

May 29, 2018

Penny Miller
Clerk of Court
ND Supreme Court
600 E. Boulevard
Bismarck, ND 58505

Dear Ms. Miller:

I am writing regarding proposed changes to Administrative Rule 41, "Access to Court Records." Specifically, I am requesting that the Court consider an additional exemption under Section 5, "Court Records Excluded from Public Access" as follows (additional exemption underlined).

(6) documents in domestic violence protection order and disorderly conduct restraining order cases in which the initial petition was dismissed summarily by the court without a contested hearing or in which the court found insufficient evidence to justify issuance of a permanent restraining order, pursuant to hearing.

By way of introduction, my name is Carol Meidinger. I am retired from the ND Department of Health, where I worked for over 30 years, with many of those years serving as the State's Injury Prevention Program Director. For several years, I managed the State's Domestic Violence Prevention Program. I currently am a Child Passenger Safety Consultant with the State Health Department and voluntarily serve as an advocate on the North Dakota Child Fatality Review Team.

My interest in Court Records stems from a 2013 temporary disorderly conduct restraining order I was served which was dismissed following a very short hearing because of "insufficient evidence to justify issuance of a Restraining Order." I assumed the online public records of that case would be deleted following the dismissal, but was surprised when the records remained online.

In October 2013, I submitted a letter to the judge who issued the temporary order, requesting that my public records be deleted. I was denied because of the "presumption of openness of court records." However, because I felt so strongly about this issue and its potential adverse effects on me, in June 2017 I submitted a letter to the referee who presided at my hearing. That referee found that the frivolous restraining order caused harm and negative consequence in my personal and professional life and that it may continue to do so. His order concluded that my "request for closure of this court record from public access is GRANTED."

Although my records were deleted, I continue to be concerned about this issue. During the process of having my records deleted, I did a fair amount of research, including phone

conversations with county and state officials. Through these conversations, I learned the following:

- From January 2013 to mid-August 2014, Burleigh County issued 181 temporary disorderly conduct restraining orders, with only 73 of them being made permanent. This means that 108 individuals had temporary orders dismissed, yet the order remains on their permanent record.
- I attempted to get similar statistics from several other large North Dakota counties, but was asked why I needed the information and was told that if they could provide it to me, it would take several months to get and that I would need to pay for the information.
- Temporary restraining orders are easy to get and easy to get a judge to sign. No verification of allegations in the petition is required. (Several law enforcement and county officials told me that temporary restraining orders are handed out like Halloween candy).
- Temporary disorderly conduct restraining orders are often used by individuals who have a grudge against someone to get even. (One official told me this law is “one of the most abused pieces of legislation that’s ever been passed.”)

As you review my request for excluding dismissed temporary restraining orders from public access, please consider the following points:

- An unfounded temporary restraining order can unfairly have a negative impact on an individual’s life. Online background checks are routinely done by potential employers, volunteer agencies, financial institutions, landlords and others.
- A TEMPORARY restraining order has PERMANENT ramifications, even when it is judged unfounded.
- Temporary restraining orders are easy to get and it makes sense that judges will err on the side of caution and sign an order. It would also make sense for that judge to issue an order to delete records in dismissed cases.
- An individual should have a mechanism to right a legal wrong which has been done to her/him. In the case of a false or dismissed restraining order, the wronged individual should have a right to have records deleted from public access without incurring expenditure of time and funds.
- The rights of an individual who has been wrongfully subjected to malicious accusations that are proven in court to have no merit should outweigh the rights of the public to openness of court records.

I would appreciate your careful consideration to my request. If you have any questions or need additional information, please feel free to contact me at carolm@bektel.com or 701-255-4207. Thank you for allowing the opportunity to comment on this issue.

Sincerely,

Carol Meidinger
Bismarck, ND