

IN THE IOWA DISTRICT COURT FOR CERRO GORDO

STATE OF IOWA	Plaintiff,	NO. FECR025849
v.		RESPONSE TO DEFENDANT'S MOTION TO CONTINUE AND TO CLOSE HEARING TO THE PUBLIC
TAWNY MARIE SYMONDS,	Defendant.	

COMES NOW the State of Iowa, by and through Assistant Attorney General Scott D. Brown, and responds to the defendant's motion and in support thereof states as follows:

1. The Defendant plead guilty to Child Endangerment, a Class D felony, on Monday, December 11, 2017, in Cerro Gordo County District Court. Sentencing is currently scheduled for January 29, 2017, at 10:00 a.m. The Defendant also made a request to close the court proceedings to the general public and further requested that any future order setting a sentencing date be sealed.
2. The State does not resist that portion of the motion requesting to continue sentencing. The State does resist that portion of the motion requesting to close the court proceedings and seal the sentencing scheduling order.
3. In State v. Farnum, 397 N.W.2d 744, 747 (Iowa 1986) the Iowa Supreme Court recognized the following as it pertains to the closure of courtrooms:

Closed proceedings are rare and are granted "only for cause shown that outweighs the value of openness." Press-Enterprise Co. v. Superior Court, 464 U.S. 501, 509, 104 S.Ct. 819, 824, 78 L.Ed.2d 629, 638 (1984); see State v. Lawrence, 167 N.W.2d 912, 915 (Iowa 1969). Absent an overriding interest, the trial of a criminal case must be open to the public. Richmond Newspapers, Inc. v. Virginia, 448 U.S. 555, 581, 100 S.Ct. 2814, 2829-30, 65 L.Ed.2d 973, 992 (1980). The justification for denying access to a trial must be a weighty one. Waller v. Georgia, 467 U.S. 39, 45, 104 S.Ct. 2210, 2215, 81 L.Ed.2d 31, 38 (1984); Globe Newspaper Co. v. Superior Court, 457 U.S. 596, 606, 102 S.Ct. 2613, 2620, 73 L.Ed.2d 248, 257 (1982).

4. The Iowa Court of Appeals has made similar findings concerning the closure of courtrooms to the general public in State v. Hightower, 376 N.W.2d 648, 650 (Iowa App. 1985). The findings are as follows:

The defendant's right to a public trial is constitutionally based for the benefit of the defendant. Waller v. Georgia, 467 U.S. at —, 104 S.Ct. at 2215, 81 L.Ed.2d at 38. The right to an open trial may give way under rare circumstances to other rights and interests such as the defendant's right to a fair trial or the government's interest in nondisclosure of sensitive information. *Id.* The United States Supreme Court has stated the applicable rules:

The presumption of openness may be overcome only by an overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest. The interest is to be articulated along with findings specific enough that a reviewing court can determine whether the closure order was properly entered.

Id. (citations omitted).

5. Applying the principles set forth there is no showing that this is one of those rare cases where the courtroom should be closed to the general public. The information attached to the defendant's motion cites numerous social media entries on a Facebook page entitled "Mason City Police Scanner". According to media reports this particular Facebook page is operated by an individual or individuals who refuse to identify themselves yet purport to provide a forum that represents Mascon City citizens. Much of what is stated on the Facebook page that relates to this particular case are objections to the plea agreement that was reached in the above referenced case. Despite how uninformed those opinions may be or whether they are based on incomplete or inaccurate information there is nothing that is specifically threatening to the parties or that provides a basis to close the courtroom.
6. The overriding interest identified by the defendant that she claims requires closure relates to the safety of the parties. However, planned protests at the courthouse, threats to remove the county attorney and negative statements

about the plea agreement are not grounds for closure. The defendant and her attorneys and the prosecutor may be uncomfortable or disagree with the objections to the agreement however; individuals have a right to express them and are allowed to have a first-hand viewing of the process that has created a basis for those objections. Hopefully, once the public has all the information there will be a complete understanding of the agreement that was entered.

7. The Court's denial of the request to close the sentencing hearing does not entitle members of the general public to behave in any manner in which they choose. Any disturbances in the courtroom, or disrespectful conduct, or threats towards those involved in the case should be met with swift punishment to include contempt proceedings pursuant to Iowa Code Chapter 665. If information comes to the Court's attention that gives rise to substantiated safety concerns any finding denying a closure can certainly be revisited.

WHEREFORE the State of Iowa requests the Court enter an order granting the defendant's request to continue sentencing and further enter an order denying the defendant's request to close the sentencing hearing to the public.

Respectfully Submitted,

/s/ Scott Brown

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