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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Colleton County
Honorable Clifton Newman, Circuit Court Judge
Honorable Jean H. Toal, Retired Chief Justice
Appellate Case No. 2023-000392

THE STATE,

vs.

Respondent,

RICHARD ALEXANDER MURDAUGH,

Appellant.

In Re: Sealed and Restricted Records.

**MOTION TO RETRACT CONDITIONAL OBJECTION AND
UNSEAL AND REMOVE RESTRICTIONS AS TO THE *IN CAMERA* HEARING
TRANSCRIPT SUPPORTING JUROR 785'S REMOVAL**

On May 13, 2026, this Court issued an opinion reversing Appellant's two murder convictions and remanded for a new trial. The remittitur was issued on May 29, 2026. To date, there is no order appointing a circuit court judge to preside over the new proceedings.¹

While on appeal regarding the trial convictions, Appellant moved for permission to file a new trial motion which the Court of Appeals granted on October 17, 2023. Appellant filed the motion in Colleton County on October 27, 2023. On January 3, 2024, former Chief Justice Beatty

¹ This court issued a statement on May 15, 2026, that "clarify[ng]" that Judge Heath Taylor had jurisdiction over some matters related to Appellant, but that prior appointment did not include authority to preside over retrial proceedings for the murder charges. The statement also indicated that a specific circuit court judge will be appointed to handle matters related to the retrial. See [https://www.sccourts.org/media \(5/15/2026.pdf\)](https://www.sccourts.org/media (5/15/2026.pdf)).

assigned retired Chief Justice Toal to preside. In that same order, the former Chief directed that all materials for that action should be filed in this Court given the allegations against the Colleton County Clerk of Court. After additional proceedings, the motion for a new trial was denied by order dated April 3, 2024. The appeal continued thereafter with this Court ultimately hearing all issues from the trial and new trial motion proceedings together. Certain materials remain under seal in the Record on Appeal.

On September 4, 2024, prior to briefing in the direct appeal, Juror #785 filed a motion to intervene with the intent to have this Court unseal “the *in camera* proceedings related” to the Juror’s “removal from the jury[.]” (Mtn. at 3).² Of relevance here, under the provisions of prior orders in the case, the transcript pertaining to the juror’s inappropriate discussions of the case with other(s) prior to deliberations and her ultimate removal as a juror were both sealed and restricted from use outside the case. Specifically, Judge Newman issued a strict protective order but subsequently allowed all counsel, including counsel for the juror, to have access to the records with the instruction that counsel was prohibited from publication or dissemination of any of those records. (*Aug. 31, 2022 Order and Nov. 2, 2023 Order*). The restrictions were by consent of the parties and the Juror. *Id.* Former Chief Justice Toal essentially continued that order restricting disclosures to anyone other than counsel. (*Jan. 4, 2024 Order*). (*See Appellate Case No. 2024-000004*).

On September 16, 2024, the State objected to the Juror’s motion to unseal. (Response in Opp. at 6-7). Because the restrictions were imposed in a consent order, they could be “rescinded by mutual consent in a subsequent court action[.]” (Response in Opp. at 6-7, quoting *Johnson v.*

² The Juror also filed in circuit court but this Court had jurisdiction over the trial matters as a result of Appellant’s notice of appeal.

Johnson, 310 S.C. 44, 46-47, 425 S.E.2d 46, 48 (Ct.App. 1992)). However, the State did not consent at that time arguing that the request was premature given that no issue had yet been raised and that no evaluation of the context could be fairly made in such circumstances. (Response in Opp. at 5). On October 31, 2024, this Court summarily denied the motion. (See Appellate Case No. 2023-000392).

Subsequently, briefing was completed and the *in camera* hearings transcripts related to Juror 785 were included in the Record on Appeal but fully redacted. Ultimately, as noted above, this Court granted a new trial based on the Clerk of Court's interaction with the jurors.

Discussion

Notably, this motion is not about litigation; it is about the records maintained by this Court. See generally *Ex parte Greenville News*, 326 S.C. 1, 4, 482 S.E.2d 556 (1997) ("Because openness enhances both fairness and the appearance of fairness, this presumption allowing public access may be overcome only by an overriding interest based on findings that closure is (1) essential to preserve higher values and (2) is narrowly tailored to serve that interest.") (quoting *Press-Enterprise Co. v. Superior Court of California*, 464 U.S. 501 (1984)); see also *In re Revised Ord. Concerning Pers. Identifying Info. & Other Sensitive Info. in App. Ct. Filings*, 407 S.C. 607, 607, 757 S.E.2d 421 (2014) (noting "under the Federal Constitution, our State Constitution, and our common law, court records are presumptively open to the public"). The transcripts were included in the Record on Appeal but the public is unable to access those pages. (See R. at 6811, 6835 and 6954).³ The court has considered a similar post-remittitur request from an appellant before.

³ The transcripts were redacted for the public record filing. Additionally, a portion of the *in camera* transcript involving Judge Newman's questions to the Juror appears in the new trial motion records that the former Chief Justice ordered be filed with this Court.

In *State v. Blackwell*, appellant filed the motion seeking to unseal records after the opinion and remittitur had been issued. See Appellate Case No. 2014-000610. The request in that case, though, involved a witness's still privileged medical records and the request was denied. In contrast here, the Juror had previously moved to intervene and modify the consent order protections to have the transcripts deemed open. Moreover, Appellant did not object but took no position on the Juror's previous request, and the State's objection to modification was conditionally given based on the procedural posture of the appeal. Here, a new trial has been granted to Appellant. There should be no prejudice to any party at this time. Consequently, the scales should now tip to unsealing and removing restrictions.

Conclusion

Based on the foregoing, the State moves to retract its prior, conditional objection and for an order allowing the previously protected transcripts from Judge Newman's *in camera* proceedings supporting the removal of Juror 785 to be filed as a supplement to the redacted court record. Further, prior restrictions regarding the sharing, discussion, etc., of the transcripts, or any matter related to the previously protected proceedings, should be found moot such that the parties and the Juror may now disclose same without offense to any prior order in this case.

Respectfully submitted,

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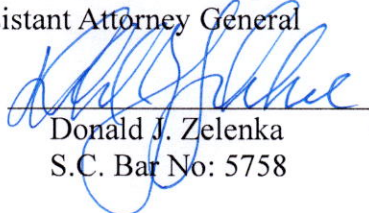
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