

W 4-28-22

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT
PLYMOUTH DIVISION DOCKET NO. PL13D0641DR

ANTHONY MICHAEL BRANCH,
PLAINTIFF

v.

EVELYN WIGGINS-BRANCH,
DEFENDANT

ORDER
and MEMORANDUM OF DECISION
(Plaintiff's Motion to Impound Case filed on March 24, 2022)

The above-captioned Motion came before the Court for hearing on April 20, 2022. Anthony Michael Branch ("Plaintiff"), was present, *pro se*. Evelyn Wiggins-Branch ("Defendant"), failed to appear.

ORDER

After hearing, it is ORDERED as follows:

- 1 The Motion to Impound Case is DENIED.

MEMORANDUM OF DECISION

After lengthy litigation, the parties were divorced by Judgment dated July 5, 2016, supported by Findings of Fact entered on the above-captioned docket. By that date, 135 entries had been made on the docket. The entry of the Judgment did not end the litigation between the parties. Over the next 5 years, an additional 128 pleadings were filed, not including Plaintiff's present Motion and the supporting pleadings he filed with it seeking to impound the case file in its entirety for thirty years.

In support of his request to impound, Plaintiff represented that on August 29, 2019, he initiated a legal action in another court against a blogger, Aidan T. Kearney ("Mr. Kearney"), and Mr. Kearney's corporate entity, Turtleboy. On March 6, 2022, Mr. Kearney made an offer to Plaintiff to settle that action. On March 8, 2022, Mr. Kearney held a live broadcast on YouTube, in which he showed documents purportedly from the above-captioned docket number, that included Plaintiff's "name, home address, driver's license number, child support pin, and affidavits concerning [Plaintiff's] children and their names[.]" On March 9, 2022, Plaintiff sent an email to Mr. Kearney's attorney regarding the settlement offer and Mr. Kearney's YouTube broadcast. On March 10, 2022, Mr. Kearney's attorney replied with a settlement offer that included removal of the YouTube broadcast. On April 20, 2022, Plaintiff rejected Mr. Kearney's offer(s) of settlement. On March 12, 2022, Mr. Kearney held another YouTube broadcast in which, according to Plaintiff, he again went "over the trial court public database and emails between [Plaintiff] and [Mr. Kearney's] attorney[]" and on March 22,

2108

2022, "Mr. Kearney provided his audience a full copy of [Plaintiff's] Divorce [Judgment] with full commentary of the document, some of which included DCF, Department of Revenue, Children school [sic], wife's declaration of rape, names, and ages of kids."


Plaintiff represented that the information broadcast by Mr. Kearney was circulated to the Southeastern Regional School Committee, of which Plaintiff is a Chairperson.

"Because of the presumption of public access to records, a party seeking to impound a record under Rule 7¹ has the burden to demonstrate good cause for impoundment." Care and Protection of M.C., 479 Mass. 246, 260 (2018). "It is within the discretion of a court to impound its files in a case and to deny public inspection of them, and that is often done when justice so requires." Sanford v. Boston Herald-Traveler Corp., 318 Mass. 156, 158 (1945). "In exercising this discretion, a judge must balance the privacy issues against the 'general principle of publicity' which governs judicial proceedings in this Commonwealth." H.S. Gere & sons, Inc. v. Frey, 400 Mass. 326, 329 (1987), quoting Commonwealth v. Blondin, 324 Mass. 564, 571 (1949). "Through the balancing process, a judge must determine whether 'good cause' to order impoundment exists and must tailor the scope of the impoundment order so that it does not exceed the need for the impoundment." Id. "[T]he legitimate expectations of privacy, possessed by most litigants in domestic relations proceedings, would ordinarily constitute 'good cause' to justify impoundment of discovery materials which are confidential in nature." George W. Prescott Pub. Co. v. Register of Probate for Norfolk County, 395 Mass. 274, 278 (1985).

By virtue of his position on the Southeastern Regional School Committee, Plaintiff is a public official. A public official, like Plaintiff here, "has a significantly diminished privacy interest with respect to information relevant to the conduct of his office." Id. "Against this limited expectation of privacy, we weigh the public's interest in learning 'whether public servants are carrying out their duties in an efficient and law-abiding manner.'" Id., quoting Attorney Gen. v. Collector of Lynn, 377 Mass. 151, 158 (1979). As a Chair of the Southeastern Regional School Committee, Plaintiff participates in making policy and decisions affecting children. Consequently, the public has an interest in full disclosure of all information which is relevant to his character, particularly if and as it involves children, and the Court impounds documents concerning public officials only "on a showing of overriding necessity."

Plaintiff has not met this heightened burden. See George v. Prescott Pub. Co., 395 Mass. at 279 ("[A]llegations of potential embarrassment, or the fear of unjustified adverse publicity, are not sufficient.").

By the Court,


Lisa A. Roberts, Justice

Dated: April 26, 2022

¹ Rule 7 of the Massachusetts Uniform Rules on Impoundment Procedure provides the following: "good cause exists based on factors, including, but not limited to, the nature of the parties and the controversy, the type of information and the privacy interests involved, the extent of community interest, constitutional rights, and the reason for the impoundment."