

IN THE COUNTY COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR SEMINOLE COUNTY, FLORIDA

IN RE UNITED STATES CENTER
FOR SAFESPORT, INC.,

CASE NUMBER: 2022-MM-002950-A
CASE NUMBER: 2022-MM-001423-A

SUPPLEMENTAL ORDER

This matter being heard on a Motion to Expunge pursuant to Florida Statutes s. 943.0585(4)(c), due notice having been given, the court having jurisdiction over the subject matter and the parties, the court conducting a hearing on January 10, 2025, considering the testimony, evidence, court record, and being fully advised, the court finds as follows.

FINDINGS OF FACT

1. The United States Center for SafeSport, Inc., is established under 36 USC § 220541 (SafeSport). It represents itself to the public as a private entity organized under the laws of Colorado. SafeSport conducts business and intentionally submits itself to the jurisdiction of every state. SafeSport maintains a Registered Agent in Florida. At relevant times in 2022 and 2023, SafeSport's General Counsel, Heather O'Brien, was also an active member of the Florida Bar.
2. April 15, 2022, SafeSport's "Investigator" Scott Tripp provided information to the Seminole County Sheriff's Department (the Sheriff) in support of an investigation opened in February, 2022. The information purported to be related to details on behalf of a complaining witness, Emily Cummings and an events witness, Maddie Shea. SafeSport's report and information was provided to influence the present case prosecution.
3. Between 2022 and December, 2023, SafeSport conducted an independent investigation resulting in multiple recorded interviews of witnesses and hundreds of pages of documents related to SafeSport's report to the Sheriff.
4. In August, 2022, complying with the good faith obligation to provide discovery, the State learned that SafeSport filtered information, attempting to influence the Sheriff's investigation. The State learned that SafeSport provided an incomplete file, withholding exculpatory information and withholding witness statements potentially favorable to the defendant.

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5. January 23, 2023 the court issued an Order requiring the production of “evidence currently ... in the possession of SafeSport in 10 days from the date of this Order or provide a sworn, written response showing good cause why this Order cannot be complied with.”
6. Also on January 23, 2023, a subpoena duces tecum issued concurrent with the Order of production to SafeSport. Among other requests the subpoena noted in part that:

The SafeSport file is missing the following:...

- e. Any and all reports prepared by SafeSport for the Seminole County Sheriff’s Department ...
 - i. Any and all correspondence including but not limited to any video, audio, and, or notes of conversations between SafeSport and [witness] E.C. that occurred prior to April 14, 2022.
 - j. Any and all correspondence including but not limited to any video, audio, and, or notes of conversations between SafeSport and ANY alleged witness that occurred prior to April 14, 2022.
 - k. Any and all correspondence including but not limited to any video, audio, and, or notes of conversations between SafeSport and [witness] Tiana Boule.
 - l. Any and all correspondence including but not limited to any video, audio, and, or notes of conversations between SafeSport and [witness] Kerstyn Farley.
 - m. Any and all correspondence including but not limited to any video, audio, and, or notes of conversations between SafeSport and [witness] Marina Karman.
 - n. Any and all correspondence including but not limited to any video, audio, and, or notes of conversations that occurred after August 3, 2022 ...

SafeSport files are identified by the following case numbers: 2022-00947, 2022- 00544, 2022-00497, 2022-00495, 2022-00496, 2022-00409, 2022-00498.

7. In a letter dated January 26, 2023, counsel for SafeSport, Mr. Joe Zonies acknowledged receipt of the Order and the subpoena. Counsel attempted to object, refused any cooperation, and refused compliance.
8. December 8 and 11, 2023, SafeSport conducted a recorded JAMS “arbitration” hearing, presenting some of the witness testimony and some of the investigation documents related to SafeSport's report to the Sheriff.

9. This court issued an Order that SafeSport produce, under seal, the audio/video recordings or transcripts of the JAMS arbitration conducted on December 8 & 11, 2023, involving defendant and some or all of the witnesses identified in paragraph 6 above. SafeSport is the custodian of those audio/visual recordings or transcripts.
10. On February 1, 2024, this court issued another Order that SafeSport produce the audio/video recording or transcript of the JAMS arbitration conducted on December 8 and 11, 2023.
11. On February 8, 2024, SafeSport counsel, Mr. Zonies, replied to the Order via e-mail, wherein he declared his refusal to comply with this court's Order. Mr. Zonies compounded his contempt for the court by sending a similar e-mail letter to the State, also indicating his refusal to comply with the Order.
 - A. Mr. Zonies made a material misrepresentation to this court, specifically mis-citing: *"As required by federal statute, the [SafeSport] Center's files are considered "confidential" and not subject to civil subpoena. 36 U.S.C. § 220541(f)(4)(C)(i)."* (emphasis added). Mr. Zonies intentionally failed to represent that the Order was issued by this court, vested with criminal court authority, and not as a civil court matter. Mr. Zonies intentionally failed to reference or adhere to the dictates of 36 U.S.C. § 220541(f)(4)(C)(ii), which provides: *Nothing in this subparagraph shall be construed to prohibit the [SafeSport] Center from providing work product described in clause (i) to a law enforcement agency for the purpose of assisting in a criminal investigation.*
12. On March 1, 2024, a new report was filed with the Sheriff by the defendant to commence investigation into potential falsification of a police report by witnesses Marina Karman, Maddie Shea and complaining witnesses, Emily Cummings and Kerstyn Farley.
13. On March 18, 2024, the Sheriff opened another investigation into the report of false information being submitted by SafeSport and witnesses referenced above.

14. On April 24, 2024, Sheriff's Detective Mike Pivowar, e-mailed SafeSport's attorney Mr. Zonies a letter requesting records and information in connection with the ongoing criminal investigation, specifically seeking the audio/visual recordings or transcripts of the JAMS arbitration, noting that while SafeSport's work product may be confidential, there is a clear exception to cooperate with law enforcement to assist with a criminal investigation.
15. On May 3, 2024, Detective Pivowar sent another e-mail to Jessica Perrill, SafeSport's General Counsel and Vice President of Response and Resolutions, again requesting records and information in connection with SafeSport's investigation, specifically the audio/visual recordings or transcripts of the JAMS arbitration pursuant to 36 U.S.C. § 220541(f)(4)(C)(ii).
16. Neither SafeSport, Mr. Zonies, nor Ms. Perrill acknowledged or responded to Detective Pivowar's communications. Thereafter, on May 20, 2024, Detective Pivowar issued a criminal subpoena for the audio/visual recordings or transcripts of the JAMS arbitration conducted on December 8 and 11, 2023.
17. On May 28, 2024, the criminal subpoena was served via Certified Mail to SafeSport's Colorado Registered Agent.
18. On July 24, 2024, the criminal subpoena was served via personal service on the Colorado Registered Agent for SafeSport.
19. On August 1, 2024, the criminal subpoena was served on SafeSport's Florida Registered Agent.
20. On August 22, 2024, defense counsel issued another subpoena to SafeSport in accord with the Florida Rules of Criminal Procedure, also requesting SafeSport's file and audio/visual recordings or transcripts of the JAMS arbitration conducted on December 8 and 11, 2023.
21. On August 26, 2024, the criminal subpoena was served via personal service on SafeSport's Florida Registered Agent.

22. Dated September 3, 2024, the court received affidavit testimony confirming that complaining witness Kerstyn Farley was wrong in the details submitted to the Sheriff's Office and that SafeSport knew the details were wrong.
23. Complaining witness Kerstyn Farley admitted that she reported the wrong date, wrong time, and wrong location. She admitted that SafeSport knew the information was false. Farley admitted her Sheriff sworn affidavit was not accurate and that she had made no attempts to amend those nor speak to the prosecutors to explain her mistakes. The court makes a credibility determination and finds that the SafeSport reports and Kerstyn Farley's reports are unreliable, unbelievable, and false.
24. The exculpatory information is and was within the knowledge, custody, and control of SafeSport.
25. The exculpatory information is and was within a SafeSport file that was the subject of numerous court orders and properly issued subpoenas.
26. The Seminole County Sheriff's Office, the State's Attorney Office, and defense counsel went above and beyond any duty, and made every reasonable and good faith effort to obtain the exculpatory material and compliance by SafeSport to no avail.
27. Therefore, the court finds that it is clear, convincing, and beyond doubt:
 - A. That the United States Center for SafeSport, Inc., perpetrated a fraud upon the court, the People of the State of Florida, the Sheriff's Office, the State's Attorney Office, and defendant;
 - B. That the United States Center for SafeSport, Inc., intentionally withheld exculpatory evidence; and
 - C. That the United States Center for SafeSport, Inc., acted in bad faith, intentionally, and with malice.

CONCLUSIONS OF LAW

27. The court has jurisdiction as SafeSport is present in the State of Florida by operation of 36 U.S.C. § 220541, the *Protecting Young Victims from Sexual Abuse and SafeSport Authorization Act of 2017*, which mandates that SafeSport operate and conduct business in each of the fifty United States.
28. The court has jurisdiction as SafeSport intentionally inserted itself into, initiated, and interfered with a criminal investigation conducted by duly authorized law enforcement officers in the State of Florida.
29. The court has jurisdiction as SafeSport did purposely, knowingly conduct business within Seminole County, the State of Florida, and maintains a registered agent office within the State of Florida.
30. The United States Center for SafeSport, Inc., violated defendant's constitutional right to due process, intentionally withholding exculpatory evidence from the court, the State's Attorney, and the defendant. Suppression of evidence favorable to an accused violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution. *Floyd v. State*, 902 So. 2d 775, 777-778 (Fla 2005). *Brady v. Maryland*, 373 U.S. 83, 87 (1963). Also see *Gardner v. Florida*, 430 U.S. 349 (1977) (Intentionally withholding presentence investigation material is violation of due process). Here, the court, the State, and the defendant operated in good faith, but was repeatedly blocked for over two years. SafeSport repeatedly and knowingly interfered with the investigation.
31. SafeSport withholding exculpatory evidence is akin to an intentional destruction of evidence. SafeSport's actions raise a rebuttable presumption that the hidden evidence was adverse to the claims. *Seaway Biltmore, Inc. v. Abuchaibe*, 348 So. 3d 23 (Fla DCA 3d Dist. 2022). Here, SafeSport not only failed to dispute the presumption, it intentionally withheld exculpatory evidence. Moreover, the court has clear, convincing, unrebutted testimony that SafeSport had specific knowledge that its reports to the Sheriff were false and fraudulent. Accord, *League of Women Voters of Fla. v. Detzner*, 172 So. 3d 363, 390-392 (Fla. 2015) (Systematic destruction of evidence the court may infer unconstitutional intent).

32. Under the circumstances of SafeSport's conduct here, the court has the inherent authority to impose sanctions and enter these supplemental findings when fraudulent conduct is perpetrated upon the court. *Ramey v. Haverty Furniture Cos.*, 993 So. 2d 1014, 1018 (Fla. DCA 2d Dist. 2008). The court's power to address SafeSport's conduct is indispensable to the proper administration of justice because no litigant has a right to trifle with the courts, but "only on a clear finding of fraud, pretense, collusion, or similar wrongdoing." *Id.* "[T]ampering with the administration of justice in the manner indisputably shown here involves far more than an injury to a single litigant. It is a wrong against the institutions set up to protect and safeguard the public, institutions in which fraud cannot complacently be tolerated consistently with the good order of society". *Id.* at pages 1020-1021, citing *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 246 (1944), receded from on other grounds by *Standard Oil Co. of Cal. v. United States*, 429 U.S. 17 (1976). WHEREUPON IT IS

ORDERED AND ADJUDGED: a) that the United States Center for SafeSport, Inc., perpetrated a fraud upon the Court, the People of the State of Florida, the Sheriff's Office, the State's Attorney Office, and defendant; b) that the United States Center for SafeSport, Inc., intentionally withheld exculpatory evidence; c) that the United States Center for SafeSport, Inc., acted in bad faith, intentionally, and with malice; and d) that the court finds the evidence of fraud, collusion, pretense, and similar wrongdoing to be clear, convincing, intentional, and beyond doubt;

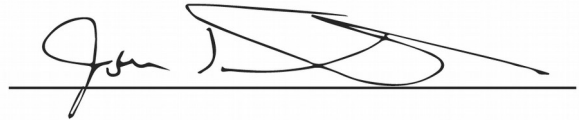
IT IS FURTHER ORDERED AND ADJUDGED that the petition to expunge and the petition to seal filed concurrently is hereby granted. Other than this Supplemental Order pertaining to "In Re United States Center for SafeSport, Inc.," all court records pertaining to the above-styled case shall be sealed in accordance with the procedures set forth in Florida Rule of Criminal Procedure 3.692;

IT IS FURTHER ORDERED AND ADJUDGED that this Supplemental Order pertaining to "In Re United States Center for SafeSport, Inc." and only this Supplemental Order, shall remain in the public record; and

The Court thanks and acknowledges the good faith effort and contributions by the State Attorney's Office, the Seminole County Sheriff's Office, the defendant, and all the defense counsel that provided services *pro bono* supporting and assisting the court under unnecessarily difficult circumstances.

DONE AND ORDERED in chambers at the Seminole County Courthouse,
Sanford, Florida, on Tuesday, February 25, 2025.

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A handwritten signature in black ink, appearing to read "John Woodard", written over a horizontal line.

John Woodard, County Judge

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