

Court of Appeals, State of Michigan

ORDER

People of MI v Isaac James Guajardo

Docket No. 333012

LC No. 16-020012-FH

Michael J. Kelly
Presiding Judge

Peter D. O'Connell

Amy Ronayne Krause
Judges

The Court orders that the motion for immediate consideration is GRANTED.

The motion to seal records is DENIED because plaintiff has not made a showing of good cause in support of the motion. MCR 8.119(I)(1). Defendant's indication in his answer to the motion that he does not plan to appeal this Court's September 14, 2016 order significantly undercuts plaintiff's concern that an appeal as to that order is likely to bring significant media or public attention to this case. Further, to the extent that order may be referenced in other appeals involving concerns as to whether appeals in sexual assault cases, or other criminal cases with a specific alleged victim, should be used in law school appellate advocacy courses, it would seem that the concern would be about the general principle of the matter, not about the specific identity of the complainant in this case. But, most importantly, MCR 8.119 "implicitly recognizes that court records often pertain to matters in which the public has an interest." *Jenson v Puste*, 290 Mich App 338, 342; 801 NW2d 639 (2010). Plaintiff's generalized concerns about the privacy interests of crime victims would allow for sealing the records in a substantial number of criminal appeals contrary to the policy manifestly underlying MCR 8.119(I) of generally allowing public access to court files. We also take notice that, as is common knowledge, major media outlets generally follow a practice of not naming alleged victims of sexual assault. Also, given the long history of general public access to court records, we see no basis to conclude that the right of crime victims "to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process," Const 1963, art 1, sec 24, encompasses a right to seal court records.

Ronayne Krause J., would grant the motion to seal records. I concur in granting the motion for immediate consideration, however I disagree with my colleagues on the motion to seal Records. While having open court records is extremely important, under the facts and circumstances of this particular case, I would grant the motion to seal records.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

OCT 24 2016

Date

Chief Clerk