

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
5
7
3

Appellant,

VS.

Respondent.

Electronically Filed
Jul 13 2021 02:16 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Motion

MOTION TO SEAL RECORD

TCM LAW GROUP
THOMAS C. MICHAELIDES, ESQ
NEVADA BAR NO. 5425
2620 REGATTA DRIVE #219
LAS VEGAS, NV 89128
PHONE:702-462-6161
FAX:702-413-6255

1 POINTS AND AUTHORITIES

2 Nevada Supreme Court Rule 3(1) states as follows:

3 Rule 3 - Process and grounds for sealing or redacting court records

4 **1. Request to seal or redact court records; service.** Any person
5 may request that the court seal or redact court records for a case that is
6 subject to these rules by filing a written motion, or the court may, upon its
7 own motion, initiate proceedings to seal or redact a court record. A motion
8 to seal or redact a court record must disclose, in its title and document code,
9 that sealing, or redaction is being sought. The motion must be served on all
10 parties to the action in accordance with NRCP 5.

11 Section 4 of Nev. Sup. Ct. R. 3 states the grounds necessary for records to
12 be sealed;

13 **4. Grounds to seal or redact; written findings required.** The court
14 may order the court files and records, or any part thereof, in a civil action to
15 be sealed or redacted, provided the court makes and enters written findings
16 that the specific sealing or redaction is justified by identified compelling
17 privacy or safety interests that outweigh the public interest in access to the
18 court record. The parties' agreement alone does not constitute a sufficient
19 basis for the court to seal or redact court records. The public interest in
20 privacy or safety interests that outweigh the public interest in open court
21 records include findings that:...

22 **(h)** The sealing or redaction is justified or required by another
23 identified compelling circumstance.

24 Pursuant to section 4(h), this honorable Court may seal or redact records
25 provided the court makes and enters written findings that the specific sealing or
26 redaction is justified by identified compelling privacy or safety interests that
27 outweigh the public interest in access to the court record. Section (h) further
28 defines that standard by stating the sealing or redaction must be justified by a
identified compelling circumstance.

1 Mr. Tiffée was arrested on the instant offense on 06/30/2009 by the
2 Henderson Police Department and charged with Using Technology to Lure
3 Children (Case No. 10C264460). Pursuant to a guilty plea agreement. Petitioner
4 was convicted of Luring Children or Mentally Ill Persons with Use of Technology
5 with the Intent to Engage in Sexual Conduct (Category B felony- NRS 201.560).
6 After he completed probation and was honorably discharged from probation, he
7 was allowed to withdraw his guilty plea and enter a plea to a reduced charge of
8 Unlawful Contact with a Child, a gross misdemeanor. As a result, his prior plea to
9 the Category B felony offense was withdrawn and on July 23, 2012, he was
10 subsequently adjudicated guilty of the gross misdemeanor.
11
12
13

14 The instant case involves a request by the Defendant to seal his records
15 related to his guilty plea filed by him on June 13, 2019. After oral arguments on
16 the briefs before the honorable Judge Christina Silva, Mr. Tiffée's Motion was
17 denied. He then appealed the matter to this Court, which reversed and ordered
18 that Defendant's case be sealed by the District Court. This Court issued its opinion
19 on May 6, 2021, wherein the Court stated, "we reverse the District Court's order
20 and remand the matte with instructions to grant Mr. Tiffée's Petition to Seal his
21 criminal records". That opinion, while it ruled in Mr. Tiffées' favor, is accessible
22 to the general public online and can be viewed by anyone who runs a query suing
23 any number of key words. As a result, although Mr. Tiffée's case was sealed, it is
24
25
26
27
28

1 still accessible to the general public as a result of the Supreme Court case.

2 The very nature of any case that requests the sealing of records is so the
3 public cannot have access to the information contained therein and therefore it not
4 be made public. This Court ruled that the Defendant had met all the necessary
5 requirements to have his record sealed. However, if the Supreme Court Case
6 wherein this ruling was made is still accessible to the public, which it is currently,
7 then it would make the sealing of records at the District Court level moot.
8
9

10 In fact, Defendant's record of conviction is now even more publicly visible
11 as a search on the internet quickly reveals the Supreme Court decision in his case.
12 All the valid reasons for sealing his record in the first place would be for naught if
13 the Supreme Court case that ordered those records be sealed was easily accessible
14 to the public *via* a quick search on the internet. Given the sensitive nature of his
15 charges he faced and the charges that he later was allowed to plead to after being
16 honorably discharged from probation, Mr. Tiffée would face the same public
17 scorn and humiliation he did before the Court ordered the District Court to seal his
18 records in the first place.
19
20
21

22 Not ordering his Supreme Court case sealed would mean that the entire
23 sealing process would not be accessible to Mr. Tiffée just because he was required
24 to appeal his case to the Supreme Court to finally obtain his objective of having
25 his records sealed. What good is having an individual's criminal record sealed if
26
27
28

1 in doing so it only shines an even bigger light on his case than existed before he
2 even sought to have them sealed?

3 After winning the right to have his case sealed, the fact that it is still easily
4 accessible to the public *via* the Supreme Court case constitutes compelling reasons
5 to seal his case in the Supreme Court. Not only is this reason compelling,
6 preventing the public from viewing his prior case was the only reason he sought to
7 have the case sealed. Tiffée respectfully argues that because his underlying case
8 was to seal his criminal record, compelling reasons exist therefore to seal the
9 Supreme Court matter as to avoid it being public.
10
11
12

13 Mr. Tiffée understands that his entire case cannot be redacted and/or sealed
14 pursuant to Supreme Court Rules, specifically section 3(5), which states as
15 follows:
16

17 **c)Sealing of entire court file prohibited** Under no circumstances shall the
18 court seal an entire court file. An order entered under these rules must, at a
19 minimum, require that the following information is available for public
20 viewing on court indices:(i) the case number(s) or docket code(s) or
21 number(s);(ii) the date that the action was commenced;(iii) the names of the
22 parties, counsel of record, and the assigned judge;(iv) the notation "case
23 sealed";(v) the case type and cause(s) of action, which may be obtained
24 from the Civil Cover Sheet;(vi) the order to seal and written findings
25 supporting the order, and(vii) the identity of the party or other person who
26 filed the motion to seal forth in subsection 7 of this rule.

27 *Nev. Sup. Ct. R. 3*

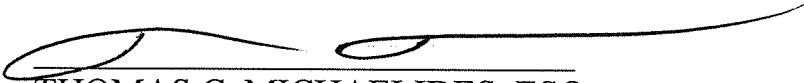
28 Added effective January 1, 2008.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CONCLUSION

As a result, Mr. Tiffiee is therefore requesting that this Court seal all information it is allowed to seal pursuant to section 5, including requiring the notation "case sealed". However, we would request that any mention of Mr. Tiffiee in the written findings supporting the order in this case is not included in any.

Dated this 13th day of July, 2021.



THOMAS C. MICHAELIDES, ESQ
NEVADA BAR NO. 5425
2620 REGATTA DRIVE #219
LAS VEGAS, NV 89128
PHONE:702-462-6161
FAX:702-413-6255

CERTIFICATE OF SERVICE

Pursuant to NRAP 25(c)(1), I hereby certify that on this 13th day of July, 2020, service of the foregoing **APPELLANTS' MOTION** was made by submission to the electronic filing service for the Nevada Supreme Court upon the following registered users to the email addresses on file:

/s/ Eric Tucker
An employee of TCM Law