



**IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA**

DANIEL K. HOLTZCLAW, )  
 )  
 Appellant, )  
 vs. )  
 )  
 THE STATE OF OKLAHOMA, )  
 )  
 Appellee. )

**FILED**  
**IN COURT OF CRIMINAL APPEALS**  
**STATE OF OKLAHOMA**

JUN 14 2018

No. F-2016-62

**ORDER DENYING MOTION TO UNSEAL PROCEEDINGS**

Appellant Holtzclaw timely perfected a direct appeal from his conviction for three counts of procuring lewd exhibition, six counts of sexual battery, four counts of forcible oral sodomy, four counts of first degree rape, and one count of second degree rape in Oklahoma County District Court Case No. CF-2014-5869. Appellate briefing is not complete and the appeal is not yet at issue in this Court.

On June 8, 2018, this Court issued an Order granting Appellant’s Motion to Unseal Documents and setting a briefing schedule. This Order was in response to Appellant’s initial Motion, which specifically asked this Court to unseal documents to the public. The ruling on the Motion to Unseal was limited to the relief requested by the Appellant. Under that Order, some documents remain under seal, some documents were unsealed as redacted, and all other documents were unsealed. In doing so, this Court approved the District Court’s determination that some material filed in this case consists of personnel records protected by 51 O.S.Supp.2014, § 24A.7(A)(1), which are subject to disclosure only at the discretion of the City of Oklahoma City. We held that any such material presented to this Court will be preserved under seal or redacted as

necessary, unless and until such time as it may be released by the City of Oklahoma City.

In this most recent pleading, Appellant now asks this Court to allow him to provide copies of the sealed materials to his retained expert. This Court's June 8 Order was clear. This material remains sealed unless and until it is released by the City of Oklahoma City. The record does not reflect that any party has made such a request, that the City has either granted or denied such a request, or that the issue has been litigated and a trial court has ruled on the matter. This Court cannot and will not, for the first time on appeal, make a determination that records protected under 51 O.S.Supp.2014, § 24A.7(A)(1) should be released.


Appellant argues that he has a constitutional right to disclosure of the sealed material in order to prepare his defense. We will not unseal protected documents for distribution to a third party until the documents are released to the public by the appropriate entity. The disclosure of material to Appellant, which has already occurred, is not the same as the issue of whether documents may be unsealed to the public. As our June 8 Order unequivocally states, Appellant's counsel has had access to and reviewed the original materials at issue as well as the materials developed below, including the evidence presented and transcripts of the *in camera* hearing, and the District Court's findings and conclusions. The June 8 Order also allows counsel to review the State's original motion, filed on May 4, 2017. Any issue of whether the protected material should be disclosed to appellate counsel, and any ruling thereon, is moot.

Appellant's Motion to Unseal the Proceedings is **DENIED**.

The Clerk of this Court is directed to transmit a copy of this Order to the Court Clerk of Oklahoma County; the District Court of Oklahoma County, the Honorable Timothy Henderson, District Judge; the Attorney General of the State of Oklahoma, and Appellate counsel of record.

**IT IS SO ORDERED.**

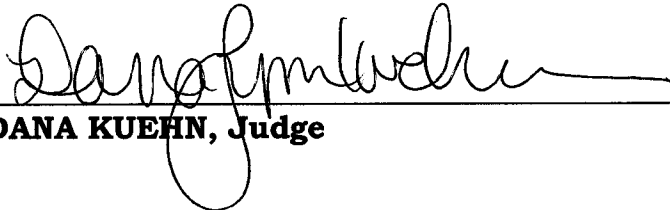
**WITNESS OUR HANDS AND THE SEAL OF THIS COURT** this 14<sup>th</sup> day of June, 2018.

  
GARY L. LUMPKIN, Presiding Judge

  
DAVID B. LEWIS, Vice Presiding Judge

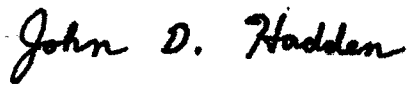
*Robert L. Hudson, Special Concur*  
ROBERT L. HUDSON, Judge

*Judge Henderson found nothing was exculpatory, material or proper for impeachment*

  
DANA KUEHN, Judge

**RECUSED**  
SCOTT ROWLAND, Judge

**ATTEST:**

  
Clerk

NF