

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO
CRIMINAL DIVISION

STATE OF OHIO

Plaintiff,

VS.

JONATHAN ERIC LINK

Defendant.

CASE NO. 2024 CR 03226

JUDGE STEVEN K. DANKOF

**STATE’S OPPOSITION TO
RELEASE OF GRAND JURY
TESTIMONY**

The State of Ohio, by and through the office of the Prosecuting Attorney of Montgomery County, hereby provides its response to Defendant's Motion requesting the release of Grand Jury testimony. For the reasons set forth in the attached memorandum, the State respectfully requests this Court **OVERRULE** Defendant's Motion.

Respectfully submitted,
MATHIAS H. HECK, JR.
PROSECUTING ATTORNEY

By: /s/ Lynda A. Dodd

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MEMORANDUM

Under Ohio law, “[g]rand jury proceedings are secret, and an accused is not entitled to inspect grand jury transcripts either before or during trial unless the ends of justice require it, and there is a showing by the defense that a particularized need for disclosure exists which outweighs the need for secrecy.” *State v. Perkins*, 191 Ohio App.3d 263, 2010-Ohio-5161, 945 N.E.2d 1083, ¶ 45 (2d Dist.), quoting *State v. Greer*, 66 Ohio St.2d 139, 420 N.E.2d 982 (1981), paragraph two of the syllabus; Crim.R. 6(E).

Before a court may proceed to evaluating the need for secrecy of a grand jury proceeding, the petition must meet the ““threshold requirement”” of demonstrating ““a particularized need for disclosure [that] outweighs the need for secrecy.”” *Sherrod v. Haller*, 2017-Ohio-5614, ¶ 7 (2d Dist.), quoting *State v. Curran*, 166 Ohio App.3d 206, 2006-Ohio-773, 850 N.E.2d 81, ¶ 16 (2d Dist.). To meet his burden of demonstrating a particularized need, a petitioner must show that “it is probable that the failure to disclose the testimony will deprive the petitioner of a fair adjudication of a pending action.” *State v. Webb*, 2006-Ohio-1113, ¶ 12 (2d Dist.), citing *Greer*, at paragraph three of the syllabus. In *State v. Heisey*, 2015-Ohio-4610 (2d Dist.), the Court found no particularized need where the Defendant suggested only “general contradictions” that may be revealed in the Grand Jury testimony.

Moreover, the Court in considering whether to release Grand Jury testimony must not only consider the instant case, but also the possible effect that removing the protection of the secrecy of Grand Jury proceedings may have on cases in the future. *See State v. Gillispie*, 2021-Ohio-

4157, ¶ 12-13 (2d Dist.), citing *United States v. Sells Engineering, Inc.*, 463 U.S. 418, 432 (1983) and *State v. Owens*, 2015-Ohio-3017, ¶ 14 (4th Dist.). The release of Grand Jury testimony creates a threat to the willingness of witnesses being willing to freely provide testimony if they believe their testimony will later be disclosed. *Id.* Where a Court does find a defendant meets their burden, only the necessary portions of the grand-jury testimony should be released. *Id.* at ¶ 17.

As was demonstrated at the bond hearing, at trial the State intends to introduce evidence that the homicide in this case happened in the home shared by the deceased, the defendant, and the deceased's two young children, ages 7 and 9 at the time. No one else was present at the time of the homicide. The discovery in this case has been extensive. The case began as a missing person investigation, and turned into a homicide when the victim's body was discovered badly decomposed in a ditch Ross County. Her vehicle was discovered at the Atlanta airport. Evidence in the case includes DNA analysis that was completed at the time, and additional testing done through the years. The investigation was documented in police reports from the beginning of the investigation in 2001 through the present. The State is aware of the duty to disclose exculpatory material, and has done so and will continue to do so. The reports in the case file contain inculpatory and exculpatory material and all have been provided to defense.

Defendant initially requested any Grand Jury testimony of the deceased's children. Based upon the totality of the facts in this case, previous interviews, and Defendant's intent to enlist a memory expert or seek instructions from the Court, the State did not oppose an *in camera* inspection of those Grand Jury transcripts, nor did the State seek to brief the issue with respect to those witnesses.

However, now Defense seeks the wholesale release of the Grand Jury testimony without providing any particularized need. The State notes that Defendant's motion initially requested only the original Grand Jury testimony, but in off the record communications between Court and both parties the request has expanded to request transcripts from *both* Grand Juries.

In order to obtain any additional Grand Jury testimony, it is Defendant's burden to show a particularized need for the release of each and every portion witness and topic that Defendant seeks testimony regarding. At this time no such showing has been made and as such there is insufficient reason for even an *in camera* inspection and Defendant's motion should be overruled.

The State anticipates defense will submit further filings or create a record in an effort to articulate a particularized need. In that event, the State will respond once reviewed.

Respectfully submitted,
MATHIAS H. HECK, JR.
PROSECUTING ATTORNEY

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the aforesaid Response was electronically filed via the Court's authorized electronic filing system which will send notification on the date of this filing to Attorney for the Defendant, on the date same was e-filed.

/s/ Lynda A. Dodd
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Assistant Prosecuting Attorney