

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR DESOTO COUNTY, FLORIDA

IN RE: HOMICIDE INVESTIGATION
ARCADIA POLICE DEPARTMENT
APD Case No. P16-9423
(as to RASHAD D. BESSENT)

FILED

Case No. 2021-CF-000395

SEP 23 2021

NADIA K. DAUGHTREY
CLERK OF COURTS

**ORDER (1) DETERMINING CONFIDENTIALITY OF RECORDS AND
(2) DIRECTING THE CLERK OF COURT TO SEAL FIRST APPEARANCE RECORD
OF RASHAD BESSENT, DATED SEPTEMBER 15, 2021, FOR 120 DAYS OR UNTIL
SUCH TIME AS FORMAL CHARGES ARE FILED, WHICHEVER OCCURS SOONER**

THIS MATTER is before the Court pursuant to a Motion to Determine Confidentiality of Court Records, received by the Court on September 2, 2021. By Order entered that same day, the Court made the determination that an affidavit for an arrest warrant and resulting arrest warrant, both dated September 2, 2021, were confidential and were to be sealed for a determinate period of time, pursuant to Fla. R. Gen. P. & Jud. Admin. ("Rule") 2.420(c) and (f). Since entry of that Order, arrests made pursuant to the on-going investigation have resulted in the creation of a first appearance court record, on September 15, 2021, that discloses a portion of the information contained in the arrest affidavit. Therefore, the Court, finds as to this newly created first appearance record as follows:

Lt. Troy Carrillo avers that law enforcement is currently investigating a homicide that occurred in 2016, at the intersection of Bond Street and Alabama Avenue, in Arcadia, Florida. As part of the investigation, law enforcement personnel obtained an arrest warrant for one potential defendant. Other suspects, who are believed to be potential co-defendants, are still at large, and law enforcement is conducting an active criminal investigation into these potential co-defendants. Lt. Carrillo avers that releasing the information contained in the arrest warrant affidavit and arrest warrant would impair the ability of law enforcement to locate potential co-defendants and potentially jeopardize the identity of persons providing confidential information to law enforcement to further the investigation, so that these documents should be considered confidential and sealed, pursuant to Rule 2.420(c)(7) and (9), § 119.0714, Fla. Stat., and § 119.011(3)(a)-(c), Fla. Stat.

As a preliminary matter, the Court finds it appropriate under the circumstances to conduct the hearing on Lt. Carrillo's motion *in camera*. See Rule 2.240(f)(1)(A). It has been shown that this matter is an on-going criminal investigation and the arrest warrant affidavit and arrest warrant both relate sensitive, active criminal intelligence and criminal investigative information. See § 119.011(3)(a)-(d), Fla. Stat. The request implicates interests identified in Rule 2.420(c)(9), including the prevention of a serious and imminent threat to the fair, impartial, and orderly

administration of justice; the promotion of a compelling government interest; the avoidance of substantial injury to parties providing confidential information to law enforcement; and the protection of the ability of obtain evidence to determine legal issues in this case. See Rule 2.420(c)(9)(A)(i),(iii), (iv) and (v).

Moreover, the documents contain "active criminal investigative information" that, upon Lt. Carrillo's averment, would impair the ability of the state attorney or law enforcement to locate or prosecute co-defendants in this case. See § 119.0714(h), Fla. Stat.; § 119.011(3)(c)5.b and (d), Fla. Stat. The information could also potentially jeopardize the identity of confidential informants or other persons providing information in further of the investigation. See § 119.0714(1)(f), Fla. Stat. As such, the information is confidential and not subject to disclosure at this early stage of the proceedings, pursuant to § 119.0714, Fla. Stat., and Rule 2.420(c)(7) and (9).

The Court's consideration of this motion takes into account the necessity to balance the State's interest in protecting the safety of witnesses and the integrity of an ongoing police investigation with the public's right of access to court proceedings and records. See *Barron v. Florida Freedom Newspapers*, 531 So. 2d 113, 114 (Fla. 1988); see also *News-Press Publishing Company v. State*, 345 So. 2d 865 (Fla. 2d DCA 1977). A compelling need to protect the administration of justice has been identified, and this interest shall be protected by sealing the September 15, 2021, first appearance record of Rashad Bessent, which contains information from the arrest warrant affidavit. The Court finds that the degree, duration, and manner of confidentiality to be no broader than necessary and this action to be the least restrictive measure available to protect the interests at issue. See Rule 2.420(c)(9).

It is, therefore, **ORDERED** that:

(1) The record of Rashad Bessent's first appearance before the Court, conducted on September 15, 2021, is hereby deemed confidential.

(2) The Clerk of Court shall seal the record of Rashad Bessent's first appearance before the Court, conducted on September 15, 2021, at 2:07 p.m., in DeSoto Hearing Room 201, for 120 days, or until such time as formal charges are filed, whichever date occurs sooner. **The Clerk of Court is directed to publish this Order pursuant to the procedures set forth in Rule 2.420(e)(4).**

DONE AND ORDERED in Chambers at Arcadia, DeSoto County, Florida, this 23 day of September 2021.



DON T. HALL, Circuit Court Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been furnished by U.S. mail, electronic mail, or hand delivery to: **Lt. Troy Carrillo-105**, Arcadia Police Department, 725 N. Brevard Avenue, Arcadia, Florida 34266, on this 23rd day of September 2021.

By: _____

Judicial Assistant