

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
JUVENILE COURT DEPARTMENT
TAUNTON SESSION**

DOCKET # 15YO0001NE

COMMONWEALTH

vs.

MICHELLE CARTER

**ORDER ON COMMONWEALTH'S MOTION FOR RETURN OF ALL MATERIALS
PROVIDED TO DEFENDANT'S WITNESS PETER BREGGIN**

On August 10, 2017, in response to a motion filed by the Commonwealth seeking orders relative to the possession and use of materials and information by the defendant's expert, Dr. Peter Breggin, this court issued an order to maintain the status quo of the court's earlier orders by re-affirming and enforcing existing orders, thereby granting emergency relief until Attorney Cataldo or Attorney Madera could be heard, and to provide Dr. Breggin the opportunity to appear in person or through counsel to be heard.

On August 21, 2017, Mr. Cataldo for the defendant (defendant was excused by the court) and ADA Flynn were before the court. Dr. Breggin was not, but Attorney Jeffrey B. Scheer, a New York attorney (where Dr. Breggin resides) sent a communication to the court with some attachments, including a statement from Dr. Breggin and a letter from an organization that described itself as a non-profit organization known as "Mad in America." The combined packet was deemed filed by the court, but not impounded, and copies of the packet were provided to ADA Flynn and Attorney Cataldo. Attorney Cataldo represented that he had received back from Dr. Breggin all copies of all impounded records of Mr. Roy, the victim in this case, and that Dr. Breggin had an independently executed release from Ms. Carter for the records of which she is a subject, making any requirement that he return those records unnecessary. This position was consistent with the court's earlier orders. This position of Mr. Cataldo was affirmed in the written correspondence from Dr. Breggin and his attorney. Dr. Breggin further indicated that he had changed some information on earlier "blog" reports that he had made, and that when he wrote the blog, he was doing so as a guest "blogger" on the "Mad in America" website, which was Dr. Breggin's explanation of the request at the end of Dr. Breggin's blogs for contributions. The court also inquired of both counsel as to whether any impounded records remained in the possession of any other expert who may have been consulted; both answered in the negative.

The issue of Ms. Carter's privacy and Mr. Roy's privacy as to mental health records has been of concern to this court and the Commonwealth throughout this proceeding. Similarly defense counsel has been respectful of that privacy to the extent that such respect did not interfere with zealous representation of Ms. Carter. Ms. Carter has now chosen to give up that privacy, which is her right. As to Mr. Roy, this court determines that nothing has changed since the earlier order of impoundment, and said order of impoundment is and should remain in

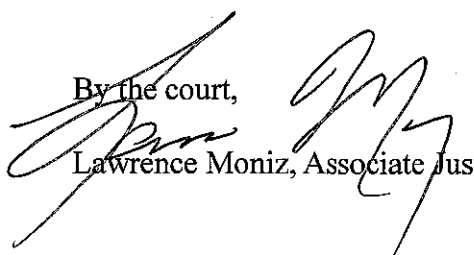
effect.

Consequently, this Court now ORDERS:

1. All orders previously issued, including impoundment and protective orders, relative to access to privileged records of both the victim, Mr. Conrad Roy III, and defendant, Michelle Carter, primarily those involving mental health treatment of each and both of these individuals, remain in full force and effect. By way of explanation, Ms Carter remains included so that, should she decide at some point to revoke any releases she has signed, she will have the benefit of this order.
2. In the event that any copies of materials that have been impounded by this court, including, but not limited to any psychological, psychiatric, mental health treatment, and medical treatment records of Conrad Roy III, as well as any such records involving Ms. Michelle Carter are subsequently discovered by Dr. Breggin not covered by her release, or in the possession of any other expert as being in his/her possession, all copies of such records shall be forthwith returned by said expert to the attorney providing same, who shall address them in the manner as dictated in the protective orders. Excepted from this obligation are such records relating to Ms. Carter that Dr Breggin obtained or separately from the Keeper of those Records by virtue of a release executed by Ms. Carter, or as to such records that he has as to Ms. Carter encompassed in the existing release, or such records that any other expert obtained as to either Mr. Roy or Ms Carter by virtue of a release executed by someone with legal authority to do so.
3. Dr. Breggin and any other expert who may have been consulted in this case by either side shall refrain from any disclosure, dissemination, or publication of information derived from any impounded records, except to the extent that said information was admitted in evidence in the trial or any evidentiary proceeding in this case and except as to any information covered by Ms. Carter's release as to her own records/information.
4. This order shall replace the order which issued on August 10, 2017, which order had been extended on August 21, 2017 by the court until this order was filed with the Clerk's office.
5. Nothing contained herein shall be deemed an exclusive resolution of any issues that may arise concerning these records, including, but not limited to, any violation of privacy rights, and all rights to other remedies as may lie with any person remain intact.

Dated September 1, 2017

By the court,


Lawrence Moniz, Associate Justice

cc: ADA Flynn and Attorney Cataldo
and Attorney Jeffrey B. Scheer, Bond, Sch0eneck, and King, One Lincoln Center,
Syracuse, N.Y. 13202-1355