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FIRST CIRCUIT COURT
STATE OF HAWAII
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FIRST CIRCUIT COURT
STATE OF HAWAII
FILED

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

STATE OF HAWAII,

vs.

BRANDY BLAS, et al.,

Defendants.

NO 1CPC-24-0000150

NONPARTY PUBLIC FIRST LAW
CENTER'S OBJECTION TO
DEFENDANT BRANDY BLAS'
SEALED MOTION TO DISMISS
EXHIBITS [DKT. 379, 380, 383, 395, 397]
AND REQUEST TO UNSEAL;
CERTIFICATE OF SERVICE

HEARING

JUDGE: Hon. Paul K. Wong
DATE: August 28, 2026
TIME: 9:00 a.m.

TRIAL DATE: January 25, 2027

NOTICE OF ELECTRONIC FILING
GENERATED BY JEFS

**NONPARTY PUBLIC FIRST LAW CENTER’S OBJECTION TO DEFENDANT
BRANDY BLAS’ SEALED MOTION TO DISMISS EXHIBITS
[DKT. 379, 380, 383, 395, 397] AND REQUEST TO UNSEAL**

Nonparty Public First Law Center (Public First) respectfully objects to the nonjudicial sealing of the grand jury transcripts submitted in support of two motions to dismiss filed April 22, 2026, by Defendant Brandy Blas, and asks the Court to unseal Dkt. 379, 380, 383, 395, and 397 (collectively, sealed exhibits) pursuant to the constitutional right of access provided by the First Amendment to the U.S. Constitution; article I, section 4 of the Hawai`i Constitution; the common law right of access; and Hawai`i Court Records Rule (HCRR) 10.10.¹

Notwithstanding her apparent reliance on HCRR 9 and Hawai`i Rules of Penal Procedure (HRPP) 6, Defendant did not meet the procedural or substantive standards for sealing when she filed the exhibits under seal without prior notice.

Neither rule justifies sealing. HCRR 9 only applies to narrowly-defined “personal information.” HRPP 6, by its plain terms, does not apply to Defendant. Moreover, grand jury secrecy is no longer required where, as here, the subject has been indicted, obtained a copy of the grand jury material, and moved to dismiss based on the grand jury proceedings.

In the end, a Defendant cannot move for dismissal of this entire case based on secret evidence absent a compelling reason. Under these circumstances, grand jury secrecy is not a compelling reason for secrecy.

I. Legal Standards

The U.S. Supreme Court, Ninth Circuit, and Hawai`i Supreme Court have unequivocally recognized that the public has the right to access judicial proceedings and records, including *broad* access to criminal proceedings. *Civil Beat Law Ctr. for the Pub. Int., Inc. v. Maile*, 117 F.4th 1200, 1208 (9th Cir. 2024) (“As both we and the Supreme Court have recognized, the First Amendment grants the public a presumptive right to

¹ Public First has conventionally filed this motion because, if added as an electronic filer to the case, it would have electronic access to the sealed document. HCRR 10.4.

access nearly every stage of post-indictment criminal proceedings, including pretrial proceedings, preliminary hearings, voir dire, trials, and post-conviction proceedings, as well as records filed in those criminal proceedings.”); *Grube v. Trader*, 142 Hawai‘i 412, 422, 420 P.3d 343, 353 (2018); *Oahu Publ’ns, Inc. v. Ahn*, 133 Hawai‘i 482, 507, 331 P.3d 460, 485 (2014). There is a “strong presumption that court proceedings and the records thereof shall be open to the public.” *Grube*, 142 Hawai‘i at 428, 420 P.3d at 359; *accord Oregonian Publ’g Co. v. U.S. Dist. Court*, 920 F.2d 1462, 1467 (9th Cir. 1990) (proponent of sealing has the burden to overcome the presumption of access).

To safeguard the public’s right of access, there are “procedural prerequisites” to closure that must be met in order to preserve the presumption of openness. *Ahn*, 133 Hawai‘i at 497-98, 331 P.3d at 475-76; *accord Grube*, 142 Hawai‘i at 423, 420 P.3d at 354.

First, the public must be provided notice and an opportunity to be heard before closure occurs. *Grube*, 142 Hawai‘i at 423, 420 P.3d at 354 (“motions requesting closure must be docketed a reasonable time before they are acted upon.”). Courts must provide the public “a meaningful opportunity to object or offer alternatives to the closure.” *Id.* at 424, 420 P.3d at 355.

Second, the court must enter an order and “the reasons supporting closure must be articulated in findings.” *Ahn*, 133 Hawai‘i at 497-98, 331 P.3d at 475-76. “Requiring specific findings on the record enables the trial court to address each element necessary for closure and allows an appellate court to review the reasoning of the trial judge to ensure that protection of the public right was adequately considered.” *Id.* at 498, 331 P.3d at 476.

Substantively, the court must enter “findings that ‘the closure is essential to preserve higher values’ and that the closure is ‘narrowly tailored’ to serve that interest.” *Grube*, 142 Hawai‘i at 424, 420 P.3d at 355; *Ahn*, 133 Hawai‘i at 507, 331 P.3d at 485. The court must specifically find: “(1) the closure serves a compelling interest; (2) there is a substantial probability that, in the absence of closure, this compelling interest would be harmed; and (3) there are no alternatives to closure that would adequately protect the compelling interest.” *Grube*, 142 Hawai‘i at 424, 420 P.3d at 355; *accord Phoenix Newspapers, Inc. v. U.S. Dist. Ct.*, 156 F.3d 940, 949 (9th Cir. 1998).

“To qualify as compelling, the interest must be of such gravity as to overcome the strong presumption in favor of openness. . . .[and] outweigh both the right of access of individual members of the public and the general benefits to public administration afforded by open trials.” *Grube*, 142 Hawai‘i at 425-26, 420 P.3d at 356-57. If a compelling interest exists, “a court must find that disclosure is sufficiently likely to result in irreparable damage to the identified compelling interest.” *Ahn*, 133 Hawai‘i at 507, 331 P.3d at 485. “It is not enough that damage could possibly result from disclosure, nor even that there is a ‘reasonable likelihood’ that the compelling interest will be impeded; there must be a ‘substantial probability’ that disclosure will harm the asserted interest.” *Grube*, 142 Hawai‘i at 426, 420 P.3d at 357. And if the harm is “fleeting or readily curable through other remedial measures,” it is not irreparable harm. *Id.*

Where there is a compelling interest and substantial probability of irreparable harm to that interest by disclosure, the court must rule out less restrictive alternatives to sealing. *Ahn*, 133 Hawai‘i at 507-08, 331 P.3d at 485-86; *accord Oregonian Publ’g Co.*, 920 F.2d at 1467 (party seeking closure bears the burden to “present facts supporting closure and to demonstrate that available alternatives will not protect his [or her] rights”). The court must “make findings regarding specific alternatives and set forth its reasons for rejecting each.” *Grube*, 142 Hawai‘i at 427, 420 P.3d at 358.

In rejecting a trial court’s bare reference to generic concerns without “specific findings,” the Hawai‘i Supreme Court has emphasized the need for facts and evidence:

The trial court may not rely on generalized concerns, but must indicate facts demonstrating compelling interest justifying the continued sealing of the documents. Additionally, the court must specifically explain the necessary connection between unsealing the transcript and the infliction of irreparable damage resulting to the compelling interest.

Id. at 424-26, 420 P.3d at 355-57. “In the absence of such details, there is nothing by which the court could have determined that the asserted interest was of sufficient gravity to displace the strong presumption in favor of openness.” *Id.*

II. Factual Background

The State charged Defendant with attempted murder in the second degree and other felonies by indictment filed February 14, 2024. Dkt. 1.

On April 11, 2026, Defendant moved to dismiss the entire case for “grand jury irregularities.” Dkt. 377. On April 22, 2026, Defendant moved to dismiss the entire case for “failure to present clearly exculpatory evidence” to the grand jury. Dkt. 393.

In support of both motions to dismiss, Defendant filed grand jury transcripts under seal. Dkt. 379, 380, 395, 397. Defendant publicly filed two fly sheets citing HCRR 9 and HRPP 6 as grounds for the automatic sealing. Dkt. 381, 398.

The motions to dismiss are set for hearing on August 28.

III. HCRR 9 does not authorize blanket sealing of evidence.

HCRR prohibits the public filing of “personal information.” HCRR 9.1(a). That term is expressly limited to “social security numbers, dates of birth (except for traffic citations), names of minor children, bank or investment account numbers, and social service reports.” HCRR 2.19. Moreover, HCRR 2.19 contemplates *some* public disclosure of personal information:

To the extent a social security or account number is required in an accessible document, the last 4 digits may be displayed, provided that no more than half of the social security or account digits are disclosed. To the extent a birthdate is required in an accessible document, the birth year may be displayed. Except as provided in Rule 9.1, to the extent the name of a minor is required in an accessible document, the initials of the minor may be displayed.

Id. Only when “a complete social security number, account number, birthdate, or name of a minor child is required for adjudication of a case” is a sealed filing under HCRR 9.1 cover appropriate. *Id.*

Defendant obviously exceeded the scope of automatic sealing contemplated by HCRR 2.19 and 9.1. Defendant has not identified any “personal information” warranting protection. Dkt. 381, 398.

IV. Defendant did not meet her burden to seal judicial records.

Defendant's bare citation to HRPP 6 does not justify the blanket sealing of evidence supporting a substantive criminal pretrial motion, for several reasons.

First, the law plainly requires a motion and judicial findings *before* a judicial record may be sealed. *E.g., Ahn*, 133 Hawai'i at 507, 331 P.3d at 485; *Grube*, 142 Hawai'i at 424-25, 420 P.3d at 355-56. Without a complete motion, the public must guess at the justifications for sealing and lacks a full "meaningful opportunity to address sealing the [documents] on the merits, or to discuss with the court viable alter[n]atives." *Phoenix Newspapers*, 156 F.3d at 949.

Second, generic concerns and conclusory statements are not sufficient to seal judicial records. *E.g., Phoenix Newspapers*, 156 F.3d at 949 (findings may not be based on "conclusory assertions"); *Grube*, 142 Hawai'i at 424-25, 420 P.3d at 355-56; *Ahn*, 133 Hawai'i at 505, 331 P.3d at 483 ("While these reasons are indisputable in the generic sense, they do not as stated provide sufficient justification for a closure of a court proceeding."); *Roy v. GEICO*, 152 Hawai'i 225, 342, 524 P.3d 1249, 1267 (App. 2023) (rejecting "[c]onclusory claims" as a basis for sealing). But that is all Defendant offered. Dkt. 381, 398.

Third, the proponent of sealing must provide evidence of a "substantial probability" that a compelling interest—assuming one exists—would be "irreparably harmed" in the absence of closure. *Grube*, 142 Hawai'i at 424, 420 P.3d at 355. Defendant provided no such evidence. Dkt. 381, 398.

Fourth, the proponent of sealing must establish that there are *no* alternatives to closure that would adequately protect the compelling interest. *E.g., Ahn*, 133 Hawai'i at 505, 331 P.3d at 483 (requiring specific facts demonstrating reasonable alternatives to closure cannot adequately protect the defendant's fair trial rights). Defendant did not do that. Dkt. 381, 398.

Fifth, grand jury secrecy, by the plain language of HRPP 6, does not apply to the *subject* of the grand jury investigation:

Disclosure of matters occurring before the grand jury other than its deliberations and the vote of any juror may be made to the prosecutor for

use in the performance of the prosecutor's duties. Otherwise, *a juror, prosecutor, interpreter, reporter or operator of a recording device, or any typist who transcribes recorded testimony may disclose matters occurring before the grand jury only when so directed by the court* preliminarily to or in connection with a judicial proceeding or when permitted by the court at the request of the defendant upon a showing that grounds may exist for a motion to dismiss the indictment because of matters occurring before the grand jury, subject, however, to the provisions of subsection (e)(2) of this rule. *No obligation of secrecy may be imposed upon any person except in accordance with this rule.*

HRPP 6(e)(1) (emphasis added). Defendant is not one of the persons identified by the rule and has elected to file grand jury materials for this Court's consideration.

Sixth, the general reasons for sealing grand jury proceedings do not apply in this instance. The U.S. Supreme Court has outlined the reasons for grand jury secrecy as:

(1) To prevent the escape of those whose indictment may be contemplated; (2) to insure the utmost freedom to the grand jury in its deliberations, and to prevent persons subject to indictment or their friends from importuning the grand jurors; (3) to prevent subornation of perjury or tampering with the witness who may testify before [the] grand jury and later appear at the trial of those indicted by it; (4) to encourage free and untrammelled disclosures by persons who have information with respect to the commission of crimes; (5) to protect innocent accused who is exonerated from disclosure of the fact that he has been under investigation, and from the expense of standing trial where there was no probability of guilt.

Douglas Oil Co. v. Petrol Stops Nw., 441 U.S. 211, 219 n.10 (1979). None of these purposes are served by continued secrecy where the subject of the investigation has been charged and has access to the material. *Id.* at 216 (when a grand jury investigation is completed and the defendant has access to the transcript, "the considerations justifying secrecy become less relevant"); accord *United States v. Kealoha*, No. 17-CR-582 JMS-RLP, Dkt. 419 (ordering unsealed — with minor redaction — grand jury documents attached to motions to dismiss and motion to compel); *United States v. Leong*, No. 21-CR-142 LEK, Dkt. 127 at PageID#:695-96 (denying motion to seal grand jury documents attached to motion to compel); *United States v. Otani*, No. 22-CR-048-JMS-WRP, Dkt. 241 (denying motion to seal grand jury documents attached to motion to dismiss).

Last, access to the sealed exhibits allows the public to understand this Court's ultimate decision on whether Defendant's assertions about the grand jury process warrant dismissal of the grave charges leveled against her. *E.g., State v. Rogan*, 156 Hawai'i 233, 241, 573 P.3d 616, 624 (2025) ("The judicial system gains from public access. Because court proceedings are open for all to see, and court records are available for all to read, a transparent approach instills confidence in, and respect for, the judiciary's work."); *accord Press-Enter. Co. v. Superior Ct.*, 478 U.S. 1, 12-13 (1986) ("[T]he absence of a jury, long recognized as 'an inestimable safeguard against the corrupt or overzealous prosecutor and against the compliant, biased, or eccentric judge,' makes the importance of public access to a preliminary hearing [where criminal complaint is subject to dismissal] even more significant.").

V. Conclusion

Public First respectfully requests that this Court preserve the public's right of access to court records and unseal the sealed exhibits.

DATED: Honolulu, Hawai'i, July 8, 2026


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Defendant.

NO 1CPC-24-0000150

CERTIFICATE OF SERVICE

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I certify that on the date set forth below, I will serve the foregoing motion to unseal on the following by electronic mail, at the addresses listed below:

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DATED: Honolulu, Hawai'i, July 8, 2026



BENJAMIN M. CREPS