit of Erik V. Hasselman, Assistant District Attorney, filed March 8, 2010, are uncontroverted. The investigation is ongoing and, pursuant to ORS 132.120, the grand jury term of the grand jury that originally indicted the defendants has been extended by order of the court to allow for the continuing investigation.

THE COURT FURTHER FINDS, having reviewed the search warrant affidavit at the time it was originally presented, said affidavit contains extremely sensitive information from young sources concerning the charged offense and many other uncharged offenses. The investigation, as it relates to those young sources, could be significantly compromised if the sources become aware that what they are telling investigators is being transmitted to the public. The court relies on the affidavit of Mr. Hasselman, the Court's own knowledge of the materials

currently sealed and their extremely private nature, as well as the arguments of counsel in finding that the release of those currently sealed documents could serve no other purpose other than to satisfy the morbid curiosity of some members of the public, while at the same time compromising an ongoing investigation.

THE COURT FURTHER FINDS that to unseal the search warrant materials at this time would interfere with the rights of all parties to receive a fair trial and might affect the outcome of the trial. The nature of the materials would likely cause a great deal of publicity, enough that it would likely make the selection of a fair and impartial jury difficult, add a great deal of cost and burden to the parties, the court, and ultimately the public. As such, release of these documents would interfere substantially with the efficient administration of justice.

THE COURT CONCLUDES as a matter of law that the First Amendment of the Constitution clearly encompasses a public right to observe the workings of at least some parts of the administration of justice, particularly criminal trials. However, the Court has carefully reviewed and studied all of the cases cited by the lawyers in this case, and finds of particular note Jury Service Resource Center v. DeMuniz, 340 Or 423, 134 P3rd 948 (2006). The Court's ruling herein is entirely consistent with the ruling in Jury Service Resource Center v. DeMuniz, Id. Granting the Oregonian's motion is not required by that case or its principles. Revealing the contents of the sealed documents at this time will more likely than not affect all major aspects of this case, including the investigation, prosecution, defense, and jury selection.

IT IS HEREBY OREDERED that the Oregonian's Motion to Unseal Arrest and Search Warrant Materials is DENIED for the reasons set forth herein, for the reasons stated at the end of the oral hearing and based upon all the materials submitted and referenced.

Dated: March 30, 2010.

Mary Ann Bearden, Presiding Judge

Prepared by: E. Sakurai