

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

CRIMINAL CASE NO. _____

THE STATE OF NORTH DAKOTA
Plaintiff,

**MOTION TO PROHIBIT
PUBLIC INTERNET ACCESS
AND SUPPORTING BRIEF**

vs.

_____,
Defendant.

MOTION

The defendant indicated above now moves to prohibit public Internet access to the records in this matter under N.D.Sup.Ct.Admin.R. 41, Section 6(a)(6), because there are sufficient grounds to overcome the presumption of openness of court records and allow access to be prohibited. The defendant requests that this motion be decided on briefs under N.D.R.Ct. 3.2.

BRIEF

The defendant in this matter was charged on _____ with _____ . On _____, the charges against the defendant were dismissed / the defendant was acquitted of the charges.

When criminal charges against a defendant are dismissed or the defendant is acquitted, N.D.Sup.Ct.Admin.R. 41, Section 6(a)(6), allows the court to prohibit public Internet access to the individual defendant's electronic court record if, after conducting a balancing analysis

and making findings under N.D.Sup.Ct.Admin.R. 41, Section 6(a), paragraphs (1) through (5), it concludes that the interest of justice will be served.

Under the balancing analysis, the court must decide whether there are sufficient grounds to overcome the presumption of openness of court records and prohibit access according to applicable constitutional, statutory and case law. The court must consider that the presumption of openness may only be overcome by an overriding interest. The court must articulate this interest along with specific findings sufficient to allow a reviewing court to determine whether the closure order was properly entered.

In this case, the reason for dismissal of charges/acquittal was _____ . Consequently, the public interest in maintaining open Internet access to the records of this matter is minimal.

In addition, because these records have remained available for open Internet access, the defendant has sustained or is likely to sustain the following harms:_____. Because these harms are substantial, there is an overriding interest in protecting the defendant from further harm by restricting Internet to the records of this matter.

Based on the minimal interest in maintaining open Internet access in this matter and the substantial harm the defendant has sustained or is likely to sustain because Internet access has been allowed, the interest of justice will be served by restricting open Internet access to the defendant's records in this matter.

Dated this _____ day of _____, _____.

Defendant

Street Address

City, State, Zip

E-mail address