

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 23-CR-119 (LMB)
)	
CONOR BRIAN FITZPATRICK,)	
)	
Defendant.)	Sentencing: January 19, 2024
)	

**NON-CONFIDENTIAL MEMORANDUM IN SUPPORT OF MOTION TO SEAL
DEFENDANT’S MEMORANDUM IN AID OF SENTENCING AND EXHIBITS**

I. INTRODUCTION

Defendant, by counsel, moves this Honorable Court, pursuant to Local Crim. R. 49, for entry of an Order permitting his Memorandum in Aid of Sentencing and Exhibits under seal. Sealing is necessary because it contains private medical and other protected information. The government does not oppose this motion.

II. ARGUMENT

The Motion to Seal Defendant’s Memorandum in Aid of Sentencing and Exhibits should be sealed because it contains confidential and medical information that the public would not, under any other circumstances, be entitled to see. Judicial proceedings are generally open to the public and there exists, a right of public access to judicial records and documents. *Media Gen. Operations, Inc. v. Buchanan*, 417 F.3d 424, 429 (4th Cir. 2005) (citing *Balt. Sun Co. v. Goetz*, 886 F.2d 60, 64-65 (4th Cir. 1989)). However, the presumption of access to judicial records can be rebutted if countervailing interests heavily outweigh the public interests in access. *Virginia Dep’t of State Police v. Washington Post*, 386 F.3d 567, 575 (4th Cir. 2004). The party seeking to

overcome the presumption bears the burden of showing some significant interest that outweighs the presumption. *Id.* at 575. Ultimately the decision to seal is a matter best left to the sound discretion of the district court. *Washington Post*, 386 F.3d at 575. With respect to medical records in particular, the Eastern District of Virginia has previously held that such records are entitled to privacy protection and may be filed under seal. *James v. Service Source, Inc.*, 2007 U.S. Dist. LEXIS 86169 at *12 (Nov. 21, 2007 E.D. Va.).

Finally, sealing, as opposed to redaction, is necessary to protect the confidential information contained in the document is confidential in its entirety.

III. CONCLUSION

Defendant respectfully requests that the Court enter an Order providing that Defendant's Motion to Seal Defendant's Memorandum in Aid of Sentencing and Exhibits shall be permanently filed under seal.

Respectfully submitted,

Conor Brian Fitzpatrick
By Counsel

/s/
Nina J. Ginsberg (#19472)
DiMuroGinsberg, P.C.
1001 N Fairfax Street, Suite 510
Alexandria, VA 22314
Telephone: (703) 684-4333
Facsimile: (703) 548-3181
Email: nginsberg@dimuro.com

Peter Katz, Esq.
Law Offices of Peter Katz, LLC
116 Village Blvd., 2nd Floor
Princeton, NJ 08540
Telephone: (609) 734-4380
Email: peter@pkatzlegal.com

Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify on this 16th day of January, 2024, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to counsel of record.

/s/
Nina Ginsberg