

**The Bronx
Defenders**

**Redefining
public
defense.**

November 17, 2022

VIA ECF

Hon. P. Kevin Castel
United States District Judge
500 Pearl St, Courtroom 11D
New York, NY 10007-1312

Re: *B.S. v. Joyce*, No. 1:22-cv-9738-PKC

Application Granted.

So Ordered:


Hon. P. Kevin Castel, U.S.D.J.
11-17-22

Dear Judge Castel,

We represent Petitioner B.S. in his petition for a writ of habeas corpus filed on November 15, 2022, and currently pending before this Court. We respectfully move the Court to grant leave to file one additional exhibit in support of the petition under seal: Exhibit D, a plan for release from custody by Ismery Lora, LCSW (“Lora Release Plan”). Special Assistant United States Attorney, Joshua Press, counsel for Respondents, consents to sealing.

In assessing whether to grant a motion to file under seal, the Court must determine the weight of the presumption of access to information and subsequently balance competing considerations against it, including the “privacy interests of those resisting disclosure.” *United States v. Amodeo* (“*Amodeo II*”), 71 F.3d 1044, 1050 (2d Cir. 1995). The request should be narrowly tailored to serve the purpose justifying the sealing. *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006).

There is good cause to grant leave to file this exhibit under seal. The Lora Release Plan contains highly sensitive personal and medical information in narrative form about B.S. from Ismery Lora, a licensed clinical social worker. The evaluation also includes B.S.’s mental health diagnoses and treatment recommendations. This Court recognizes “medical records” as well as “treatment and diagnosis” as categories of information that should be considered for redaction. ECF Rules & Instructions 21.4 (May 2, 2022 Edition); *United States v. Martomma*, No. S1-12-CR-973 (PGG), 2014 WL 164181, at *6 (S.D.N.Y. Jan. 9, 2014) (acknowledging that courts “grant the greatest protection” to medical, health-related, family, and personal financial information). While the habeas petition itself discloses the nature of the medical diagnoses and a general summary of symptoms and manifestations of these diagnoses, this evaluation includes additional detail, including specific medications and dosages, as well as names of treatment centers and supportive housing that he would access if released, such that the exhibit should be filed under seal and shielded from public view.

Although the presumption of public access to information is strong, the highly sensitive and personal nature of the information outweighs that presumption in this case. Petitioner B.S. respectfully requests that the Court grant leave to file the aforementioned exhibit under seal.

Thank you for your consideration of this submission.

Respectfully submitted,

/s/ Jessica Swensen
Jessica Swensen
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