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AUDREY ROBERTS
CLERK

BY _____ CLERK

**IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY**

-oOo-

STEVE EGGLESTON,

CASE NO. 20 OC 00164 1B

Petitioner,

DEPT. 2

v

**DEPARTMENT OF FAMILY SERVICES,
CHILD SUPPORT SERVICES, CLARK
COUNTY, NEVADA,**

Respondent.

ORDER GRANTING MEDIA REQUEST

PROCEDURAL BACKGROUND

Steve Eggleston filed a petition for judicial review of an NRS 432B.317 appeal hearing decision.

The Court entered an ex parte order that the 432B records in this judicial review case are confidential under NRS 432B.280.

Mr. Eggleston, and Alex Falconi of Our Nevada Judges, filed a motion for access to the docket, pleadings, record, and transcripts in this case. The Court entered an order to unseal certain records, set a hearing for the Clark County Department of Family Services (Clark County) to appear and show cause why the motions to unseal should not be granted, and set a briefing schedule.

Order Granting 10/25/22

1 Before the Court is a media request by Mr. Falconi to record and publish the
2 show-cause proceeding and associated papers.

3 The Court contacted Clark County ex parte for the sole purpose of determining
4 whether it would be calling witnesses at the show cause hearing and was informed it
5 does not intend to call any witnesses.

6 **LEGAL PRINCIPLES**

7
8 Courtroom proceedings open to the public are presumed to be subject to
9 electronic coverage. SCR 230(2). To determine whether electronic coverage will be
10 allowed at a proceeding, in whole or in part courts must consider the following factors:

- 11 (a) The impact of coverage upon the right of any party to a fair trial;
- 12 (b) The impact of coverage upon the right of privacy of any party or witness;
- 13 (c) The impact of coverage upon the safety and well-being of any party,
14 witness or juror;
- 15 (d) The likelihood that coverage would distract participants or would detract
16 from the dignity of the proceedings;
- 17 (e) The adequacy of the physical facilities of the court for coverage; and
- 18 (f) Any other factor affecting the fair administration of justice.

19 Generally, information maintained by an agency that provides child welfare
20 services, including, without limitation, reports and investigations made under NRS
21 432B, is confidential. NRS 432B.280(1).

22 The U.S. Department of Health and Humans Services makes grants to states,
23 including Nevada, for purposes of assisting the states in improving child protective
24 services. 42 USC 5106a(a). A state plan submitted for a grant must include:

25 [M]ethods to preserve the confidentiality of all records in
26 order to protect the rights of the child and of the child's parents . . .
27 including requirements ensuring that reports and records made

1 and maintained [under 42 USCS §§ 5101 et seq.] shall only be
2 made available to—

- 3 (I) individuals who are the subject of the report;
4 (II) Federal, State, or local government entities . . . ;
5 (III) child abuse citizen review panels;
6 (IV) child fatality review panels;
7 (V) a grand jury or court, upon a finding that information in
8 the record is necessary for the determination of an issue
9 before the court or grand jury; and
10 (VI) other entities or classes of individuals statutorily
11 authorized by the State to receive such information
12 pursuant to a legitimate State purpose[.] 42 USC
13 5106a(b)(2)(B)(viii).

14 **FINDINGS OF FACT**

15 The Court has performed a cursory review of the administrative hearing record, it
16 includes very personal information about the parties to the 432B case, including medical
17 information, and personal information regarding witnesses, including children.

18 The show cause hearing will not include any witness testimony.

19 **ANALYSIS**

20 The Court analyzes the impact of coverage upon the right of privacy of any party
21 or witness in the context of this being a judicial review of a 432B abuse and neglect case.
22 The Legislature has determined that information maintained by an agency that provides
23 child welfare services, including, without limitation, reports and investigations made
24 under NRS 432B, is confidential. NRS 432B.280(1).

25 Congress has also determined that it is important “to preserve the confidentiality
26 of all records in order to protect the rights of the child and of the child’s parents . . .” and
27 such “reports and records made and maintained [under 42 USCS §§ 5101 et seq.] shall
only be made available” to specific individuals and agencies. This statute does not
control in this case, its significance is simply that it is evidence of the fact that it is

1 generally recognized that it is the best interests of neglected and abused children that
2 reports and records gathered in 432B cases be kept confidential.

3 It appears to the Court that the only way to resolve the issue of which, if any,
4 currently sealed documents should be unsealed is by thorough in camera inspection of
5 the administrative record. The Court will suggest to the parties that a senior judge or
6 senior justice be appointed as a master to conduct a thorough review of the
7 administrative record and made a recommendation on which, if any, currently sealed
8 documents should be unsealed.

9 It does not appear that there is a likelihood of a negative impact if Mr. Falconi is
10 allowed to record and publish the show cause hearing. If it appears currently sealed
11 information will be revealed during the hearing the Court may order that Mr. Falconi's
12 involvement in the hearing be interrupted or terminated.

13
14 **CONCLUSIONS OF LAW**

15 After careful consideration of the legal principles set out above the Court
16 concludes Mr. Falconi's request to record and publish the show-cause proceeding
17 should be granted, but his request to record or publish "associated papers," must be
18 denied.

19
20 **THE COURT ORDERS:**

21 Mr. Falconi may record and publish the show cause hearing.

22 Mr. Falconi may not record or publish documents contained in the administrative
23 record that are currently sealed.

24 October 25, 2022.

25
26
27

James Wilson
District Judge

CERTIFICATE OF SERVICE

1 I certify that I am an employee of the First Judicial District Court of Nevada; that
2 on the 25 day of October 2022, I served a copy of this document by placing a true
3 copy in an envelope addressed to:
4

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25 the envelope sealed and then deposited in the Court's central mailing basket in the court
26 clerk's office for delivery to the USPS at 1111 South Roop Street, Carson City, Nevada, for
27 mailing.



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