

STATE OF NORTH CAROLINA
GUILFORD COUNTY

FILED

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
19JA0289, 90; 19JA035,26; 23JA0451,
52,53; 21JA 0669; 21JA0560

2023 AUG -2 P 1:00

IN THE MATTER OF:
ALL JUVENILE A/N/D MATTERS HEARD)
DURING COURT PROCEEDINGS HELD)
7/28/2023 DHHS COURTROOM 2D)
)
)
)
)

PROTECTIVE ORDER

THIS CAUSE, coming on to be heard and being heard before the Honorable A. Watlington-Simms, District Court Judge presiding over the July 28th, 2023 civil, non-jury session of the Juvenile Court proceedings in Courtroom 2D, for a protective order to be issued for reasons outlined herein the Findings of Fact in this Order, regarding the privacy interests and rules of confidentiality regarding juvenile abuse, neglect, and dependency cases pursuant to N.C. Gen. Stat. 7B-302.

AND IT APPEARING TO THE COURT that present during this proceeding, were the following: Heather McCorkle, Deputy County Attorney for the Department; Matt Mason, County Attorney for the Department; Donna Michelle Wright, Guardian *ad Litem* Attorney Advocate; Amy Williams, Parent Attorney, Kevin Dowling, Parent Attorney, other authorized court personnel, and News and Record Reporter Kenwyn Caranna;

AND IT FURTHER APPEARING TO THE COURT that News and Record Reporter, Kenwyn Caranna objects to this proceeding and the seizure of her notes taken throughout the day during juvenile abuse, neglect and dependency cases. The Court weighs the News and Record Reporter's right to report in comparison to the need to protect the integrity of these juvenile proceedings and to ensure the safety of participants in these proceedings, the Court OVERRULES the objection of News and Record Reporter Kenwyn Caranna;

AND IT FURTHER APPEARING TO THE COURT from the arguments presented before the Court and applicable case law regarding the essential necessity to protect the integrity of the juvenile proceedings and to protect the interests of the juveniles in this matter from public purview as there is no qualified right of public access to juvenile court proceedings, the Court finds GOOD CAUSE for the Protective Order to be issued; therefore, the Court enters the following:

FINDINGS OF FACT

1. The Court heard from all parties present who expressed a desire to provide information.

2. The juveniles subject to this matter and that testified during the July 28th, 2023 court session have a right to be protected during the course of abuse, neglect and dependency proceedings.

3. This matter is before the Court pursuant to a request by all remaining interested parties prior to another hearing being conducted on July 28th, 2023 after the Court inquired as to Kenwyn Caranna being present in court and informing the Court that she was employed by the News and Record. An inquiry was completed of Kenwyn Caranna when the Court became aware of an emergent issue involving the possible compromise of the integrity of these cases as well as a possible compromise of the safety of participants to these proceedings and requiring the Court's immediate attention.

4. During Docket Call, all interested parties and any guests of those parties are noted for the court record and any individuals not involved in abuse, neglect and dependency cases are requested to remove themselves from the courtroom due to the confidential nature of these proceedings and at bare minimum are not allowed to record or take any notes.

5. The Court finds that Kenwyn Caranna came into court at some point after docket call and stayed in the court room for the majority of the day, during multiple court proceedings.

6. On July 28th, 2023, the court handled a variety of abuse, neglect and dependency matters including but not limited to: Motions to Inform the Court of Juvenile Runaway Status, Pre-Adjudication, Motions for Court Consent of Medical Procedures, Non-Secured Custody, and Permanency Planning Review hearings.

7. During the above-mentioned proceedings, the substance of testimony throughout the court day included a variety of information that is protected under privacy laws and included the testimony of children that were subjected to abuse, neglect and dependency actions.

8. The Court made an inquiry of Kenwyn Caranna regarding whether she took notes during the court proceedings.

9. The Court finds that Kenwyn Caranna did take notes during the court proceedings.

10. Those notes could contain federally protected information regarding parties present during the above-mentioned proceedings including: the names of children that testified, the names of parents subject to abuse, neglect and dependency proceedings, the names of DHHS personnel, the names of Guardian Ad Litem Volunteers, medical information obtained throughout DSS investigations.

11. The Court finds that Kenwyn Caranna did not inform the Court or the interested parties that a reporter from the News and Record was present and was taking notes regarding multiple abuse, neglect and dependency proceedings.

12. The Court finds that it is appropriate for this Court to provide certain protections of the families involved in Abuse, Neglect and Dependency Proceedings and for the Court to order certain safeguards to prevent further dispersal of such information to inappropriate persons.

13. As a result of Kenwyn Caranna's conduct, it is necessary for this Court to seize the notes of the News and Record Reporter and enter a Protective Order to preserve and protect the integrity of these juvenile proceedings and Departmental involvement moving forward as well as to protect the safety of the participants in this action.

BASED ON THE ABOVE FINDINGS OF FACT, THE COURT MAKES THE FOLLOWING:

CONCLUSIONS OF LAW

1. The Court has jurisdiction over the parties and the subject matter in this action and does hereby exercise its jurisdiction over the parties and the subject matter herein.

2. Pursuant to 10A N.C.A.C. 70A .0113, only a Judge has control over confidential juvenile records and the District Court has jurisdiction over the manner of release of the confidential records contained in this matter.

3. These records kept by GC DHHS in this matter are confidential records as defined under N.C. Gen. Stat. 7B-302, 7B-2901 and 10A N.C.A.C. 70A .0113 which all recognize either a right of access by a child, a child's attorney or the right to consent to release of or restriction of that protected and confidential information.

4. The Supreme Court of the United States has firmly established that juvenile courts differ significantly from courts of general jurisdiction in that the juvenile court is to act as an insurer of the welfare of children and a provider of social and rehabilitative services. *McKeiver v. Pennsylvania*, 403 U.S. 528, fn.6, and at 551-52 (1971); and *Kent v. United States*, 383 U.S. 541, 554-555 (1966).

5. Consequently, juvenile courts have adopted unique methods of conducting juvenile proceedings; hearings are informal and based on an inquisitorial model rather than an adversarial one. *Id.* At 545. (Juvenile procedure is based on "the idealistic prospect of an intimate, informal protective proceeding").

6. In addition, juvenile proceedings have a long history of being private and juvenile court records are confidential. *Smith v. Daily Mail Publishing Co.*, 443 U.S. 97, 105 (1979); *In re Oliver*, 333 U.S. 257, 266 (1948); and *see also* N.C. Gen. Stat. 7B-302 (2019).

7. The United States Supreme Court has repeatedly recognized that juvenile court proceedings, therein the information exchanged during those proceedings, have historically been closed to the public. *Smith, supra*, at 105 ("all 50 states have statutes that provide in some way for confidentiality" in juvenile proceedings); *Davis v. Alaska*, 415 U.S. 308, 319 (1974) (state has an interest "to seek to preserve the anonymity of a juvenile"); *Kent, supra*, at 556 (juveniles are shielded from publicity by statute). Further it seems clear that public access to such proceedings does not necessarily play a positive role in the juvenile court process.

8. Based on the presence of N.C. Gen. Stat. 7B-302 which presumptively restricts public access to juvenile proceedings, this Court concludes that its juvenile court proceedings are presumptively closed.

9. N.C. Gen. Stat. 7B-801 states the Court "...in its discretion shall determine whether the hearing or any part of the hearing shall be closed to the public and lists the criteria the Court must consider with the focus being on the issues of confidentiality and what is in the best interest of the juveniles, thereby underscoring the sanctity and importance of ensuring that any information surrounding juvenile proceedings adhering to the rules of confidentiality must be paramount.

10. Based on the prior rulings of the United States Supreme Court and the District Court's interest in protecting the integrity, confidentiality, and anonymity of the juvenile in such proceedings, this Court concludes that there is no qualified right of public access to juvenile court proceedings to determine whether a child is abused, neglected, or dependent.

11. In order to protect the integrity of the juvenile court proceedings, Departmental involvement, and the reunification process in these juvenile cases, it is in the best interests of the juveniles in this matter for this Court to issue a Protective Order restricting all parties and parties-in-interest from further engaging in communications to any persons or entities who are not parties or parties-in-interest regarding these juvenile cases.

12. In order to protect the integrity of the juvenile court proceedings, Departmental involvement, and the reunification process in these juvenile cases, it is in the best interest of the juveniles to eliminate dissemination of material received during abuse, neglect and dependency proceedings. Thereby, Kenwyn Caranna from the News and Record is hereby restricted and restrained from engaging in any further communications about these juvenile cases with any other third-party.

13. Violations of this Court Order should result in contempt proceedings.

14. The News and Record Reporter, Kenwyn Caranna can make a motion for the release of the notes seized and placed under seal by the Court. At the corresponding hearing, all interested parties that were subject to the proceedings on July 28th, 2023 should receive notice and an opportunity to be heard by the Court.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. Except as otherwise ordered by the undersigned Judge presiding, this Protective Order shall apply to all court proceedings, court records, Departmental records, including oral and written reports and information discussed in these juvenile court proceedings heard on July 28th, 2023 which are deemed confidential and essential to the administration of justice in these proceedings.

2. No party or party-in-interest in this matter shall disclose, or otherwise make available to any member of the public, any third party, or any other person or entity who is not a direct participant in these juvenile cases, any information about these juvenile cases whether that information is contained in court proceedings, court records, Departmental records, including oral and written reports and information discussed in these juvenile court proceedings, and

conversations between parents, therapists, social workers, or other participants in these juvenile court proceedings.

3. News and Record Reporter, Kenwyn Caranna, is hereby restricted and restrained from engaging in any further communications about these juvenile cases with any other third-party.

4. The entry of this Order does not restrain the parties, direct parties-in-interest, the Department, counsel-of-record, juvenile court staff, or treating physicians and therapists from engaging in communications with each other regarding these juvenile proceedings.


5. This Order is subject to the contempt powers of this Court.

6. A breach of the provisions of this Protective Order shall be subject to sanctions, in the discretion of the undersigned District Court Judge, rule or inherent power retained or otherwise provided by law.

7. This Court, or any appropriate court of law, retains jurisdiction both before and after the entry of final disposition of this matter to construe, enforce, and amend the provisions of this Protective Order.

8. The News and Record Reporter, Kenwyn Caranna can make a motion for the release of the notes seized and placed under seal by the Court. At the corresponding hearing, all interested parties that were subject to the proceedings on July 28th, 2023 shall receive notice and an opportunity to be heard by the Court.

SO ORDERED, this the 28th day of July, 2023. Signed this 2nd day of August, 2023.



HONORABLE A. WATLINGTON-SIMMS
DISTRICT COURT JUDGE, Presiding