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THE SUPERIOR COURT OF CHATHAM COUNTY
EASTERN JUDICIAL CIRCUIT OF GEORGIA

THE STATE OF GEORGIA	
V.	SPCR22-03364
LEILANI MAREE SIMON	

Transcript of the proceedings heard at the STATUS CONFERENCE in the above matter on February 13, 2023 at the Courthouse in Savannah, Chatham County, Georgia, before The Honorable Tammy Stokes, Judge, Superior Court, E.J.C. of Georgia.

Appearances:

For The State:
SHALENA COOK JONES
District Attorney
Savannah, Georgia

TIMOTHY P. DEAN
Assistant District Attorney
Savannah, Georgia

For The Defendant:
ROBERT W. ATTRIDGE
JOSEPH VIGNERI
Assistant Public Defenders
Savannah, Georgia

ENTERED BAW MAR 21 2023

THE COURT: And so let's begin with the call of the case. We are here today for SPCR22-03364, State of Georgia v. Leilani Simon. And Bob Attridge and Joe Vigneri are here for Ms. Simon, and we have Shalena Jones and Tim Dean here for the State. We're here - the case is scheduled for and was originally scheduled for a status conference which is usual for the beginning of a criminal case. The media of course expressed some interest in that case, and the Court received several requests for permission to record as well.

Fortunately Judge Karpf appeared at the first hearing that was set on June 25th and indicated this Court would issue a detailed ruling as to the Rule 22 hearing and the recording of the proceedings at a later time. So first I want to address the issue of the Rule 22, the request for permission to record. I have spoken with both attorneys for the State and attorneys for the defense. And I would like to ask you briefly if you would state your positions on the record with regards to recording. Mr. Dean.

MR. DEAN: Your Honor, Tim Dean for the State. The State is objecting to any recording, photographing, livestreaming, broadcasting of any of the proceedings in this case pretrial or trial. Our argument probably admittedly applies with more force to substantive motions hearings and the trial than it does to this proceeding.

But it centers around statutory factor (h). Any special circumstances of the parties, witnesses, alleged victims, or other participants such as the need to protect children or factors involving safety of participants in the judicial proceeding.

I think that - so that's the center of gravity for our argument against allowing recording, broadcasting, livestreaming. And it probably differs from what the defense is focused on in their opposition to such requests. But our concern here is that the victim in this case, Quinton Simon, has two surviving siblings. And they have privacy interests. Their not of an age to consent to recording or broadcasting of a proceeding that sort of, while not directly about them, touches on their life and their circumstances to some degree inextricably and unavoidably.

But our position is that obviously under the First Amendment to the United States Constitution media personnel have a right to be present for the trial and to report on it with pen and paper and write stories about it. And that right can only be abridged in very narrow circumstances along the lines of courtroom closures. But there is no constitutional right to broadcast, televise, livestream, photograph proceedings. The two things are just different.

And our position is that with respect to those two

surviving children there's just a qualitative difference in there being existing on the internet as they reach the age of majority and go into adulthood some scattered print news stories about this case and about their family and about this tragedy and there being a recording of the entire proceedings about their mom and their brother existing online in perpetuity to be replayed. And will be cut up into highlight reels and blooper reels and things like that. Because these are the things that happen with trial footage.

And so that is our position. These children are the subject of a parallel proceeding in Juvenile Court. I think it's illustrative, if not controlling, that records of that proceeding are not accessible to the public. And that while Juvenile Court proceedings of the nature that they're involved in are normally open to the public, they are not open to the public in this particular case. Because the Juvenile Court Judge who's presiding over them has put into place an order closing the courtroom based on her analysis of all the factors and interests in play here.

I'm aware that we may have to argue this in more detail later for the purpose of future hearings that are set in this case and may have to make an evidentiary record supporting our position. But in so far as the Court is just asking us to briefly state our position today, that is

where the State is at on this matter.

THE COURT: Thank you.

MR. ATTRIDGE: Good afternoon, Judge.

THE COURT: Good afternoon.

MR. ATTRIDGE: Your Honor, I respect the State's position. In a lot of ways I agree with them. My concern is protecting my client's right to a fair trial and having a potential jury coming in here that's impartial and to ensure that people are not coming into a courtroom with outside information that may prevent them from being impartial. I look at this from the perspective of the news media as well as social media.

As far as the news media, which is the Rule 22 we're dealing with today, I have no problems with any type of recording or whatever they want to broadcast for today's hearing. I also believe that the Court should not grant a blanket Rule 22. I read the rule to require that every hearing there must be a procedural request to record that. As the State pointed out, there could be some hearing, such as a status check, where there may be non-evidentiary matters which I may not have an objection.

But there may be some evidentiary hearings which I would have an objection to. So I don't have any problems today. I also agree with the State's analysis that an open courtroom does not necessarily mean, and the right to the

press does not necessarily mean, they have a right to videotape proceedings. They have a right to be present, to witness, and to report. But this idea of videotaping I don't think is a right that they have under the constitution. And as I mentioned to the Court in chambers, if such a right existed under the U.S. Constitution then they would be recording in Federal Court. I know that just does not take place.

So the Court, I think, has to be looking at this from a balancing test, protecting the defendant's right to a fair trial and protecting the press's right to freedom or speech and freedom of press. And the Court will. I understand that. So that's - I have no objections for today recording it. But I think for further hearings I think we have to go on a case by case basis.

As far as the social media aspect, I don't want to get into the livestreaming or not but - as for Rule 22. But as far as the livestreaming, I would oppose to any livestreaming based on the fact that you do have some control over the news media. But you have no control over social media and what goes on out there. And livestreaming, I think, just creates a frenzy in social media.

And I think in my opinion there's a lot of misinformation out there in social media. It thrives on

misinformation, conspiracy theories, all these things. And I would be opposed to any type of livestreaming to prevent any type of social media misinformation. That's my position on the Rule 22, Your Honor.

THE COURT: Thank you, Mr. Attridge. I will say that certainly when it comes to the Rule 22 and whether or not the media will be allowed to record at various hearings, it certainly is a balancing test. And there is the balance of many of the things that the State has mentioned as well as the defense, the lives of the folks that are involved, the ability to get a fair trial, social media. Even though that's not a part of it, it certainly is an ancillary part.

I will state at this point after consideration I am not going to livestream. That will not happen in this case. I will not issue a blanket permission to record the proceedings. And of course the media has the right to be present. The courtrooms are present. The media has the right to come in here, report. But a Rule 22 request for permission to record has to be presented each time. So there's no blanket no. There's no blanket yes. It will be handled on a case by case basis.

I am going to rule as we go and as those requests come in. And I'll take all of that under advisement. As to the issue regarding the DFACS records, the Court has those records now and will conduct an in camera inspection. And

I will provide access to those records as they are reasonably calculated to lead to discovery of admissible evidence. And the last thing, third matter, at this point is regarding the defense's motion to quash the State's subpoena for the production of evidence.

This was a subpoena to Billie Jo Howell, also known as Billie Jo Betterton, for any and all diaries, writings, letters, that belonged to Leilani or jointly with Leilani Simon. I understand that those records have been produced today. And the Court will take them into custody and safekeeping and hold those. We will put the hearing down for a later date regarding the defense's motion to quash.

Other than that, we are here today for a status conference. We talked some about how discovery will proceed. I understand that there is a lot of evidence and discovery that is coming in and will be coming in on a rolling basis. Some of that will not be able to be handled with a set scheduling order the way we may normally handle that. That will have to be a little bit more fluid. And of course we will take each of those things under consideration as we continue. Anything else from the State?

MS. COOK JONES: Nothing from the State, Your Honor.

THE COURT: Defense?

MR. ATTRIDGE: Can we have Ms. Howell come forward on

the record and produce those records to the Court?

THE COURT: Ms. Howell. And for the record, ma'am, you are Betty Jo -

MS. HOWELL: Billie Jo Howell.

THE COURT: Billie Jo Howell.

MS. HOWELL: Yes, ma'am.

THE COURT: All right. And Ms. Howell has just handed in a number of booklets. I am counting nine - eight total books slash notebooks that have compilations of information within them. I will take this evidence, and we will hold it in safekeeping. Thank you for bringing those documents. And is there anything on the record regarding Ms. Howell that should be placed on the record to perfect things at this point?

MR. ATTRIDGE: Judge, I am going to have her testify when you do set the matter for the motion to quash. So at this time I don't see any need to have her testify.

THE COURT: Ms. Howell, you will not testify today. You will be notified of a later date for your testimony.

MS. HOWELL: Yes, ma'am.

THE COURT: Thank you for being here.

MS. HOWELL: Yes, ma'am.

THE COURT: Okay. If there is nothing else, we stand adjourned.

END OF PROCEEDINGS.