

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

State of Minnesota,

Plaintiff,

**ORDER DENYING
DEFENDANT'S MOTION
TO FILE UNDER SEAL**

vs.

Mohamed Mohamed Noor,

Case File No. 27-CR-18-6859

Defendant.

The above-entitled matter was submitted to the Honorable Kathryn Quaintance for *In Camera* Review on August 19, 2018. The State replied *In Camera* to the Defendant's Motion on August 22, 2018. Thomas Plunkett and Peter Wold submitted written argument on behalf of Mohamed Noor, "Defendant" herein. Amy Sweasy and Patrick Lofton, Assistant Hennepin County Attorneys, submitted written argument on behalf of the State of Minnesota.

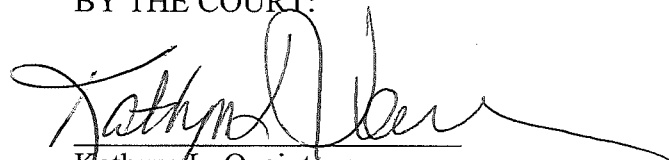
Based upon all files, records, and submissions, herein,

IT IS HEREBY ORDERED that:

1. The Defendant's Motion to File Under Seal is **DENIED**.
2. The attached Memorandum shall be incorporated with this order.

BY THE COURT:

BY THE COURT:


Kathryn L. Quaintance
Judge of District Court

Dated: September 4, 2018

MEMORANDUM

THEREFORE, based upon the evidence, the argument of counsel, and all the files, records and proceedings herein, the Court makes the following findings of fact and conclusions of law.

FINDINGS OF FACT & CONCLUSIONS OF LAW

On August 19, 2018, Defendant submitted an *in camera* motion requesting that the Court file the defendant's motion to suppress under seal. Defendant argues that sealing his suppression motion and the correlating exhibits is necessary to protect information that he believes is confidential and medically privileged.

To support this argument, Defendant cites the rules for submitting documents to the Court for *in camera* review. Minn. Gen. R. Prac, Rule 14.06. Defendant maintains that the motions and attachments in question are "case records" which may be sealed under Minnesota's Court Rules for Record Access and the Minnesota Rules of Criminal Procedure. Rules of Public Access to Records of the Judicial Branch, Rule 4, subs. 1(s)(E),2 (2018); Minn. R. Crim. P. 25.01. The State challenges Defendant's application of Rule 14.06 by maintaining that the rule governs the procedural aspect of *in camera* submissions but does not address the substantive issue of sealing pre-trial motions in criminal cases. Furthermore, the State argues that the records in question are evidence and not "case records."

Under the Minnesota Rules of Public Access to Records of the Judicial Branch, "Records" are defined as:

[a]ny recorded information that is collected, created, received, maintained, or disseminated by a court or court administrator, regardless of physical form or method of storage. A "record" does not necessarily constitute an entire file, as a file may contain several "records." Court reporters' notes shall be available to the court for the preparation of a transcript.

Minnesota Rules of Public Access to Records of the Judicial Branch, Rule 3, subd. 5. The rules specify that “case records” are considered all records of a particular case or controversy, and that “Administrative records” consist of all records pertaining to the administration of the courts or court systems. Rule 3, subd. 5(a), (b).

Defendant’s Motion to Suppress and the corresponding exhibits are not Records of the Judicial Branch, as defined by Rule 3. These filings are not collected, created, received or maintained by the court or court administrator within the context of the rule. In context, the rule refers to case records within the scope of a court reporter’s preparation of transcripts. *Id.* Following the plain language of the rule, these documents will not be part of the record unless or until they become an exhibit in a court proceeding. Because the motion and exhibits have not been properly filed, nor admitted as any kind of exhibit in a proceeding, they cannot be considered collected or maintained as part of the court record at this time.

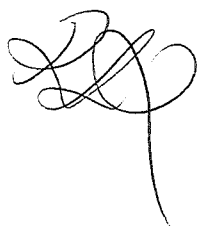
Even if the motion and exhibits were court records, their contents could be discussed in open court. Rules of Public Access to Records of the Judicial Branch, Rule 4, subd. 4. The State correctly notes that this rule addresses the present scenario, stating:

Generally, a rule or law precluding public access to an entire document such as a report or medical record shall not preclude the parties or the court from mentioning the contents of the document in open court or in otherwise publicly accessible pleadings or documents such as motions, affidavits, and memoranda of law where such discussion is necessary and relevant to the particular issues or legal argument being addressed in the proceeding.

Id., Rule 4, subd. 4. The exceptions to this rule are limited and require compliance with Minn. R. Crim. P. 25.01, which would otherwise demonstrate a necessity to close the courtroom to the public. While Defendant has not specifically requested closure of the courtroom pursuant to Minn. R. Crim. P. 25.01, the defense response motion argues it has met the standard – it has not.

Minnesota Rule of Criminal Procedure 25.01 sets an extremely high standard for closing proceedings. The parties agree that litigating this issue could result in prejudice to *either* side. That is not enough to justify a closed courtroom, nor a preemptory sealing of unfiled and unadmitted documents. Embarrassing and private records—including prior sexual conduct; offers of *Spriegl* evidence; prior criminal records; sex tapes; graphic videotapes and body camera footage—are regularly admitted in proceedings that are open to the public. Confidential and privileged psychological records are disclosed pursuant to *Paradee* in Child Sex Abuse cases, while evidence of sexually transmitted diseases and other potentially prejudicial evidence (the admissibility of which has not been determined) is regularly litigated without sealing the record. The Court knows of no precedent, nor has one been offered by the defense, to support the proposed sealing of a pretrial motion to suppress on these grounds.

K.L.Q.

A handwritten signature in black ink, consisting of a series of loops and a long vertical stroke extending downwards.