

IN THE CRIMINAL COURT OF TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

STATE OF TENNESSEE

v.

No. 23 00241 / C2300404

Division 3

DESMOND MILLS, JR.

AG File #BD0415

MOTION FOR PROTECTIVE ORDER

The defendant respectfully requests that the Court enter a Protective Order preventing the State and the Memphis Police Department from releasing any further evidence related to this case to the public. News reports from March 7, 2023, indicate that the Memphis Police Department intends to release additional information to the public on March 8, 2023. According to these reports, this information will include videos, investigative reports and witness statements. It is well within the Court's authority to issue a protective order as requested.

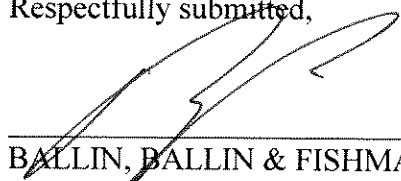
While the public has a right to information involving a judicial proceeding, that right is not unfettered. *Ballard v. Herzke*, 924 S.W.2d 652, 658 (Tenn. 1996). The public dissemination of discovery documents to the public can have a prejudicial effect upon the defendant, the defendant's right to a fair trial, and right to an impartial jury as guaranteed to a defendant by the Sixth Amendment to the United States Constitution. As the Tennessee Supreme Court has observed, "[b]ecause of their inflammatory and sensitive nature, many of the records made available to the public as a result of the criminal discovery process would likely implicate the fair trial rights of a defendant as protected by the Sixth Amendment to the Constitution and the common law, statutory, and constitutional privacy interests of any third parties involved. When made available to a

prospective jury pool, discovery materials could impair a defendant's ability to receive a fair trial." *Tennessean v. Metropolitan Government of Nashville*, 485 S.W.3d 857, 871 (Tenn. 2016).

Additionally, the Court has specifically noted that "harmful and irreversible consequences [that] could potentially result from disclosing files that are involved in a pending criminal investigation." *Schneider v. City of Jackson*, 226 S.W.3d 332, 345-46 (Tenn. 2007). Materials that have been exchanged between the parties due to discovery and reciprocal discovery "includes information that may or may not eventually be submitted as evidence at trial or . . . some . . . adjudicative action." *Tennessean* at 871. A protective order is "intended to offer litigants a measure of privacy" while at the same time balancing the public concern to consume information surrounding a judicial proceeding. *Ballard* at 658.

WHEREFORE, PREMISES CONSIDERED, defendant prays this Court enter a protective order preventing the State and the Memphis Police Department from releasing any further evidence related to this case to the public.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon Paul Hagerman, Assistant Attorney General, 201 Poplar Avenue, 11th Floor, Memphis, TN 38103, via United States mail, first class postage prepaid, or via hand delivery, this the **8th day of March, 2023**

