[ ] **EXPEDITE** (if filing within 5 court days of hearing)
[X] Hearing is set:
Date: 12-2-21
Time: 1:30pm
Judge/Calendar: OC Objection & Motion to Unseal

SUPERIOR COURT OF WASHINGTON FOR THURSTON COUNTY	
State of Washington, Plaintiff vs. Selena Ursa Smith, Defendant.	NO. 21-1-00676-34 Preliminary Objection & Motion to Unseal Record by John Smith (PRESS), Reporter

TITLE OF DOCUMENT:

Preliminary Objection & Motion to Unseal Record
by John Smith (PRESS), investigative reporter

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State of Washington, Plaintiff vs. Selena Ursa Smith, Defendant.	NO. 21-1-00676-34 Preliminary Objection & Motion to Unseal Record by John Smith (PRESS), Reporter **(Clerk's Docket Setting Action Required)** **(CR 19 & 24)** **(Ishikawa 97 Wn.2d 30 1982)**

TO: The Clerk/Administrator of the Supeior Court of Thurston Co., (360)709-3260/(360)709-3295, 2000 Lakeridge Dr SW, Olympia, WA 98502, Ph.(360) 786-5430, enlow@co.thurston.wa.us
AND,
Attorney for/or Plaintiff contact info: Heather Stone, esq, #42093, 2000 Lakeridge Dr SW Bldg 2, Olympia, WA 98502-600, stoneh@co.thurston.wa.us, (360)786-5540
&, Attorney for Defendant contact info: Sara Skye Frison, #53651, skye.frison@co.thurston.wa.us, 926 24th Way SW, Olympia, WA 98502-6002, (360)742-4182

COMES NOW John Smith, the moving intervenor in the above cause, a licensed member of the press DBA Soul Snatcher Productions in Washington State as an investigatory news gathering public service without counsel, pro se, to make the following objections and seek the following relief due to errors made by the court on 9-2-21 in violation of 1st and 6th Amendment mandates as well as their corollaries under Washington's Constitution depriving the litigants, the press, and the public of their absolute right to transparency in the instant case:

JURISDICTION

While the defendant, Selena Smith, was an Oregon Resident domiciled in Portland at the time of the alleged crimes herein, she was arrested in Thurston County at the scene of the same, barefoot, and in the company of her two children, Hazel Smith (8) and Onawa Smith-Wells (3). Because the alleged offenses are said to have occurred in Thurston County and Selena Smith was present and arrested at the scene, the court has proper subject matter and in personam jurisdiction in the matter after finding probable cause.

Objection(s)

Prior to the hearing conducted on 9-2-21 in the instant case, John Smith (a member of the PRESS) filed a declaration (providing a copy to both attorneys beforehand) alluding to a vast array of dispositive exculpatory evidence revealing the defendant was the victim rather than the perpetrator throughout the events that led up to her arrest on 7-17-21.

Rather than accepting the declaration in the spirit of accommodating the Brady rule in a search for the truth, both attorneys and the judge erupted in a display of histrionics reminiscent of school girls that had never been kissed. All three made reference to how "inappropriate" the declaration was, though none referenced a court rule or RCW defining the term. The defense counsel, no less, insisted that the declaration not only be "sealed" but struct from the record. The court refused to strike it from the record. Moreover. She shrilly described Mr. Smith's inclusion of his diapered newborn granddaughter's photo in the declaration as "…a picture of my client's naked child" as though it was proof the court had a pervert on its hands. The picture was taken in the Tacoma Hospital birthing recovery room with the mother's cooperation and presence. The vulnerability of the mother and infant on display were deliberate, given the barbarity of the current scurrilous false allegations against Selena. The State wants to portray Selena as a monster when the truth is the proffered exculpatory evidence reveals the State's complaining witnesses (the Stokers) are the monsters who stalked, harassed, stole from, and abused Selena over the course of many months, if not years, leading up to her arrest.

Thinly veiled threats were made by the court itself from the bench toward Mr. Smith as he observed the consternation. Defense counsel recalled (inaccurately) and relied on the **Seattle Times vs. Ishikawa** case in her failed bid to have the declaration struck from the record. But upon scrutiny, the case actually stands four square for the proposition there must be exigent circumstances justifying the sealing of the record in the face of 6th and 1st Amendment rights belonging equally to the litigants and the public. The court records belong to the public as the Constitution requires else we would return to the kind of closed hearings conducted by England's notorious Star Chamber.

Seattle Times vs. Ishikawa: The issue was whether a superior court judge was justified in closing a pretrial hearing involving a motion to dismiss. A corollary question was presented by the judge's sealing of the record of that proceeding and his continued refusal to open the record to the public.

The action arose out of the case of State v. Marler, a murder trial conducted in the King County courtroom of Judge Richard Ishikawa. Two Seattle daily newspapers, the Seattle Times and the Seattle Post-Intelligencer (P-I), separately filed in this court original mandamus actions against Judge Ishikawa. Those actions, brought pursuant to RAP 16.2, were consolidated. Petitioners asked the court to direct Judge Ishikawa to unseal the records of the pretrial hearing. The P-I also contended that the closure of the pretrial hearing was improper. On this record, for the reasons discussed below, the review court found the judge erred in closing the hearing. Ity emphasized that it was on this record that it found error. **It remanded the issue of the continued sealing of the records for reconsideration in accordance with this opinion.**

No exigent circumstances compromising the defendant's right to a fair trial (6th Amendment) as a result of the declaration were argued by either counsel. The defendant was not prejudiced.

While these factors might suggest that the RICHMOND rationale applies with equal force to suppression hearings, the Supreme Court has not specifically and definitively so held. Because we rely upon our state constitutional provision, we decline to speculate what might be the substance of a holding by the United States Supreme Court on this precise point.

The Washington Constitution clearly establishes a right of access to court proceedings. It states in part as follows: "Justice in all cases shall be administered openly . . ." Const. art. 1, 10. This "separate, clear and specific provision entitles the public, and . . . the press is part of that public, to openly administered justice." COHEN v. EVERETT CITY COUN., SUPRA at 388.

However, it is equally clear that the public's right of access is not absolute, and may be limited to protect other interests. RICHMOND NEWSPAPERS, at 580-82; IN RE LEWIS, 51 Wn.2d 193, 198-200, 316 P.2d 907 (1957) (juvenile proceedings not constitutionally required to be open); FEDERATED PUBLICATIONS, INC. v. KURTZ, SUPRA at 65 (pretrial hearings may be closed upon showing of some likelihood of prejudice to defendant's fair trial rights). SEE ALSO COHEN, at 388-89.

In KURTZ, a newspaper was excluded from a pretrial suppression hearing. The publisher petitioned this court to vacate the closure order and unseal the records. We ruled that the public and press could be excluded from criminal proceedings under certain limited circumstances to protect the accused's Sixth Amendment right to a fair trial.

However, no such showing was made on 9-2-21 by either counsel nor opined by the presiding judge. The defendant's right to a fai trial was not prejudiced.

Each time restrictions on access to criminal hearings or the records from hearings are sought, courts must follow these steps:

The proponent of closure and/ or sealing must make some showing of the need therefor. KURTZ, at 62. In demonstrating that need, the movant should state the interests or rights which give rise to that need as specifically as possible without endangering those interests.

[This most certainly never occurred on 9-2-21 during the hearing.]

The quantum of need which would justify restrictions on access differs depending on whether a defendant's Sixth Amendment right to a fair trial would be threatened. When closure and/ or sealing is sought to protect that interest, only a "likelihood of jeopardy" must be shown. KURTZ, at 62. SEE GANNETT CO. v. DEPASQUALE, 443 U.S. 368, 400, 61 L. Ed. 2d 608, 99 S. Ct. 2898 (1979) (Powell, J., concurring). However, since important constitutional interests would be threatened by restricting public access (COHEN; RICHMOND, at 988-90), a higher threshold will be required before court proceedings will be closed to protect other interests. If closure and/ or sealing is sought to further any right or interest besides the defendant's right to a fair trial, a "serious and imminent threat to some other important interest" must be shown.

[There were no exigent surrounding circumstances threatening the defendant's right to a fair trial as a result of the declaration filed by Mr. Smith. If anything, the proffer of exculpatory evidence was a potential asset to the defense. It is more likely the inexperienced defense counsel was more interested in gratifying her client's ego than keeping her out of jail.]

The burden of persuading the court that access must be restricted to prevent a serious and imminent threat to an important interest shall be on the proponent unless closure is sought to protect the accused's fair trial right. Because courts are presumptively open, the burden of justification should rest on the parties seeking to infringe the public's right. SEE NEBRASKA PRESS ASS'N v. STUART, 427 U.S. 539, 558-59, 569-70, 49 L. Ed. 2d 683, 96 S. Ct. 2791 (1976). From a practical standpoint, the proponents will often be in the best position to inform the court of the facts which give rise to the alleged need for closure or sealing. For example, the prosecutor in the Marler case had knowledge of matters such as ongoing investigations, safety of witnesses and the possibility that other defendants might be charged. It was alleged that these interests were served by secrecy in that case.

2. "Anyone present when the closure [and/or sealing] motion is made must be given an opportunity to object to the [suggested restriction]". KURTZ, at 62.

For this opportunity to have meaning, the proponent must have stated the grounds for the motion with reasonable specificity, consistent with the protection of the right sought to be protected. At a minimum, potential objectors should have sufficient information to be able to appreciate the damages which would result from free access to the proceeding and/ or records. This knowledge would enable the potential objector to better evaluate whether or not to object and on what grounds to base its opposition.

[In the instant case now at hand, the declaration by Mr. Smith had already been published before the hearing and no purpose could be had by sealing the record other than to evade the court's accountability to the public and its disinclination to allow exculpatory evidence to be presented, instead choosing to rely on the fiction an incompetent inexperienced public defender even had the ability to develop such evidence in an adversarial arena rooted in trial by combat and ordeal—hardly the balm for family disputes.]

3. The court, the proponents and the objectors should carefully analyze whether the requested method for curtailing access would be both the least restrictive means available and effective in protecting the interests threatened. SEE KURTZ, at 63-64. If limitations on access are requested to protect the defendant's right to a fair trial, the objectors carry the burden of suggesting effective alternatives. If the endangered interests do not include the defendant's Sixth Amendment rights, that burden rests with the proponents. **[The defendant's right to a fair trial were NOT compromised or threatened. The ISHIKAWA case serves to undermine defense counsel's argument rather than augment it.]**

4. "The court must weigh the competing interests of the defendant and the public", KURTZ, at 64, and consider the alternative methods suggested. Its consideration of these issues should be articulated in its findings and conclusions, which should be as specific as possible rather than conclusory. SEE PEOPLE v. JONES, 47 N.Y.2d 409, 415, 391 N.E.2d 1335, 418 N.Y.S.2d 359 (1979). **[Here, the defendant's interests are aligned with the public's rather than competing with them.]**

5. "The order must be no broader in its application or duration than necessary to serve its purpose . . ." KURTZ, at 64. If the order involves sealing of records, it shall apply for a specific time period with a burden on the proponent to come before the court at a time specified to justify continued sealing. **[Defense counsel cannot justly make the argument that proffered exculpatory evidence harm's her client's interests. Thus, her grasp of the ISHIKAWA decision is deeply flawed and neither her client nor the public should be disadvantaged as a result of her misapprehension or lack of comprehension]**

RELIEF SOUGHT

1. A finding/granting Mr. Smith has standing to intervene as a journalist (the eyes and ears of the public) with respect to objecting to the sealing of the record as described above.

2. An order the record (Smith's declaration) sealed on 9-2-21 be unsealed and made available to the public.

Material, Relevant Facts & Declaration

1. I, John Smith, am of age, a U.S. citizen domiciled in Washington State, an investigatory journalist DBA as Soul Snatcher Productions providing vital information to the public through a community blog I maintain in Mason County—I like to think of myself as a member of the 5th estate because I publish what Mainstream Media rarely covers.

2. I am also the father of Selena Ursa Smith, the defendant in this case. I know my daughter very well—sometimes better than she likes—and have always taken a strong interest in her, her welfare, and my grandchildren through her. I also know this case and its civil counterpart better than any other party or principal except possibly Selena herself.

3. I am in possession of numerous intensely exculpatory documents and evidence revealing the brutal victimizing of Selena, a 1-handed single mother of 3 who is destitute, distraught, and frightened by none other than the State's complaining witnesses. I have obtained said evidence and documentation after spending hundreds of hours investigating this case to where I know it like the back of my hand. My daughter does not have access to this library of exoneration because she has nothing—no computer, virtually no access to the internet, not competent legal counsel with the time or inclination to mount a meaningful defense despite the facts which male it possible.

4. I believe a travesty and miscarriage of justice is well underway of profound interest to the general public and all those mothers who are poor, destitute, and homeless living in fear that what happened to Selena and her children could as easily happen to them if it hasn't already. It is my aim and purpose to expose the Thurston County Court system for the corruption and incompetence that are rife. It is my conviction the public desperately needs to know what goes on there and how it impacts/threatens minorities and the poor worst of all. I will not be stayed from this deliberate course no matter how uncomfortable it makes the obtuse counselors pretending to justly try this case. Nothing could be further from the truth. Not only does the public have a right to see a search for the truth conducted responsibly, but the litigants as well—for they have the right to every man's evidence including this one! The crimes, deceptions, lies, perjury, fraud, theft, stalking, harassment, and abuse of process include, but are not limited to the following:

5. Kathryn Stoker and James D. Wells (Selena's ex boyfriend and father of my youngest 2 granddaughters) engaged in the clandestine drugging/tainting of Selena's food and coffee (at Kathryn's direction according to James) without Selena's consent or knowledge during 2020. This made Selena ill and I witnessed the effect of the drugs during my conversation with Selena over the phone during that time period. She complained of feeling really bad.

6. I believe James is willing to testify to the above as he admitted his part which I believe makes him more credible because it does not make him look good.

7. The following is an excerpt from my phone conversation with James Wells implicating Kathryn Stoker, one of the State's complaining witnesses:

8. **Discussion w/James Wells about Kat orchestrating the tainting of Selena's food with drugs. John:** I wanted to talk about something because I was just following up on our conversation last night. And, I kinda wanted to make a pitch to you about the Stokers,

and you were telling me about your thoughts about Selena and whatever medical issues that she had or doesn't have. But, anyway, you thought that she was getting medications, that she was a more pleasant person to be around. **Jim:** Yeah. **John:** But, Selena, you know, when she confronted you, you were honest with her, and you said yeah, that you had been putting medication that she didn't know about in her food and in her coffee and so forth. But, that you said that her mother directed you to do that. So, I'm pretty sure when my daughter let you know that she was really unhappy about that. So you went back and talked to Kathy about it, and Kathy knew that was illegal and instead of being honest with you, she just said "Oh, no. I didn't do that." You know, like she denied that she had any part of that or directed you to do that. In other words, if there had been any heat that came of that, Kathy was going to throw you under the bus. You realize that, don't you? **Jim:** Oh, yeah. Well, that's exactly what happened. **John:** Yeah. Yeah. And so what I'm saying is, look, Jim…

9. Kathryn & Hans Stoker, their attorney, Breckan Scott, and NJ security guard Robert Kurtz actively conspired to stalk harass, and steal from Selena including theft of data from her credit card which they used for weeks across the country to track all her movements, her purchases—every item to the penny—24/7 with minute by minute updates:

10. Breckan Scott's admission she issued a fraudulent subpoena to Robert Kurtz with which to use to stalk and harass Selena. http://amicuscuria.com/wordpress/wp-content/uploads/2021/08/08.26.21.DeclarationBreckanScott.bcs_.pdf

11. Kathryn Stoker lied the medical staff misrepresenting she was Hazel Smith's mother. Kathryn Stoker lied to school authorities in 2020 misrepresenting she was her granddaughter's guardian.

12. Kathryn Stoker lied to me personally over the phone in early June, 2021 feigning complete surprise Selena's children had been seized in Oregon and acting as though she and Hans had nothing to do with it when it was, in fact, a scheme they'd been working on for months.

13. Hans Stoker lied in his petition to the Thurston Family Court (21-45-00443-21) claiming to be Selena's Children's GRANDFATHER under penalty of perjury when he knew this was false. Hans told Selena that he had always hateed her, yet he is now the guardian of her children. Hans had been stealing my identity as the children's grandfather for years.

14. Kathryn Stoker perjured herself when she signed the same declaration in case 21-4-00443-34 filed on May 27, 2020 under penalty of perjury. Breckan Scott, esq. also signed it when she knew it to be false and often misleading the court falsely arguing (ex parte!) there was a "nationwide manhunt for Selena", that multiple states had open CPS cases against her, that she was a fugitive from justice, and she was mentally ill. None of that was true but no one could rebut her assertions because it was done behind closed doors just as this court wishes to dispose of the sealed record in this cse.

15. Kathryn and Hans stoker rifled through and stole Selena's private papers then submitted them to court in case 21-4-00443-4 (Thurston Family Court). Their agent, NJ security guard Robert Kurtz, misrepresented himself to numerous law enforcement agencies as a LEO or at least representing the State of NJ in tracking down a fugitive (Selena) who had absconded with her children. None of that was true. He told others the children were

"missing" when he knew that was untrue by virtue of having stolen her credit card data which he admitted revealed she had her children with her and Kathryn Stoker's tracking of Selena's cell phone.

16. Kathryn Stoker gulled Selena out of custody of her oldest daughter, Maya Smith (now Maya Stoker) in 1999 (Thurston case 99-3-00727-2, 3rd party custody) but used th opportunity to perjure herself in the petition by claiming Selena's father (myself) was a diagnosed schizophrenic (I've never been diagnosed with any mental illness) by way of suggesting to the court Selena was mentally ill 'too', then trying to hide the perjury from discovery by seeking to have her fraudulent statement sealed. This is Kathryn Stoker's typical MO and is readily apparent even now in 2021. Kathryn Stoker was a drug abuser when I met her many years ago in Southern California, and it's still the case except now that she's a multi-millionaire several times over, she doesn't rely on the black market for her drugs—she simply goes doctor shopping.

17. Hans is an alcoholic. I and Amy Gmatzel will testify to as much. The following is an impromptu telling of the kind of abuse Selena suffered at the hands of James Wells and Hans Stoker under Kathryn's gaze (November, 2020): http://amicuscuria.com/wordpress/wp-content/uploads/2021/07/6-27-21-1100am-Selena-audio.mp3

18. The Stokers lied in their report to the TCSO deputy (Wyatt Blankenship) when they claimed Selena had not 'lived' there or years when she had lived there as recently as November, 2020. I, Amy Gmatzel, and James well will testify that the Stokers NEVER locked their door, contrary to what they told deputy Wyatt Blankenship. In fac, the Stokers had always maintained an open door policy with Selena and never expected her to call ahead or make an appointment prior to coming over.

19. I personally heard Hazel Smith, Selena's daughter, begging her mother over the phone to come visit her. There were no prohibitions in any court document ordering Selena o refrain from contacting her children. In fac, the Stokers' attorney, Breckan Scott often reassured me over the phone Selena would be encouraged to see her children whenever andf as often as she liked. I have e-mail to this effect from Breckan Scott, esq. intended to convince Selena that's what the Stokers wanted.

20. Selena understood that her children had been snatched from her illegally without proper due process according to RCW 11.130.225 on th night of 5-28-21 in Oregon under cover of darkness without any judicial oversight from her home State of Oregon. She knew that without proper jurisdiction (which requires proper original service) all the Thurston County Family Court orders were void ab initio and deserved little or no respect.

21. Selena did not assault her children. A half dozen large burly deputies assaulted her and the pictures in the sealed record reveal that to everyone including the public. Selena was not recklessly indifferent to her children. The deputies were in their assault on a 140 pount barefoot 1-handed destitute single mother of 3 who refused to leave without her children.

22. Selena announced her presence to her mother straight away and stated she wanted to play with her children. Breckan Scott, esq. told the Stokers to call the police hen told Selena had arrived. Kathryn Stoker was initially reluctant to do so—hardly a burglary.

23. Selena was the real victim and the state's complaining witnesses are documented liars.

24. Kathryn Stoker picked up a loaded shotgun without provocation or history of DV in our marriage and chased me with it because I refused to remain in the house to argue with her. Selena recalls this event.

25. Incompetent TCSO reporting deputy Wyatt Blankenship displays deep bias during call: http://amicuscuria.com/wordpress/wp-content/uploads/2021/08/21.10.19-Wyatt-Blankenship-Call.mp3

26. Hans Stoker feigns benevolence while hating on Selena: http://amicuscuria.com/wordpress/wp-content/uploads/2021/08/F_21-003298_HC_Stoker.mp3

27. Kathryn Stoker condemns and demonizes her daughter: http://amicuscuria.com/wordpress/wp-content/uploads/2021/08/F_21-003298_KL_Stoker.mp3

28. 7-27-21 Impromptu recording of Selena's description of life on the Stoker estate: http://amicuscuria.com/wordpress/wp-content/uploads/2021/08/6-27-21-1100am-John-Selena-audio.mp3

29. Kathryn & Hans Stoker engaged in a relentless campaign of parental alienation that lasted for decades that permanently & cruelly traumatized Selena to the point she had to flee the abuse to survive. While the focus was on me while Selena was underage, it shifted to her once she became a mother. The Stokers started out lying about me, telling my children to keep secrets from me and that I was prohibited from seeing them. This eventually shifted tyo where the Stokers would demonize Selena behind her back to everyone who would listen to them. They disparaged her and kept up a steady drumbeat of telling her there was something wrong with her. Hans later told her he had always hated her. For this court to revictimize her on the basis of the most toxic liars I know is barbaric. Kathryn's own younger brother and his wife reuse to have anything to do with her. Kathryn and Hans would easily be impeached on the stand were witnesses allowed to testify who truly know them and Selena. Selena is no burglar and did not assault or recklessly endanger her children. My understanding is Heather Stone, the state's attorney wants my daughter to do prison time and be banned for life from having contact with her children. The public needs to et a load of how handicapped destitute mothers trying to protect themselves and their children are treated in Thurston County. It is my aim to ensure that happens, with or without the court's cooperation.

I declare under penalty of perjury of the laws of the State of Washington and pursuant to GENERAL Court RULE 13 and RCW 9A.72.085 that the foregoing is true and correct.

DATED this 22nd day of November 2021, in the County of **Mason**, WA.

_____
(Signature)
John Smith (Press) reporter
(Printed Name)
PO Box 1711, Shelton, WA 98584
(Address)

Argument, Points & Authorities

1. It is inherently within this court's authority to grant the relief sought and sustain the objection above.

2. Defense Counsel erroneously relied on Seattle Times v. Ishikawa 97 Wn.2d 30, 1982 to orally argue for sealing Mr. Smith's declaration while simultaneously failing to persuade the court to strike it from the record. In fact, a careful analysis of the caser indicates a high bar is required to seal records from the public consistent with exigent circumstances threatening to deprive the defendant of a fair trial. In the instant case at hand, no dispositive showing was made demonstrating how a proffer of exculpatory evidence in Mr. Smith's declaration prejudiced the defendant's right to a fair trial uner 6th Amendment guidelines.

3. Both 1st and 6th Amendment requirements along with Washington State's Constitutional corollaries emphasize the right of both the litigants and the public to transparency in these proceedings which necessarily included those documents filed in the case record, this being a court of record.

4. The fate of the defendant is hardly the only reason why the Brady rule deserves intense public scrutiny it be observed. The defendant's 3 small children also deserve justice which cannot be had if criminal trials are allowed to hide the ball, effectively protecting perjurers and those who suborn it. It is equally the state's as well as the defense counsel's duty to investigate claims of exculpatory evidence. It is the public's right to make certain this obligation is met00unlikely when the public cannot see filed material documents sealed behind closed doors.

5. There is every likelihood that the state's complaining witnesses can be easily impeached with the exculpatory evidence and witnesses exposing their perfidy under the glare of publicity. Without that light, incompetence and corruption will continue to be the tail that wags the dog in the courtroom. In the public sector, especially the judiciary, incompetence is as pernicious as corruption—perhaps more.

6. There is no Washington State statute or court rule that defines "inappropriate". It is inconsistent with the Ishikawa ruling and cannot justly serve as a basis to seal Mr. Smith's declaration proffering exculpatory evidence. It cannot serve to emasculate the litigant's and public's right to transparency in defiance of 1st and 6th Amendment guarantees supporting a fair trial where no harm or prejudice was done to the defendant's right to the same.

7. Neither counsel's brazen attempt to label label Mr. Smith as "inappropriate" or some kind of pedophile by defense counsel for Mr. Smith graphically putting a human face on the defendant and her child, the real victims in this case, should be rewarded in this forum.

Respectfully Submitted by

_____ Date: 11-22-21
John Smith (PRESS) reporter