

STATE OF SOUTH CAROLINA
COUNTY OF COLLETON

State of South Carolina,

v.

Richard Alexander Murdaugh,

Defendant.

COURT OF GENERAL SESSIONS
FOURTEENTH JUDICIAL CIRCUIT

Indictment Nos. 2022-GS-15-00592,
593, 594, and -595

STATE'S RESPONSE TO DEFENDANT'S
MOTION TO ACCESS CASE MATERIALS
IN ELECTRONIC FORMAT

Defendant Murdaugh requests access to a "secure laptop computer" to review case materials in this matter while in the custody of SCDC as an inmate. Defendant argues that such relief is necessary to avoid the hardship of transporting and viewing multiple voluminous boxes of paper discovery. The State opposes such a request for the following reasons.

First, Defendant has repeatedly shown that he will violate security protocols. On August 9, 2023, Defendant received an SCDC disciplinary for abuse of privileges, and on August 15, 2023, Defendant received an SCDC disciplinary for unauthorized use of another inmate's PIN. These abuses involved misuse of a SCDC tablet for which SCDC suspended his privileges. These instances show Defendant cannot be trusted with sensitive information or digital devices, and SCDC should not be forced to accommodate Defendant by giving him unsupervised access to a laptop computer. Moreover, during the original trial, a family member passed a book through a defense staff member directly to Murdaugh without knowledge of law enforcement. This book was later recovered in defendant's cell and a jail contraband warrant was obtained. Defendant has demonstrated that he will break the rules and circumvent security if given the chance.

Second, the inability to trust such information with Defendant unsupervised is particularly highlighted by the fact that this information is extremely sensitive and frankly worth a lot of money. The State has repeatedly endeavored to prevent improper dissemination of this material, particularly things like crime scene images for which certain people or outlets would pay high dollar. It is a bad idea to leave such valuable and sensitive information solely within the protection and trust of an inmate and convicted longstanding fraudster like Defendant. He has shown he will come up with all manner of schemes to get money, and a laptop can be used for all sorts of nefarious purposes.

Third, much of the information in this case is State Grand Jury information, which is protected from redisclosure by statute and by a protective order issued in this case. Judge Newman's State Grand Jury Protective Order notes that S.C. Code Ann. § 14-7-1720 generally provides that State Grand Jury material is secret, "but allows disclosure for the purpose of complying with constitutional, statutory, or other legal requirements or to further justice[.]" *Id.* at 1. In line with the statute, the Order heavily protects the State Grand Jury material within this case. Notably, the Order expressly prohibits the digital dissemination of State Grand Jury material beyond the custody of Defendant's attorney(s):

IT IS FURTHER ORDERED that the defendant and his or her attorney are prohibited from photocopying, scanning, *digitizing*, etc. and *disseminating copies* of any State Grand Jury testimony, interviews of witnesses and any other documents that may be disclosed to the defendant and their attorneys in reference to the above-captioned case, except for internal use by the attorney and necessary employees of that attorney's office or for submission to the Court during a trial or other hearing. Further, unless otherwise ordered by this Court, *all material disclosed pursuant to this Order and all copies of such material must remain in the secured custody and control of defense counsel, not the defendant, at all times, and,*

absent order of the court, must be retained in a secure location by defense counsel unless and until it is destroyed pursuant to any applicable rule regarding file retention. []

Id. at 4 (emphasis added).

The footnote at the end of that paragraph provides further guidance specifically as to the issue of digital copies, noting that digital copies must be secured by passwords on all devices "so that *only the attorney and the employees of the attorney's office* will have access to said material." *Id.* (emphasis added). It goes without saying that Defendant is not his attorney and is not an employee of his attorney. Thus, while nothing in the Order prohibits Defendant from reviewing case materials with his attorneys, Defendant's requested relief falls squarely into what is prohibited by the Order.¹

And despite what Defendant attempts to assure this Court of in his description of various measures to prevent unauthorized access to these case materials, such assurances are incomplete. As acknowledged in other jurisdictions, the idiosyncrasies of correctional institutions require special deference from courts to prison officials, even if it affects a defendant's rights. See *United States v. Neff*, 2013 WL 30650, at *6 (N.D. Tex. Jan. 3, 2013), *aff'd*, 544 F. App'x 274 (5th Cir. 2013) (noting that "the constitutional right of access to the courts . . . does not include a constitutional right to access to a personal computer" and that "courts should give prison administrators 'wide-ranging deference in the adoption and execution of policies and practices that in their judgment are needed to preserve internal order and discipline and to maintain institutional security.'" (quoting *Bell*

¹ To the extent Defendant's motion requests modification of Judge Newman's Order, this Court should decline to do so. There has been no change in circumstances between the issuing of the Order and the current pre-trial posture warranting such a modification. The State Grand Jury material remains secret.

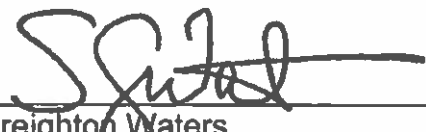
v. Wolfish, 441 U.S. 520, 547 (1979)); *United States v. Duncan*, 2014 W.L. 949101 (E.D. N.C. February 29, 2024) ("Allowing an inmate to possess a laptop presents serious security and administrative risks for the facility housing Defendant."). Allowing Defendant access to a laptop full of sensitive and secret State Grand Jury material expressly covered by a protective order is a cumbersome way to address a problem that does not exist. Defendant is free to meet with his attorneys to review case materials without needing the accommodations of retaining a laptop for his own use. Defendant had no problem preparing for the first trial without any such accommodation.

Defendant simply has proven by his conduct that he cannot be trusted to have unsupervised access *in prison* to a laptop loaded with extremely sensitive, valuable, and statutorily protected material. SCDC should not be forced to give him this privilege when he already lost access to tablets. It is respectfully submitted the motion should be denied.

Respectfully submitted,

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By:


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Columbia, South Carolina
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