

STATE OF NORTH CAROLINA
COUNTY OF BURKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
12 CRS 51798
12 CRS 51799
12 CRS 51800
12 CRS 51801

STATE OF NORTH CAROLINA,

Plaintiff,

v.

MICHAEL ANDREW ALEXANDER,

Defendant.

**PROTECTIVE ORDER FOR THE
DISCLOSURE OF CRIMINAL FILES
OF MICHAEL ALEXANDER**

This case came on for hearing before the undersigned Superior Court Judge on Tuesday, May 28, 2013, on the motions of Jane Doe 2, P.B., guardian ad litem for Jane Doe and A.B., guardian ad litem for L.B. for the production of the criminal files of Michael Alexander.

The Court provided the following counsel an opportunity to be heard: Leto Copeley, Counsel for Jane Doe 2; Robert M. Tatum, Counsel for Jane Doe and L.B.; James W. Saffell, Counsel for Jane Doe and L.B.; Eric Bellas, Burke County Assistant District Attorney; Wayne O. Clontz, Counsel for Michael Alexander; Andrew J. Santaniello, Counsel for Burke County Board of Education; James R. Simpson, II, Counsel for Burke County.

Based on the documents in the file and the representations and arguments of counsel, the Court makes the following **FINDINGS OF FACT**:

1. Jane Doe 2 is the plaintiff in a civil action, Burke County Superior Court Case No. 13-CVS-192, in which she alleges injury as a result of the negligence of the Burke County Board of Education in its employment of Michael Alexander. P.B., guardian ad litem for Jane Doe, and A.B., guardian ad litem for L.B. are the plaintiffs in two federal court actions, 1:12-cv-00334-MR-DLH and 1:13-cv-00009-MR-DLH in which similar allegations have been made.
2. Mr. Alexander is currently confined to the North Carolina Department of Corrections as a result of having pleaded guilty to, among other crimes, first degree sex offenses against a child.
3. The parties in the civil actions believe that the materials provided by the Burke County Sheriff's office to the Burke County District Attorney may be material and relevant to their civil claims.

4. The identities of Victim One and Victim Two in this criminal matter should be shielded from disclosure for the well-being of those victims.
5. Mr. Alexander has not objected to the disclosure of the records in the District Attorney's files.

CONCLUSIONS OF LAW:

1. Any criminal investigation which might have been the subject of this file has been concluded.
2. The Court has the authority to order the release of the requested files pursuant to NCGS 132-1.4(a).
3. No policy reason exists for denial of the request for production of these materials.
4. There is no prejudice to the Burke County District Attorney or Burke County Sheriff's Department by releasing this material.

WHEREFORE, IT IS HEREBY ORDERED:

1. All documents contained within the District Attorney's file relating to the prosecution of these criminal matters, and the related laboratory reports, photos, videos, and findings made in conjunction with the investigation into Michael Alexander's activities shall be used for no purpose other than prosecuting or defending the civil actions involving the parties referenced in this order, and shall be disclosed only to the persons identified herein.
2. District Attorney Eric Bellas shall provide to counsel for all parties to the civil actions referenced in this order all documents contained in his files pertaining to Michael Alexander, with the exception that the names of Victim One and Victim Two shall be redacted.
3. The Burke County District Attorney's office shall allow counsel for all parties to the civil actions referenced in this order to view all photographic or video materials in its possession pertaining to Michael Alexander. The viewing will occur at a mutually convenient time and a location designated by the District Attorney or his designee. Counsel will not be provided copies of the photos or video material nor will they be allowed to copy these materials in any form.
4. Access to and the use of any materials covered by this order shall be limited to the following qualified persons/entities, all of whom shall take appropriate precautions to safeguard the identity of the victims of Michael Alexander:
 - a. The parties in the civil actions referenced in this order and their immediate family members and guardians; their attorneys of record and their legal

assistants, other staff members, and law student clerks; insurers, their agents and employees; outside companies engaged by attorneys for the parties to photocopy such documents; officers, managers, owners or employees of the parties who provide material assistance in the legal representation of the parties;

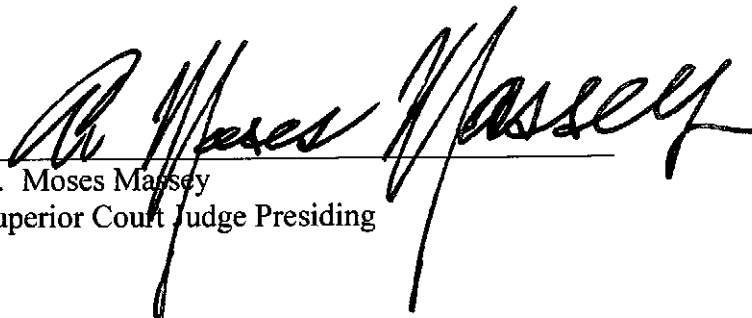
- b. Any potential or actual deposition or trial witness (during a deposition or trial, or in preparation therefore) when the materials covered by this order or any part thereof are materially related to the questions asked to, or the testimony of, such deponent or witness, or to the extent that it is necessary to tender to such deponent or witness such materials or any part thereof in order to elicit testimony relevant to the matters at issue in this case. In doing so the party seeking to use such evidence will take appropriate safeguards to protect the identity of persons who need to be protected;
 - c. Mediators;
 - d. Consultants and technical experts retained by the respective parties;
 - e. Court reporters, their transcribers, assistants and employees;
 - f. The Court; and
 - g. The jury and the trier of fact.
5. Counsel for the parties are responsible for notifying any person who is provided information or material from the records covered by this order of the terms of this order. Counsel shall keep a record of all persons to whom disclosures are made.
 6. Each person who receives material or information described herein submits himself or herself to the personal jurisdiction of the court, wherever he or she shall be, for the enforcement of this order.
 7. Those individuals and entities who are permitted access to the materials and information described in this order are hereby ordered not to show, disclose, convey or reproduce any documents so designated or parts thereof, or any copies thereof, or any matter contained therein, or any extracts or summaries thereof, to any individual, or to any entity that would not otherwise be eligible for access to said documents under the provisions of this order.
 8. Counsel may make copies of materials contained within the written portion of the materials described in this order to their respective experts upon receiving from said experts a written agreement that they will be bound by the terms of this order. The requirement of obtaining such an agreement shall be satisfied by having each expert read, acknowledge, and agree in writing to be bound by this order. A file of all such written acknowledgments shall be maintained by counsel employing or using the services of the

expert. By signing the declaration agreeing to be bound by this order, each expert submits himself or herself to the jurisdiction of the court for purposes of enforcement of this order.

9. All copies of the materials referenced in this order shall be destroyed at the conclusion of the last of the civil actions referenced above, with a certification that no other copies exist, although the legal counsel for the parties may keep a copy thereof for archival
10. This order shall not prevent any party, or the victims of Michael Alexander or the District Attorney, from applying to the court for relief from this order or from applying to the court for further or additional protective orders, or from agreeing among themselves to modification of this order, with the concurrence of the District Attorney, and subject to the approval of the court. This order shall also not limit or prevent any party in the future from seeking from the District Attorney or applying to this court for the release of additional materials included in its files.

IT IS SO ORDRED

This the 10th day of July, 2013.


A. Moses Massey
Superior Court Judge Presiding