

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF FREMONT**

STATE OF IDAHO

Plaintiff,

v.

LORI NORENE VALLOW aka LORI  
NORENE VALLOW DAYBELL,

Defendant.

Case No. CR22-21-1624

**ORDER**

*DENYING MOTION TO UNSEAL ALL  
DOCUMENTS AND TRANSCRIPTS OR  
RECORDINGS OF PAST HEARINGS*

Before the Court is Non-Party Movant Lori A.G. Hellis's ("Hellis") POSTTRIAL MOTION OF NON-PARTY MOVANT TO UNSEAL ALL DOCUMENTS AND TRANSCRIPTS OR RECORDINGS OF PAST HEARINGS RELATED TO THIS MATTER WITH NECESSARY REDACTIONS HEARING REQUESTED. Hellis also filed a memorandum in support of her motion. For the reasons following, the Court will deny the motion without a hearing.

**I. FACTS AND PROCEEDINGS**

On May 25, 2021, an INDICTMENT was filed charging Defendant Lori Norene Vallow Daybell with several counts of conspiracy, multiple counts of murder in the first degree, and grand theft. Two alleged co-conspirators—Alex Cox ("Cox") and Chad Guy Daybell, were also named on the same INDICTMENT as Vallow Daybell. The INDICTMENT resulted in a new case filed as Fremont County Case No. CR22-21-1624.

On September 3, 2022, Hellis filed a MOTION OF NON-PARTY MOVANT TO UNSEAL DOCUMENTS AND TRANSCRIPTS OR RECORDINGS OF PAST HEARINGS with a MEMORANDUM IN SUPPORT OF MOTION, a DECLARATION IN SUPPORT OF MOTION, and a SUPPLEMENTAL DECLARATION IN SUPPORT OF MOTION. On October 13, 2022, Hellis presented argument to the

Court in support of her motions. On September 30, 2022, Vallow Daybell's case was stayed as required by Idaho Codes §§ 18-211–212. On November 15, 2022, the Court lifted the stay of the case and thereafter took this matter under advisement to review previously sealed hearings and documents in this case.

On December 8, 2022, the Court issued an order upon review of 44 discrete documents Hellis argued should be unsealed. Many of her requests were already public documents Hellis incorrectly argued were sealed; however, the Court did order a number of documents to be unsealed and also denied the request to unseal some information exempt from public disclosure.

On May 12, 2023, a jury returned a verdict finding the Defendant guilty of six counts filed against her in an Amended Indictment. Sentencing in the case is scheduled for July 31, 2023.

## **II. STANDARD OF REVIEW**

Idaho Court Administrative Rule 32 governs the records maintained by the judicial department. The rule recognizes the public's "right to examine and copy the judicial department's declarations of law and public policy and to examine and copy the records of all proceedings open to the public." I.C.A.R. 32(a).

Certain court records are not appropriate for public examination and are expressly exempt from disclosure. I.C.A.R. 32(g). Enumerated categories under I.C.A.R. 32(g) establish which types of records are exempt from public disclosure. "Any willful or intentional disclosure or accessing of a sealed or exempt court record, not otherwise authorized under this rule, may be treated as a contempt of court." I.C.A.R. 32(g).

While many court records enjoy the presumption of openness for public inspection, a trial court has broad discretion in sealing records on a case-by-case basis. I.C.A.R. 32(i). Further, a trial court has an overarching duty to preserve rights of parties and to ensure the paramount right to a

fair trial is protected. I.C.A.R. 32(i)(2)(E).

However, I.C.A.R. 32(i) authorizes the trial court to seal or redact court records on a case-by-case basis. The rule requires the custodian judge to hold a hearing and make a factual finding as to whether the individual's interest in privacy or whether the interest in public disclosure predominates. "If the court redacts or seals records to protect predominating privacy interests, it must fashion the least restrictive exception from disclosure consistent with privacy interests." *Id.* Before entering an order redacting or sealing records, the court must make one or more of the following determinations in writing:

- (1) That the documents or materials contain highly intimate facts or statements, the publication of which would be highly objectionable to a reasonable person, or
- (2) That the documents or materials contain facts or statements that the court finds might be libelous, or
- (3) That the documents or materials contain facts or statements, the dissemination or publication of which would reasonably result in economic or financial loss or harm to a person having an interest in the documents or materials, or compromise the security of personnel, records or public property of or used by the judicial department, or
- (4) That the documents or materials contain facts or statements that might threaten or endanger the life or safety of individuals.

In determining whether to grant a request to seal or redact records, trial courts are expected to apply "the traditional legal concepts in the law of invasion of privacy, defamation, and invasion of proprietary business records as well as common sense respect for shielding highly intimate material about persons." *Id.* The decisions of the trial courts will be subject to review for abuse of discretion.

*State v. Turpen*, 147 Idaho 869, 871–72, 216 P.3d 627, 629–30 (2009).

The Court may make other determinations warranting sealing of pleadings, records, hearings, or transcripts including, but not limited to: preserving the right to a fair trial or protecting personal data identifies that should have been redacted. I.C.A.R. 32(i)(2)(E-F).

In determining whether a trial court has abused its discretion in sealing records, an appellate court asks whether the trial court "(1) correctly perceived the issue as one of discretion; (2) acted within the outer boundaries of its discretion; (3) acted consistently with the legal standards

applicable to the specific choices available to it; and (4) reached its decision by the exercise of reason.” *State v. Bodenbach*, 165 Idaho 577, 591, 448 P.3d 1005, 1019 (2019) (quoting *Lunneborg v. My Fun Life*, 163 Idaho 856, 863, 421 P.3d 187, 194 (2018)).

### III. ANALYSIS

#### **A. The Court will rule on the motion without a hearing upon determining that the motion fails to comply with hearing requirements as established by governing rules.**

In her motion, Hellis mentions a request for hearing. However, Hellis has neither noticed the matter and served that notice upon the parties nor contacted the court clerk to schedule a hearing.

I.C.A.R. 32(i) states in relevant part:

(i) Other Prohibitions or Limitations on Disclosure and Motions Regarding the Sealing of Records. Physical and electronic records, may be disclosed, or temporarily or permanently sealed or redacted by order of the court on a case-by-case basis.

(1) Any person or the court on its own motion may move to disclose, redact, seal or unseal a part or all of the records in any judicial proceeding. The court shall hold a hearing on the motion *after the moving party gives notice of the hearing to all parties to the judicial proceeding* [.]

I.C.A.R. 32(i) (2022) (emphasis added).

As an appellate court explained in *State v. Clapp*, 168 Idaho 67, 479 P.3d 460 (2020):

Interpreting court rules is somewhat like analyzing statutes. ‘We begin with an examination of the literal words of the rule and give the language its plain, obvious and rational meaning.’ ” See *Kelly v. Kelly*, 165 Idaho 716, 724, 451 P.3d 429, 437 (2019). The plain language of I.C.A.R. 32(i)(1) states that the district court “shall” hold a hearing “after the moving party gives notice to all parties.” Thus, as the State points out, a hearing is required, only after the moving party gives notice of the hearing to all parties. In this case, Clapp did not notice the motion for a hearing. Consequently, the district court denied the motion based on the argument presented within the motion. The district court did not err by doing so because the plain language of the rule requires a hearing only after such notice has been given.

Second, the Fourth Judicial District's local rules specify that "[t]o schedule or re-schedule any court hearing or proceeding, the moving party must contact the judge's clerk to arrange a time certain." Idaho 4th Jud. Dist. Rule 2. Thus, if Clapp sought to have a hearing on his motion, it was Clapp's obligation to schedule a hearing under the local rules and he failed to do so. *See Michalk v. Michalk*, 148 Idaho 224, 229, 220 P.3d 580, 585 (2009) (concluding that attorneys are expected to know the rules of the forum, and pro se litigants are not afforded a more lenient standard); *see also Bettwieser v. New York Irrigation Dist.*, 154 Idaho 317, 327, 297 P.3d 1134, 1144 (2013) ("under the local rules of the Fourth Judicial District, parties are required to schedule motion hearings with the clerk of the presiding judge"). The district court did not err by denying Clapp's motion without a hearing.

*State v. Clapp*, 168 Idaho 67, 71–72, 479 P.3d 460, 464–65 (Ct. App. 2020).

Similarly to *Clapp*, the Seventh Judicial District's local rules also make it clear that it is incumbent upon a moving party to be proactive in scheduling matters to be heard with the judge's clerk.<sup>1</sup> Hellis is not represented in this case by counsel, but continues to assert her status as an attorney and is held to the same standards as an attorney, as a *pro se* individual.<sup>2</sup> "This Court adheres to the rule that persons acting pro se are held to the same standards and rules as those represented by attorneys." *Huff v. Singleton*, 143 Idaho 498, 500, 148 P.3d 1244, 1246 (2006) (citing *Suits v. Nix*, 141 Idaho 706, 709, 117 P.3d 120, 123 (2005)). *In re Prefiling Ord. Declaring Vexatious Litigant*, 164 Idaho 771, 776, 435 P.3d 1091, 1096 (2019).

Accordingly, the Court will briefly address the motion without a hearing because Hellis failed to comply with the hearing requirement clearly established by rule.

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<sup>1</sup> Re: Local Rules (B)(1) states: "To schedule any court hearing or proceeding, counsel must contact the clerk of the presiding judge to arrange a time certain." *See ORDER IN RE: ORDER AMENDING LOCAL RULES OF THE SEVENTH JUDICIAL DISTRICT*. Nov. 17, 2017.

<sup>2</sup> Hellis does not hold an Idaho State Bar license. The Court also notes that despite Hellis's continued self-described characterization as a "member of the media," "author," and "attorney," which titles are presumably included in all of Hellis's pleadings as an attempt to bolster her credibility, she is the only individual that was ordered removed from the courtroom during the trial in this case based on conduct that violated the Court's conduct order in effect during trial. The determinations made herein are thus made without consideration of those titles.

**B. The Court will deny Hellis' motion without prejudice.**

Turning to the substance of the motion, the Court first notes that the pleading contains a number of errors.<sup>3</sup> Hellis again conflates and confuses the difference between records excepted from disclosure and records exempt from disclosure. In bringing a motion to *carte blanche* unseal “all” documents, transcripts, or recordings in this case, Hellis makes an overbroad request that would unduly burden the administration of justice by placing a burden upon the courts not contemplated under the express or implied reading of the Idaho Court Administrative Rules nor found in any rule, statute, or in accord with a reasonable interpretation of the protections enshrined in the Constitution—state or federal.<sup>4</sup>

The Court previously set forth its rationale for sealing or unsealing certain records in this case in a previous order, spurred by Hellis's first motion to unseal. The Court thereafter granted Hellis a hearing, and did find a legal rationale to unseal certain documents that had been previously filed by the parties under seal.<sup>5</sup> At this time, the Court will not unnecessarily expend resources to comb through the record in an effort to act on an overbroad, prohibitively generalized motion. The Court has previously determined the rationale behind each individual record now sealed. The rationale was previously explained and may be further reviewed. The Court will consider any

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<sup>3</sup> Among the errors: (1) Hellis refers to “Exhibit 1” in her motion but no exhibits were filed with the Court; (2) Hellis cites to rules of civil procedure, and family law procedure as authority, neither of which apply to criminal cases; (3) the Certificate of Service lists a date of August 25, 2022 as the date of service that is patently incorrect; (4) Hellis includes John Prior on the Certificate of Service, who is not counsel to any party in this case and is not appropriate to include on the certificate of service; and (5) inaccurate email addresses for several of the attorneys that would make meaningless the notice requirements and frustrate due process. Under I.R.E.F.S. 17(e), Hellis has the responsibility to comply with the rules and only include appropriate contacts and to use their appropriate email registered for service through the Idaho State Bar.

<sup>4</sup> Hellis refers to an exhibit in her motion that was not attached to the filings presented by Hellis to the Court and therefore has not been considered by this Court in reaching this decision. *See* I.R.E.F.S. 6(c).

<sup>5</sup> The Court also found that several of the enumerated documents Hellis alleged were sealed in error in her earlier motion, in fact were never sealed and had always been publicly available to any individual by physically appearing at the courthouse kiosks.

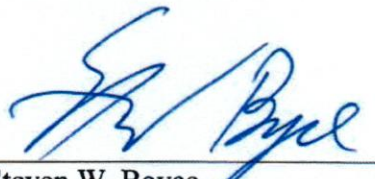
motion that complies with the aforementioned rules and is plead with specificity. However, the motion as now plead is denied, for the reasons stated herein.<sup>6</sup>

#### IV. CONCLUSION

For the foregoing reasons, the motion is DENIED without prejudice.

**IT IS SO ORDERED.**

Dated this 1 day of June, 2023.



Steven W. Boyce  
District Judge

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<sup>6</sup> Furthermore, the Court emphasizes the express language of I.C.A.R. 32(a) that establishes the policies Idaho courts are to consider when matters regarding access to court records come before the courts. The rule is meant to direct courts to provide access in a manner that “makes the most effective use of court and clerk of court staff” (I.C.A.R. 32(a)(9)) and “avoids unduly burdening the ongoing business of the judiciary” (I.C.A.R. 32(a)(11)). I.C.A.R. 32 (2022). Continuing to entertain Hellis’ efforts to cast aspersions on the court interferes with the effective use of court and clerk of court staff and burdens the ongoing business of the judiciary by taking attention off of many other cases that deserve the time of this Court.

### CERTIFICATE OF SERVICE

I hereby certify that on this 1 day of June, 2023, the foregoing Order was entered and a true and correct copy was served upon the parties listed below by mailing, with the correct postage thereon, or by causing the same to be delivered to their courthouse boxes; by causing the same to be hand-delivered, by facsimile, or by e-mail.

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Clerk of the District Court  
Fremont County, Idaho

by Becky Harrigfeld  
Deputy Clerk