

SealJuvenileRecordRequest [2012]

I.

STATEMENT OF FACTS

On DATE, a United States Probation Officer submitted a petition for the Juvenile Court records of CLIENTNAME. CLIENTNAME opposes the disclosure of his sealed juvenile court records to a federal probation officer in an unrelated case.

CLIENTNAME will be sentenced as an adult in a federal court case in August. In his federal case, the government has agreed to recommend a sentence at the low-end of the guideline range for CLIENTNAME. At this time, their likely recommendation will be 10 months custody. If information from his juvenile court records is disclosed, the probation office may seek to disparage his character or have his criminal history category upwardly adjusted to reflect his troubles as a minor. Such an adjustment may make him eligible for a guidelines range of up to 18 or 24 months, depending upon the records disclosed. He therefore opposes the disclosure of juvenile court records.

II.

CLIENTNAME'S JUVENILE COURT RECORDS SHOULD REMAIN SEALED

A. The General Policy of Confidentiality Favors Keeping Records Sealed.

Public policy favors a general policy of confidentiality of juvenile court records. Two significant goals are addressed by this policy: protecting minors in the future and encouraging forthrightness and disclosures in juvenile proceedings. Confidentiality is a necessary protection since juvenile proceedings are not safeguarded by the rights of a traditional criminal tribunal.

One goal of confidentiality is to protect minor participants from "adverse future consequences." Pack v. Kings County Human Services Agency, 107 Cal. Rptr.2d 594, 600 n. 6

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(Ct. App. 2001); T.N.G. v. Superior Court, 484 P.2d 981, 988 (Cal. 1971) ("if . . . sometimes third parties . . . may use these records to deny opportunities to young persons, the rehabilitative efforts of the juvenile court will be thwarted"). In this case, the petitioning federal probation officer seeks to use the juvenile records against the "minor." Juvenile proceedings operate with an assumption that a child is capable of rehabilitation or entitled to a clean slate in life; the proceedings should not be used to impugn his character as an adult. See United States v. Juvenile Male, 590 F.3d 924, 932-36 (9th Cir. 2010) (noting fundamentally non-public nature of juvenile proceedings in finding retroactive application of federal sex registration requirements on juvenile offenders violated the Ex Post Facto Clause).

Juvenile proceedings differ greatly from adult criminal court proceedings. While juvenile proceedings do not offer the same constitutional safeguards as adult criminal adjudications, the counterbalance is that the privacy of the minor and the admissions and evidence in his case are protected through confidentiality requirements. See In re Keisha T., 44 Cal. Rptr. 2d 822 (Ct. App. 1995); see also Juvenile Male, 590 F.3d at 932 ("We have historically made the decision to shield juvenile offenders from the public eye—both from the protections that public scrutiny provides against government oppression, and from the burdens that public scrutiny imposes through the stigmatization of those convicted of crimes."). The California Fourth District Court of Appeal has found that confidentiality advances the goals of openness in juvenile proceedings. See In re Anthony H., 28 Cal. Rptr.3d 575, 583 (Ct. App. 2005). The Ninth Circuit has stressed that the confidentiality of juvenile proceedings represents a critical trade-off between the usual constitutional protections and the unique goals of juvenile adjudications. See Juvenile Male, 590 F.3d at 932 ("Juveniles are denied certain procedural rights afforded to adult criminal defendants

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. . . but they are, in turn, beneficiaries of an adjudicatory system designed, though not always successfully, to rehabilitate rather than punish—a system ill-suited to public exposure.”) (footnote omitted).

California Welfare and Institution Code ("CA W&I Code") § 827 requires that individuals not specified as parties in the juvenile court proceeding must receive an order from this Court to be able to view juvenile court records. The federal probation officer is not an agent of this Court, nor is she involved in the juvenile adjudications. The probation officer should not be permitted to view confidential juvenile records regarding CLIENTNAME.

B. Disclosure of the Records Is Contrary to the Best Interests of CLIENTNAME.

In balancing the interests of disclosure against the policy of keeping the records sealed, this Court should hold paramount "the best interests of the minor." In re Elijah S., 24 Cal. Rptr. 3d 16, 22 (Ct. App. 2005). The disclosure of records in this case would be contrary to CLIENTNAME's best interests. The admissions were made under the promise of confidentiality, when CLIENTNAME had no idea the information would be used against him here in a later case.

The juvenile court records could lead the federal probation officer to recommend twice as much time in custody for CLIENTNAME. CLIENTNAME faces severe health limitations that could make a long sentence in custody dangerous. He is also expecting his first child. Therefore, disclosure of the records would be contrary to the core interests in CLIENTNAME's life.

CLIENTNAME therefore objects to the petition to disclose juvenile court records and moves this Court to deny the petition.