

State's Motion #1  
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**IN THE DISTRICT COURT OF FRANKLIN COUNTY, KANSAS  
FOURTH JUDICIAL DISTRICT**

STATE OF KANSAS, )  
Plaintiff, )  
vs. ) Case No. 2013 CR 104  
KYLE TREVOR FLACK, )  
Defendant. )

**MOTION TO FILE PLEADINGS UNDER SEAL**

The Plaintiff requests that the Court order that all pleadings be filed under seal. If the Court imposes this rule, it can then review each pleading when filed and make a determination whether to unseal the document.

**Facts**

In early May 2013, the Franklin County Sheriff's Office initiated an investigation concerning the deaths of Steven White, Andrew Stout, Kaylie Bailey, and Lana Bailey. On May 10, 2013, the Franklin County Attorney filed murder charges against the defendant involving these four individuals. Throughout the initial investigation and subsequent charging, the case generated intense local and regional media interest.

## Argument and Authorities

### Issue

Due to the nature of this case and the intense media interest exhibited to this point, the State requests that all pleadings be sealed. After a pleading is filed, the Court can weigh whether the harm of release outweighs the public interest in the case, and determine if unsealing is appropriate.

### Statutory and Case Law

K.S.A. 60-2617, and amendments thereto, provides that upon any party's request, the Court may hold a hearing concerning the sealing of court records. K.S.A. 60-2617(a), and amendments thereto. However, such a hearing requires reasonable notice be given to the victim's family. *Id.* After a hearing on the issue, the Court may order court files and records in the proceeding to be sealed. K.S.A. 60-2617(b), and amendments thereto. If the Court so orders, it must make and enter a written finding of good cause. *Id.*

Kansas statutory law requires that if the Court grants the order, it "shall recognize that the public has a paramount interest in all that occurs in a case, whether at trial or during discovery and in understanding disputes that are presented to a public forum for resolution." K.S.A. 60-2617(c), and amendments thereto. Good cause to seal records does not exist unless the court makes a finding on the record that there exists an identified "public or private harm that predominates the case and such interest or harm outweighs the strong public interest in access to the court record and proceedings." K.S.A. 60-2617(d), and amendments thereto.

### Application

This filing initiates the procedure under K.S.A. 60-2617, and amendments thereto. The State believes that the process suggested protects the constitutional rights of the defendant and interests of the State.

The complaint filed in this case included capital murder. Although no decision has been made by the State concerning notice of intent to seek the death penalty, the heightened scrutiny standard of a capital murder case requires extreme diligence in protecting the constitutional rights of the defendant and the integrity of the judicial proceedings. In addition, the State has a vested interest in ensuring that the case is decided by twelve jurors from the county where the crime occurred.

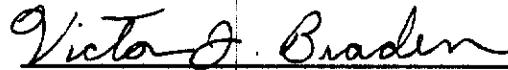
Pursuant to K.S.A. 60-2617(a), and amendments thereto, the State will notify the families of the victims in this case of the substance of this motion and the date, time, and location that this motion will be heard before this Court.

By filing each pleading under seal, the Court can properly assess whether the public or private harm outweighs the strong public interest in access to the document. After making that determination, the Court can release the pleading for public viewing or keep it sealed. This process allows the Court to protect the defendant's right to a fair trial and prevent public dissemination of alleged facts that may or may not be allowed at jury trial.

**Conclusion**

The State respectfully requests the Court enter an order requiring that all pleadings be filed under seal with the Clerk of the District Court of Franklin County, Kansas.

Respectfully submitted,



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