

IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT, IN AND FOR PALM
BEACH COUNTY, FLORIDA

STATE OF FLORIDA

CASE NO. 50-2019-CF-001606-AXXX-MB

Plaintiff,

vs.

HUA ZHANG,

Defendant.
_____ /

IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT, IN AND FOR
PALM BEACH COUNTY, FLORIDA

STATE OF FLORIDA

CASE NO. 50-2019-CF-001606-BXXX-MB

Plaintiff,

vs.

LEI WANG,

Defendant.
_____ /

STATE'S NOTICE OF INTENT TO COMPLY WITH CHAPTER 119, FLORIDA STATUTES

THE STATE OF FLORIDA, by and through the undersigned Assistant State Attorney, files this Notice of Intent to Comply with Chapter 119, Florida Statutes, and states as follows:

1. The State has received the Defendants' Joint Motion to Continue Hearing on Motions for Protective Order and Motion to Intervene by the Media (Wang). The hearing is currently scheduled for April 17, 2019 at 2:30 p.m.

2. Before learning of the joint motion to continue, the State was intending to clarify to the Court at the April 17th hearing its obligations under Chapter 119, the Public Records Act. Specifically, the State, as the custodian of the records, cannot delay the release of records to allow a person to raise a constitutional challenge to the release of the documents. *Tribune Co. v.*

Cannella, 458 So.2d 1075, 1079 (Fla. 1984). “The only delay permitted by the Act is the limited reasonable time allowed the custodian to retrieve the record and delete those portion of the record the custodian asserts are exempt.” *Id.* See also §119.07(1)(a).

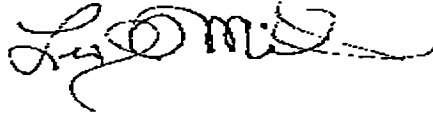
3. The only justification for a custodian’s withholding of a record is the custodian’s assertion of a statutory exemption, and §119.11 provides for an accelerated court hearing when, for example, the party seeking to inspect a record challenges the exemption asserted by the custodian. As explained by the Supreme Court, “the custodian is mandated to place any non-exempt requested record ‘on the table’ for inspection, at reasonable times and under reasonable conditions. *Cannella*, 458 So.2d at 1078.

4. Although Chapter 119 does not include a specific exemption for obscene or pornographic material, it is the practice of the Office of the State Attorney to pixelate or blur depictions of obscene or pornographic images before releasing such records to the public, absent a court order. Otherwise, the State’s release of unredacted, obscene records could constitute a first degree misdemeanor under Section 847.011(1)(a), Florida Statutes (2019).

5. To the extent the State indicated a willingness to delay the production of the records pending the Court’s Order on the defendants’ motions for protective order, the legislative scheme of the Public Records Act does not allow a custodian to delay the production of records to allow the resolution of a constitutional challenge to the release of the documents. *Cannella*. Absent a Court order, the State will be releasing the requested public records once it has retrieved and reviewed the records, and deleted any portions of the record which are statutorily exempt under Chapter 119.

Respectfully submitted,

DAVID ARONBERG
State Attorney



BY: LEIGH LASSITER MILLER
Assistant State Attorney
Florida Bar No. 822949

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of April, 2019, a true and correct copy of the foregoing has been e-filed via the Florida Court's E-Filing Portal, which will, in turn, send a notice of electronic filing to all parties and counsel of record:

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Assistant State Attorney

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