

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2012-008323-001 DT

03/23/2015

HON. ROSA MROZ

CLERK OF THE COURT
J. Matlack
Deputy

STATE OF ARIZONA

JEANNETTE GALLAGHER
BLAINE DAVID GADOW
CHRIS MOESER

v.

JERICE HUNTER (001)

CANDICE SHOEMAKER

RULING

The Court has considered the State's Objection to Recording Devices in the Courtroom and the Defendant's Objection and Motion to Prohibit Audio and Video Recording Devices in the Courtroom During Trial, and the oral arguments of the parties and the media.

The Court finds as follows:

1. The impact of the coverage may have an impact on the right of the Defendant to a fair trial, as well as the possible safety of witnesses. The Defendant stated that having a camera in the courtroom has made witnesses reluctant to become involved, specifically VY and CG. In fact, CG has already received threats and has expressed that she will not testify if the cameras are permitted in the courtroom. If witnesses are intimidated and unwilling to testify, the Defendant's right to a fair trial will be impacted.
2. The media coverage of the trial may have an impact on the right of privacy of the victim's family, especially the 17-year-old sister of the victim, TJH. The State avowed that TJH has been severely traumatized by this case, that her testimony is expected to be

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2012-008323-001 DT

03/23/2015

emotional and extremely difficult for her, and that she is expected to refuse to testify if a camera is present in the courtroom. Her testimony is expected to be about the private details of her relationship with her sister (the victim) and her mother (the defendant). Having the media broadcast her image and her testimony will further traumatize her and make it impossible for her to take the stand.

3. The media coverage of the trial will detract from the dignity of the proceedings. The case has already received extensive media coverage at the time of the investigation. Televising the trial, especially live-streaming the trial, has the great potential of turning the case into a media circus similar to the O.J. Simpson case and the Casey Anthony case. Trials are about justice, not public entertainment. The Court certainly believes that trials should be held in public because of constitutional guarantees and to promote transparency and contribute to the understanding of the justice system. The Court welcomes the public to attend any of the trials held in the Maricopa County Superior Court for those purposes. But holding public trials does not equate with recording and televising the trials, and neither the U.S. Constitution nor the Arizona Constitution mandate recording and televising trials. The Court finds minimal benefit to live, recorded coverage to the public.
4. The Court is additionally concerned that live-streaming the trial could potentially taint the testimony of the witnesses in the case. Attorneys in trials are regularly told to advise and ensure their witnesses stay out of the courtroom so that their testimonies are not influenced by what they have seen or heard in trial already. It is much harder for the Court and the attorneys to ensure that the witnesses are not watching and listening to what has happened in court before they testify if the proceedings are being live-streamed. Supreme Court Rule 122 does not address the issue of live-streaming and there is no presumption that live-streaming be allowed.

Based on the foregoing,

IT IS ORDERED sustaining the State's and the Defendant's Objections as to live-streaming of the trial. Live-streaming of the trial is prohibited.

IT IS FURTHER ORDERED denying, in part, the State's and the Defendant's Objections as to video and audio recording of the trial. As to TJH, CG, and VY, the Court finds that the likelihood of harm from camera coverage outweighs the benefit of coverage to the public.

IT IS FURTHER ORDERED that when TJH, CG, and VY testifies, the video camera shall be removed from the courtroom. All video recording of the testimonies of TJH, CG, and VY shall cease. Although audio recording will still be allowed, it shall not be released into the

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2012-008323-001 DT

03/23/2015

public domain until the trial has concluded. If the media intends to release the audio recording into the public domain, it must redact out any identifying and locating information, such as the name, birthdate, age, address, where the witness attended or attends school, and with whom the witness lives. *See*, A.R.S. § 13-4434(D).

As to witnesses other than TJH, CG, and VY, the attorneys will need to bring to the Court's attention any difficulties they may have in getting witnesses to testify due to media coverage. The Court will address media coverage of those witnesses on a case-by-case basis.

IT IS FURTHER ORDERED that the attorneys shall advise all witnesses in this case to avoid media coverage of this trial.

IT IS FURTHER ORDERED as follows:

1. Camera coverage must be done in accordance with Rule 122 of the Rules of the Arizona Supreme Court. This includes no camera coverage of any juror or attorney conference. Any violation of the provisions of Rule 122, this order, or any directive given by the court may result in immediate termination of camera coverage in this case and an order to show cause hearing regarding the violation.
2. The camera must be set up at least 10 minutes before the proceeding is scheduled to begin. If the camera is not set up at least 10 minutes before the proceeding is scheduled to begin, the request for camera coverage for that proceeding will be considered abandoned and no camera will be allowed for that proceeding. This does not affect the camera request and related camera order for any future court proceedings.
3. At any time, the Court may order no camera coverage of specific individuals involved in the case, including but not limited to a law enforcement officer, an informant, a victim, a minor witness, a party, or a witness if the camera coverage would have a substantial adverse impact on the witness. In the alternative, the court may order only audio coverage of certain testimony or that the face and identity be obscured.
4. At any time, the Court may order a restriction of cessation of coverage in the interests of justice. If this occurs, the camera shall be immediately turned off.
5. There shall be only one pool camera in a fixed location. The location will be as directed by court staff. No additional lighting or flashes will be allowed. The media must use existing court equipment for sound.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2012-008323-001 DT

03/23/2015

6. No camera or recording device shall be used while the judge is off the bench and until the case is called. No recording device shall record: jurors; attorney conferences; or content of documents at counsel table, the judge's bench, the work area of judicial staff, or the jury box.

The Court believes that these orders provide for the least restrictive media access to the trial that will simultaneously protect the defendant's right to a fair trial and the victim's and witnesses' right to privacy, safety and well-being.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encouraged to review Supreme Court Administrative Order 2011-140 to determine their mandatory participation in eFiling through AZTurboCourt.