

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

UNITED STATES OF AMERICA :
 :
 vs. : CRIMINAL NO. 5:02-CR-27(CAR)
 :
 DWIGHT D. YORK :
 :
 _____ :

GOVERNMENT'S RESPONSE TO MOTION TO UNSEAL ALL TRANSCRIPTS
OF TRIAL PROCEEDINGS AND TRANSCRIPTS OF TRIAL PROCEEDINGS

COMES NOW the United States of America, by and through its attorney, the United States Attorney for the Middle District of Georgia, and responds to Movant, Deborah Yehudah's Motion to Unseal any and all documents involved in United States vs. Dwight D. York, 5:03-CR-27(CAR). The government hereby requests that this motion be denied. In support of it's response the Government shows:

1.

On June 12, 2002 The Honorable C. Ashley Royal ordered that the transcripts of testimony involving and/or concerning any person who was a minor *at the time of* unlawful sex acts/activity be sealed and barred from dissemination, pursuant to the Child Victims' and Child Witnesses' Act, Title 18, United States Code, Section 3509(d).

2.

18 U.S.C. § 3509(d) is abundantly clear; victims of sexual acts who are minors at the time are entitled to protection of their privacy. The Act states that the Government and its agents, the Defendants and their attorney, employees of the court and members of the jury, "shall:" (1) keep all documents that disclose the name or any other information

concerning a child in a secure place to which no person who does not have reason to their contents has access; (2) disclose any such documents or the information in them that concerns a child only to persons who, by reason of their participation in the proceeding, have reason to know such information. Movant has suggested no reason whatsoever why the privacy of those protected should be overcome simply to aid the public in accessing the information. Nixon v. Warner Commc'ns, Inc., 435 U.S. 589, 598, 98 S.Ct. 1306, 1312 (1978). See also, In re Alexander Grant & Co. Litig., 820 F.2d 352, 356 (11th Cir. 1987) (in balancing interest, courts consider whether allowing access to information would impair court functions or harm privacy interest, the degree of and likelihood of injury if made public, the reliability of information andavailability of less onerous alternative to sealing the documents).

3.

Based upon the foregoing, Movant's request should be denied. It is insufficient to state that there was a public trial and therefore all recorded court proceedings should be unsealed. Instead, it is of significant import that children who have been sexually victimized be protected and maintain privacy.

WHEREFORE, the Government respectfully requests that the Court deny the Motion to Unseal all transcribed proceedings in the above-mentioned case.

Respectfully submitted this 11th day of March, 2009.

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CERTIFICATE OF SERVICE

I, VERDA M. COLVIN, Assistant United States Attorney, hereby certify that on the 11th day of March, 2009, I electronically filed the within and foregoing GOVERNMENT'S RESPONSE TO MOTION TO UNSEAL ALL TRANSCRIPTS OF TRIAL PROCEEDINGS AND TRANSCRIPTS OF TRIAL PROCEEDINGS with the Clerk of the Court using the CM/ECF system. I also certify that I have mailed by the United States Postal Service the document and a copy of the Notice of Electronic Filing to the following non-CM/ECF participants:

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