

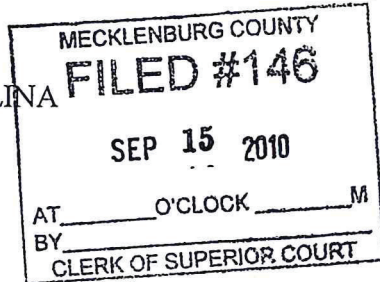
STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

FILE NUMBER 07 CR 215042, 215044

STATE OF NORTH CAROLINA

VS



**ORDER CONCERNING PUBLIC
ACCESS TO EXHIBITS**

DEMEATRIUS ANTONIO MONTGOMERY

This Order is entered pursuant to requests from certain media outlets (in particular, the Charlotte Observer and WSOC Television) for access to trial exhibits in a manner substantially contemporaneous to the admission of those exhibits into evidence. At this point, the particular matters requested are copies of trial exhibits identified as State's exhibits 12, 13, 14, 15, 16, 17, 18 and 19, consisting generally of recordings and typed transcripts thereof made from 911 calls and police radio traffic on March 31, 2007, the date of the events giving rise to these proceedings.

In making this determination, this Court has considered and weighed a number of potentially competing concerns relating to these requests, including the right of public access to this trial, the concerns for affording a fair trial to both the State and the Defendant, the importance of preserving the integrity of evidence introduced, and the administrative burdens placed upon courtroom personnel in making copies of exhibits available to the public. This Court also notes that this entire proceeding has been open to the public and, at least to the knowledge of the undersigned, no person has been denied access to nor removed from the courtroom at any time during these proceedings.

Having considered each of the points and authorities offered by counsel for the aforementioned media outlets, this Court concludes that the request for copies of trial exhibits should be granted in part and denied in part. In particular, this Court concludes that the courtroom clerk is charged with the responsibility of retaining custody of all exhibits received into evidence and safeguarding such exhibits and that it would not place an undue burden upon the Clerk to make one photocopy of each documentary exhibit (no larger than 8 ½ X 14 inches) that has been received into evidence and published to the jury, using such copier as is regularly available in the Clerk's office. The Court further concludes that the Clerk does not have readily available to him equipment for copying or duplication of audio or video recordings and that any order from this Court directing the Clerk to duplicate such recordings could threaten the integrity of such exhibits and place an undue burden upon the Clerk. Further, any information contained in such recordings in this case is available in the typed transcripts of such recordings.

In the exercise of discretion, and seeking to balance the various competing interests in this matter, including the assurance of a fair trial without further interruptions or undue delay,

IT IS THEREFORE ORDERED:

1. The courtroom clerk in this proceeding, Timothy M. Tatum, shall retain all trial exhibits received into evidence in this within his custody and control and shall continue to be responsible for the custody and safeguarding of such exhibits.
2. Upon the admission into evidence and publication to the jury of any documentary exhibit no larger than 8 ½ X 14 inches, the Clerk shall make one copy of each such exhibit and have such copy available in the office of Clerk of Court no later than 10:00 a.m. on the next business day after such original exhibit was received into evidence and published to the jury.
3. The Clerk shall note the number of pages of each such exhibit and calculate the cost of reproduction, using whatever fee schedule is currently in effect in the office of Clerk of Court for providing copies of documents to the public.
4. The copy so produced of each documentary exhibit shall be available in the office of Clerk of Court for inspection by any media outlet or member of the public. Upon request, any person may inspect such copies in the office of the Clerk and in the presence of a Clerk's employee without charge. Any person requesting a copy of any exhibit may purchase such copy by paying a price equal to the cost of the original reproduction as calculated in paragraph 3 above, plus the cost of reproducing the copy so delivered, according to any fee schedule currently in effect in the Clerk's office.
5. This Order applies only to documentary exhibits. Any request for copies of other exhibits will be considered on a case by case basis.

This Order is entered in open court on this the 15th day of September, 2010.



Superior Court Judge