

STATE OF SOUTH DAKOTA
CIRCUIT COURT, HYDE CO.

FILED

FEB 25 2021

STATE OF SOUTH DAKOTA

Carlym Hanson, Clerk
By _____ Deputy

IN MAGISTRATE COURT

COUNTY OF HYDE

SIXTH JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA,

FILE NO. 34MAG21-00001

Plaintiff,

vs.

**MOTION FOR ORDER PRECLUDING
RELEASE OF CRIMINAL INVESTIGATION
INFORMATION TO PROTECT
DEFENDANT'S DUE PROCESS RIGHTS**

JASON RAVNSBORG,

Defendant.

COMES NOW the Defendant above named by and through his undersigned attorney of record and hereby moves this Court for an order precluding the Department of Public Safety, law enforcement, or any member of state government, including Governor Kristi Noem, from producing any further criminal reports, interviews, test results, digital media, photographs, videos, statements, or anything whatsoever related the above-captioned matter to the public. This motion is made upon the grounds and for the reasons that

1. The Governor has, in this case, made the extremely unprecedented, and unusual early release of information regarding a criminal investigation.
2. On Tuesday, February 23rd, 2021, the undersigned was informed that Governor Kristi Noem was going to have a press conference regarding Attorney General Jason Ravensborg and release information created during the criminal investigation process.
3. The undersigned sent an email to the prosecutor and to the Court requesting immediate relief due to the emergent nature of the situation.
4. At that time there was not sufficient information to file a formal motion, and the undersigned is out-of-state and was not able to coordinate such with his staff.
5. The undersigned learned that the prosecutor had sent an email to Governor Kristi

Noem citing legal points and authority as to why not to release anything in public relating to the Ravensborg criminal investigation.

6. Despite this the Department of Public Safety released links on its website which contain both video interviews with Attorney General Ravensborg by the North Dakota Bureau of Criminal Investigation. These links are attached hereto as Exhibit A, and are included herein as if set forth in full.
7. This is highly unprecedented, and release of this type of information to the public before it has even been released to defense counsel creates great unfairness and prejudice.
8. It is now understood that the Governor intends to release more of the criminal file directly to the public.
9. On February 25th, 2021, Governor Kristi Noem held a press conference promising release of additional information on either February 25th or 26th, 2021.
10. Release of nonpublic criminal investigative information violates the Defendant's fair trial rights and all of the rights that subjects of a criminal inquiry hold in this state. See State v. Mercer, 2015 SD 31, 864 N.W.2d 299 and the need to preserve the Defendant's right to a fair trial.
11. In Mercer, the South Dakota Supreme Court held, "It is evident that when enacting the South Dakota Public Records Act in 2009, the Legislature had the opportunity to include investigative records within the category of documents presumed to be public, and elected not to do so." Id. at ¶24.

12. That although the information contained on Exhibit A has already been released to the public, the above-noted links should be removed by the South Dakota Department of Public Safety and all other State agencies to prevent potential jurors from having access to information which would be hearsay at a trial of this matter.
13. Although some law enforcement reports have already been released, the importance of protecting the Defendant's right to a fair trial prohibits the further release of information to the public and supports the issuance of a gag order in this case. See Rapid City Journal v. Delaney, 2011 SD 55, ¶ 31, 804 N.W.2d 388 "Gag orders in criminal cases are usually designed to protect a defendant's right to a fair trial by an impartial jury." See also Sioux Falls Argus Leader v. Miller, 2000 SD 63, ¶32, 610 N.W.2d 76: "Courts are duty bound to ensure that a defendant receives a fair trial by an impartial jury; United States v. Noriega, 917 F.2d 1543, 1549 (11thCir 1990), cert. denied sub nom; Cable News Network, Inc. v. Noriega, 498 U.S. 976, 111 S. Ct. 451, 112 L.Ed.2d 432; United States v. Columbia Broadcasting System, Inc., 497 F.2d 102, 104 (5th Cir. 1974)).
14. The State has no objection to the Court entering an Order Precluding Disclosure of Criminal Investigation Information pending a full hearing on this Motion.
15. Both sides stipulate and agree an order adopting this motion can be presented to the Court via email and without further notice or hearing and can be executed and filed without the presence of the parties.
16. If such order is not granted the selective and unprecedented release of this nonpublic

information will cause irreparable harm to the Defendant herein.

WHEREFORE Defendant requests that the Court issue an order prohibiting release of information as set forth herein. Time is of the essence.

Dated this 25th day of February, 2021.

RENSCH LAW OFFICE
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/s/ Timothy J. Rensch

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was served upon the persons or offices next designated, on the date shown, by electronic service through Odyssey:

Emily J. Sovell
Attorney at Law
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Onida, SD 57564
jsovel@venturecomm.net

Dated this 25th day of February, 2021.

RENSCH LAW OFFICE
A Professional Law Corporation

/s/ Timothy J. Rensch
Timothy J. Rensch
Attorney for Defendant