

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA

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GARY D. McFARLAND
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

IN RE:) GENERAL ORDER
) NO. 01- 03
SEALED RECORDS)
)

The following order outlines the manner in which the Court will handle sealed records.

I. No document or object shall be sealed except on order of the court which specifically addresses the particular document (to include any pleading or order) or object sought to be sealed, unless:

A. The document or object is subject to an existing Protective Order specifically covering the category of the document or object sought to be sealed; or

B. The document or object is subject to a General Order of this court requiring a specific category of documents or objects to be sealed (e.g., General Order regarding state and federal wiretap information); or

C. The document or object is provisionally sealed pursuant to this order.

II. Motion to Seal

A. A motion to seal may be made on any grounds permitted by law, shall contain the basis for why sealing is required of all or a portion of the document or object and shall be accompanied by a proposed order. Such motion shall address whether or not redaction may serve to eliminate or reduce the need for sealing.

B. Filed simultaneously with the motion to seal shall be the document or object to be sealed. The document or

object shall be filed provisionally under seal, and will remain provisionally under seal until the court rules on the motion.

C. If discussion of protected materials or information is necessary to support the motion, such discussion shall be limited to an affidavit or declaration under penalty of perjury, which shall also be provisionally sealed.

III. Filing of Sealed or Provisionally Sealed Document Or Object

Any document or object filed under seal or provisional seal shall be submitted in an unsealed envelope, bearing the caption of the case, the case number, and the caption of the document or object to be sealed. The Clerk shall file stamp and docket the motion to seal. The document or object to be sealed shall be file stamped and docketed with no identifying information. If ordered sealed by the Court, the Clerk shall file the document or object under seal.

IV. Motion to Unseal or View

A motion to unseal or view a document or object may be made on any grounds permitted by law and shall be accompanied with a proposed order.

V. Disposition of Documents or Objects Filed Under Seal Upon Dismissal or Closing of Case

A. Civil Cases - counsel shall have ninety (90) days from the date a civil case is closed or dismissed (following any relevant appeal time or review) to file a motion to maintain the seal of any sealed documents or objects or to return any sealed document or object. Sealed documents or objects that are not requested to remain sealed or be returned to counsel shall be automatically unsealed without notice to counsel.

B. Criminal Cases - counsel shall have ninety (90) days from the date a criminal case is closed or dismissed to file a motion for the return of any sealed documents or objects. Sealed documents or objects that are not requested to be returned to counsel shall be held by the Clerk's Office for five (5) years. At the time a criminal file

is sent by the Clerk to the Federal Records Center, the Clerk will return all presentence investigation reports to the Probation Office or dispose of such reports in accordance with any agreement with the Chief U. S. Probation Officer. Any remaining sealed documents or objects will be automatically unsealed when the file is sent to Federal Records Center.

VI. Viewing by Court Personnel

Unless otherwise stated in the motion or the order to seal, the seal will not preclude court staff from viewing sealed materials.

IT IS SO ORDERED.

DATED this 31st day of January, 2001.

BY THE COURT:


RICHARD G. KOPE
Chief Judge