

**IN THE COMMON PLEAS COURT OF MIAMI COUNTY, OHIO
CRIMINAL DIVISION**

STATE OF OHIO

Plaintiff,

vs.

CALEB FLYNN

Defendant.

CASE NO. 2026 CR 088

JUDGE WALL

**MOTION FOR NON-
DISSEMINATION ORDER**

Now comes the Defendant, **CALEB FLYNN**, by and through his attorneys,
MOERMOND & MULLIGAN, LLC, and hereby moves this Honorable Court for an Order
restricting the dissemination of information regarding pleadings and evidence to the press or
public.

A memorandum in support is attached hereto.

Respectfully submitted,

/s/ **Emily Smith**

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MEMORANDUM

This case came before the Miami County Municipal Court on a criminal complaint filed February 20, 2026, alleging Murder, Felonious Assault, and Tampering with Evidence. Since the date of said filing, several pleadings, police reports, and police body camera footage have been released to the press and the public. Vital evidence has been uploaded and shared online to various national news and social media platforms for the public to consume. Mr. Flynn respectfully requests the Court issue an Order restricting the public's access to case filings through CourtView. Additionally, Mr. Flynn moves this Court for an Order prohibiting all parties, witnesses, law enforcement, and attorneys from disseminating any police reports, video, audio recordings, lab reports, photos, written statements, or any other evidence or discovery to the press or public until this case has been fully adjudicated.

The Rules of Superintendence in Ohio provide that court records are presumed open to public access. Sup. R. 45. However, the Rules of Superintendence further state the court shall restrict public access "if it finds by clear and convincing evidence that the presumption of allowing public access is outweighed by a higher interest." Sup. R. 45(E)(2). The Ohio Public Records Act dictates rules and restrictions for the availability of public records for inspection or copying. R.C. 149.43. The Public Records Act specifically mandates that any portion of body-worn camera or dashboard camera recording may only be released if the recording will not be used in connection with any probable or pending criminal proceedings. R.C. 149.43(H)(1)(a). The State has violated the statute and Mr. Flynn's Constitutional rights.

"Pervasive, unfair, and prejudicial media coverage of a criminal trial" may jeopardize the accused's right to a fair trial guaranteed by the Sixth Amendment to the United States Constitution

and Article I, Section 10 of the Ohio Constitution.” *State v. Jones (In re Schroeder)*, 2023-Ohio-3170, ¶ 9, quoting *State ex re. Toledo Blade Co. v. Henry Cty. Court of Common Pleas*, 2010-Ohio-1533, ¶ 23. As a solution, trial courts have “a duty to protect criminal defendants from inherently prejudicial publicity that renders a jury’s deliberation unfair.” *State v. Clinton*, 2017-Ohio-9423, ¶ 59, quoting *Sheppard v. Maxwell*, 384 U.S. 333, 363 (1966). Trial courts have “wide discretion in being able to protect the judicial process from influences that pose a danger to effective justice.” *State v. Grate*, 2020-Ohio-5584, ¶ 65, quoting *Journal Publishing Co. v. Mechem*, 801 F.2d 1233, 1236 (10th Cir. 1986). This includes the authority to issue gag orders and impose restrictions on witnesses, parties, and attorneys. *Grate* at ¶ 59.

A gag order based on the need to protect an accused’s right to a fair trial “may issue only if ‘specific findings are made demonstrating that, first, there is a substantial probability that the defendant’s right to a fair trial will be prejudiced by publicity that *** [the gag order] would prevent and, second, reasonable alternatives *** cannot adequately protect the defendant’s fair trial rights.” (Ellipses and brackets sic.) *Jones (In re Schroeder)* at ¶10, quoting *State ex rel. Natl. Broadcasting Co., Inc. v. Lake Cty. Court of Common Pleas*, 52 Ohio St. 3d 104, 108 (1990). Specifically in *Jones (In re Schroeder)*, the Ohio Supreme Court held that the gag order issued by the trial court was “necessary to avoid any potential prejudice, whether real or perceived to protect the judicial process” and followed the “least restrictive and reasonable constraints.” *Jones (In re Schroeder)* at ¶ 11. The trial court’s gag order barred “parties, attorneys, respective staff connected with [the] case in any manner, all court personnel and any public official” from “disseminating information” related to the merits, defenses, and facts of the case “outside of the hearings *** and/or pleadings.” *Id.*

The dissemination of video discovery, police reports, and any other evidence to the public and the press greatly jeopardizes Mr. Flynn’s Constitutional right to a fair trial. Evidence intended to

be shown to an unbiased jury at trial has already been released to the public and shared online garnering thousands of views and comments. Any further disclosure of evidence will substantially and materially prejudice the jury pool and any adjudicative proceedings. Additionally, any pleadings available to the public on the Clerk's website risk prejudicial publicity. A gag ordering restricting the Clerk's Office, law enforcement, and any other parties or witnesses from disseminating any information pertaining to the facts and evidence in this case is necessary to abide by the duty to protect Mr. Flynn's right to a fair trial as well the interests of justice.

THEREFORE, for the reasons stated herein and above, the Defendant, Caleb Flynn, respectfully moves this Honorable Court for an Order restricting the Clerk of Courts, law enforcement, and any other parties affiliated with this case from disseminating any facts or evidence to the public.

Respectfully submitted,

/s/ **Emily Smith**

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above was sent to the office of the Prosecutor on the same day as filing.

/s/ Emily Smith
EMILY M. SMITH
Attorney for Defendant