



IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA,)
)
 v.)
)
 GERALD A. SANDUSKY,)
 Defendant)

No. CP-14-MD-2008-2011

ORDER

FILED FOR RECORD
2011 DEC 12 P 10
DEBRA C. SMITH
PROthonary
CENTRE COUNTY, PA

And now, December 12, 2011, this having come before the Court for argument on the interveners' Expedited Motion To Modify Decorum Order, which requests an amendment of this Court's order of December 6, 2011 to permit, inter alia, "tweeting" by credentialed reporters during the Preliminary Hearing scheduled for December 13, 2011; and notice of the argument having been given to counsel for both the Commonwealth and the Defendant; at it appearing to the Court as follows:

That neither counsel for the Commonwealth or the Defendant appeared or asked to be heard;

That Pennsylvania Rule of Criminal Procedure 112 prohibits the transmission of communications from the courtroom by telephone, radio, television, or advanced communication technology;

That the Court concludes from the structure and text of the rule that the purpose of the rule is to prevent the simultaneous transmission of an audio and/or visual record of events as they are occurring in a courtroom or its environs. Rule 112 (c), for example, specifically prohibits the stenographic, mechanical, or electronic recording by anyone other than the official court reporter;

That neither "tweeting" or the simultaneous transmission of a reporter's account or impression of events as they occur in the courtroom constitutes activity prohibited by Rule 112;

That because the authorization of the transmission of information as requested by the interveners is not prohibited by Rule 112, the authority to grant or deny their request falls within the inherent authority of the court to control its proceedings and to assure that the Commonwealth and the Defendant are afforded a fair trial.

Since the question of whether to permit the simultaneous transmission of a reporter's notes and impressions is one that falls within the discretionary authority of the court, we note the following factors bearing on the exercise of our discretion:

That the preliminary hearing is expected to be concluded in one day and, therefore, the likelihood that a witness' access to news reports would influence the witness' testimony or decision to testify is remote;

That the preliminary hearing is conducted before a judge sitting without a jury and, therefore, there is no concern about interference with the jury's function;

That permitting tweeting will enhance the news gathering capabilities of reporters, which is in the public interest, and will permit the court to adopt restrictions that will prevent the disruption of the proceeding caused by reporters entering and leaving the courtroom;

That the likelihood that reporters will improperly use cell phones, computers or similar electronic devices to evade the purposes of Rule 112 is remote, and if it should happen and verbatim audio or visual accounts are published the offending party could be readily identified;

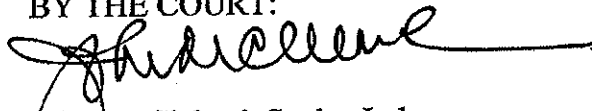
That the general public attending the preliminary hearing will not be permitted to carry cell phones, computers, or other similar electronic devices into the courtroom; therefore, since only credentialed reporters are authorized to possess and use such devices in the courtroom, it assures a further measure of control of their use in violation of Rule 112.

Therefore, it is ordered as follows:

1. That the Order of December 6, 2011 is amended as follows:

- a. Paragraphs 8(c) and (e) and paragraph 16 are amended to permit reporters credentialed under the said order to email, to send text messages, and to "tweet" from laptop computers and handheld devices during the preliminary hearing.
 - b. Only credentialed reporters are permitted to possess and use such devices in the courtroom and satellite courtroom, and no member of the general public may possess or use such a device.
2. No audio, video, or photographic record whatsoever may be made of the preliminary hearing or transmitted at any time from any location.
 3. In all other respects the requested relief of the Interveners is denied.
 4. It is specifically noted that this ruling applies only to the preliminary hearing.

BY THE COURT:



John M. Cleland, Senior Judge
Specially Presiding