

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ABDIEL F. AVILA,	:	
	:	
Petitioner,	:	Civ. No. 18-9422 (NLH)
	:	
v.	:	MEMORANDUM OPINION & ORDER
	:	
BRUCE DAVIS,	:	
	:	
Respondent.	:	

APPEARANCE:

Abdiel F. Avila
788891C
New Jersey State Prison
PO Box 861
Trenton, NJ 08625

Petitioner Pro se

Grace C. MacAulay, Camden County Prosecutor
Jason Magid, Assistant Prosecutor
Office of the County Prosecutor
200 Federal Street
Camden, NJ 08103

Attorneys for Respondent

HILLMAN, District Judge

Petitioner is proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Previously, this Court sealed the entire matter. See ECF No. 26. Subsequently, Petitioner filed a motion to unseal this case. See ECF No. 37. In response to Petitioner's motion, this Court noted that

sealing the entire case may have been overbroad. See ECF No. 44 at 13.

This Court ordered Respondents to propose a less restrictive alternative to sealing the entire case, such as specifically noting what documents already in the record should remain sealed. See id. Respondents did so on July 15, 2021 indicating that ECF Nos. 1, 4, 10, 11, 23, 37 and 41 should remain sealed. See ECF No. 46. The parties filed numerous additional documents, including Respondents' response to Petitioner's habeas petition, after July 15, 2021. See ECF Nos. 47-56. The Court requested Respondents to provide an update to their July 15, 2021 filing indicating what documents, if any, from ECF Nos. 47-56, they believed also should remain sealed and why. ECF No. 57. Respondents replied that "Respondents' full Answer, in particular, Appendix, must remain sealed given the Appendix contains all of Petitioner's state filings which are replete with references to the victim and/or family members as well as medical evidence/records coupled by the fact, the State record was sealed and the Appendix contains a large portion of the State record." ECF No. 59. The parties have continued to file documents since Respondents' reply.

"It is well-settled that there exists, in both criminal and civil cases, a common law public right of access to judicial proceedings and records. The public's right of access extends

beyond simply the ability to attend open court proceedings. Rather, it envisions a pervasive common law right to inspect and copy public records and documents, including judicial records and documents." In re Cendant Corp., 260 F.3d 183, 192 (3d Cir. 2001) (internal citations and quotation marks omitted). The New Jersey legislature has recognized a public interest in assisting the prosecution of crime by protecting victims' privacy rights. N.J.S.A. § 52:4B-35 (Crime Victims' Bill of Rights). This Court is extremely mindful of the importance and need to protect the identity of the victim. Nevertheless, transparency in judicial proceedings is also important. Both interests can be satisfied if certain protocols are met.

Respondents seek to keep the § 2254 petition, ECF No. 1; supplemental filing, ECF No. 4; amended petition and exhibits, ECF Nos. 10 & 11; motion to dismiss, ECF No. 23; motion to unseal, ECF No. 37; brief in support of the motion to unseal, ECF No. 41; and Respondents' full answer and exhibits, ECF No. 56. The motion to unseal and brief in support do not warrant remaining under seal and can be redacted to remove identifying information. Likewise, the pleadings are integral to a decision on the merits of Petitioner's § 2254 proceedings and need to be publicly accessible in some form. That the filings may need significant redaction does not mean that there is no less restrictive alternative.

The Court will grant Petitioner's motion to unseal the case. The Court will keep the identified documents under seal, but Respondents must submit redacted versions for public filing.

THEREFORE, IT IS on this 20th day of March, 2023

ORDERED that Petitioner's motion to unseal the case, ECF No. 37, be, and the same hereby is, GRANTED. The Clerk shall lift the seal on the case; and it is further

ORDERED that the Clerk shall maintain ECF Nos. 1, 4, 10, 11, 23, 37, 41 under seal. Respondents shall file redacted versions of these documents within 30 days of this Order; and it is finally

ORDERED that the Clerk shall send Petitioner a copy of this Order by regular mail.

At Camden, New Jersey

s/ Noel L. Hillman
NOEL L. HILLMAN, U.S.D.J.