

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 59

THE PEOPLE OF THE STATE OF NEW YORK

- against -

DONALD J. TRUMP,

Defendant.

DECISION AND ORDER
ON DEFENDANT'S MOTION
FOR PUBLIC PROCEEDINGS

Ind. No. 71543/2023

HON. JUAN M. MERCHAN A.J.S.C.:

Defendant moves this Court to “(1) unseal and docket all pleadings, orders, and substantive written communications that have involved the Court and the parties, including communications sent by letter and email, and (2) require simultaneous public access of all future pleadings, orders, and written communications except to the extent redactions are required by the protective order and law.” Defendant’s Memo at pg. 8.

As an initial matter, this Court notes that Defendant’s second request acknowledges that there are instances, required by the Protective Order, as well as various statutes, that prohibit simultaneous public access to “all future pleadings, orders, and written communications” in this matter. Defendant’s first request is less clear. To avoid confusion, the Court **DENIES** Defendant’s motion to the extent it seeks to unseal all (or any) information that is subject to the Court’s May 8, 2023, Protective Order or any other sealing required by law.

As to the heart of Defendant’s request for “Public Proceedings,” i.e. that the public no longer be “shielded from important communications and rulings” (Defendants Memo at pg. 6), it is this Court’s understanding that everything that is normally maintained in a court file is currently contained in the public file. To repeat, as far as this Court is aware, the public is not being “shielded” from anything normally maintained in the public court file. In fact, the Unified Court System has taken up the task of posting substantive pleadings, decisions and orders on the nycourts.gov website, a step, as far as this Court is aware, which appears to be unique for a criminal matter in New York State Supreme Court – Criminal Term. Of course, court proceedings in this matter have been open to the press and public alike since its inception.

To the extent Defendant believes there are communications with the Court that are necessary to preserve his right to a public trial as well as the First Amendment right of access that belongs to each and every individual in the general public, he is certainly free to attach such communications to any relevant submission he intends to make, subject, of course, to any orders of this Court, including but not limited to this Court's May 8, 2023, Protective Order and any relevant laws of this state. In fact, Defendant has already done so twice - once in the instant motion and again in his motion to vacate the Court's Order on the Filing of Motions, by attaching an email communication with this Court. In so doing, the Defendant has made those communications part of the court docket.

To be clear, all motions, decisions, orders, and pleadings, normally maintained in the court's public file are in the public file. To the extent Defendant believes that anything normally maintained that is not subject to the Protective Order or governing law, is not in the court file, he should identify the document to the Court and to the People. The Court will consider any objections and rule on the matter. Defendant has indicated that there are multiple rulings that have been "shielded" from the public. Defendant's Memo at pg. 6. However, in his memo and affirmation in support of the motion, Defendant only references this Court's March 8, 2024, email to the parties. That e-mail noted Defendant's apparent misunderstanding of one of this Court's publicly filed Orders. The purpose of the e-mail was to ensure Defendant does not violate the Order. This Court does not consider the e-mail to be a Decision and Order because it merely reiterated and reminded the parties of an Order that had already been issued.

The Court has considered the case law submitted by the Defendant and finds that much of it is either inapplicable to the instant matter, or contains legal authority which this Court has been faithfully following. For example, *Courtroom Television Network LLC v. State of New York*, 5 NY3d 222 [2005], involved Court TV's fight against New York's "absolute ban" on televised trials, clearly not an issue of relevance here. *People v. Arthur*, 178 Misc2d 419 [Sup Ct, NY Cnty 1998] pertains to a lower court that sealed *all* motion papers as well as the court's *Molineux* and *Sandoval* decisions.

SO ORDERED

March 26, 2024
New York, New York

HON. J. MERCHAN

MAR 26 2024



Juan M. Merchan
Acting Justice of the Supreme Court
Judge of the Court of Claims