

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

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IN THE COURT OF GENERAL SESSIONS
FIFTEENTH JUDICIAL CIRCUIT
INDICTMENT NO(S):

2014-GS-26-01121
2014-GS-26-01122
2014-GS-26-01123
2014-GS-26-01124
2014-GS-26-01125

FORN COUNTY
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CLERK OF COURT

STATE OF SOUTH CAROLINA
V.
SIDNEY ST. CLAIR MOORER,
DEFENDANT.

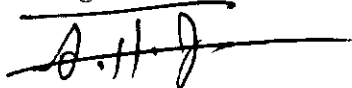
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**ORDER PROHIBITING EXTRAJUDICIAL
STATEMENTS AND RELEASE OF DOCUMENTS**

This matter comes before the Court by Motion of the State to prohibit extrajudicial statements and the release of documents until the resolution of the above-entitled cases. Upon consideration of the Motion, the Court finds as follows:

Under both the United States Constitution and the South Carolina Constitution, a defendant in a criminal prosecution is constitutionally guaranteed a fair trial by an impartial jury. U.S. Const. amend. VI; S.C. Const. art. I Section 14. This "most fundamental of all freedoms" must be maintained at all costs. Estes v. Texas, 381 U.S. 534, 540 (1965).

The United States Supreme Court interpreted the requirement of an impartial jury to mean that "the conclusions to be reached in a case will be induced only by evidence and argument in open court, and not by any outside influence, whether of private talk or public print." Patterson v. State of Colorado ex rel. Attorney General, 205 U.S. 454, 462 (1907). Subsequently, in Sheppard v. Maxwell, 384 U.S. 333, 357 (1966), the Supreme Court ruled that a trial court erred by "holding that it lacked the power to control the publicity about the trial." The Court specifically found that "the trial court might well have proscribed extrajudicial statements by any lawyer, party, witness, or court official which

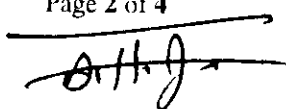


divulged prejudicial matters," noting that with the pervasiveness of modern communications and the difficulty of erasing prejudicial publicity from the minds of the jurors, the trial courts must take strong measures to ensure that the balance is never weighed against the accused." Sheppard, 384 U.S. at 361, 362.

Regarding the scope of this power, any order of the Court that directly prohibits or restrains publication of information already gained or commentary on judicial proceedings held in public is a prior restraint in violation of the First Amendment which must be justified by a clear and present danger that the defendants' right to a fair trial is in jeopardy. Nebraska Press Assoc. v. Stuart, 427 U.S. 539 (1976); Wood v. Georgia, 370 U.S. 375 (1962). However, "the clear and present danger test does not apply when the Court issues an order . . . which does not constitute a prior restraint on the press' or public's right to speak or publish, but only restrains the trial participants from certain conduct thereby proscribing the flow of prejudicial information to be gained by non trial participants." Central South Carolina Chapter, Society of Professional Journalists, Sigma Delta Chi v. Martin, 431 F.Supp. 1182, 1188 (D.S.C. 1977) aff'd 556 F.2d 706 (4th Cir. 1977), cert. denied 434 U.S. 1022 (1978).

A pretrial order forbidding public comment about a pending criminal case by the attorneys, defendants, and witnesses has been found to be valid under the First, Fifth, and Sixth Amendments to the United States Constitution. See Levine v. U.S. District Court for Cent. Dist. of California, 764 F.2d. 590 (9th Cir. 1985); In re Russell, 726 F.2d 1007 (4th Cir. 1984); Hamilton v. Municipal Court for Berkeley-Albany Judicial Dist., 270 Cal. App. 2d 797 (1st Dist. 1969).

The Court finds that it is likely that there will continue to be inquiries made by non trial participants and that any statements and information responsive to such inquiries are likely to be widely disseminated and could jeopardize the fair administration of justice in these cases. As such,

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without some restraint on the trial participants and those involved with the investigation of these cases there is a substantial likelihood that the Defendant may be denied a fair trial.

This Order applies to the Solicitor, all law enforcement agencies currently or formerly involved in these cases, the Defendant, and counsel for the Defendant.

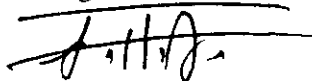
This Order also applies to any employee of the Solicitor or entities listed above or any agent of these parties, and it shall be the responsibility of the Solicitor, the heads of the agencies listed above, or representatives of the Defendant to ensure that their employees and any associated persons are aware of, and comply with, the terms of this Order.

These parties and entities covered by this Order will be collectively referred to as "Covered Persons."

This Order does not in any way restrict the activity of any person or entity not included as a Covered Person.

Any Covered Person may file official court papers, including indictments, motions, responses to motions, and any other court document or notice permitted by law. However, no Covered Person may file any court papers which could reasonably be construed as containing comments or information that if covered by the public could adversely affect the right of the State or the Defendant to a fair trial. In order to ensure compliance with this provision, except for indictments, no document filed with the Court may contain any discussion or argument concerning the facts or investigation of these cases. The Court will review any court papers filed, and if any discussion or argument concerning the facts is warranted, the parties will be notified, and thereafter written argument may be submitted directly to the undersigned for consideration.

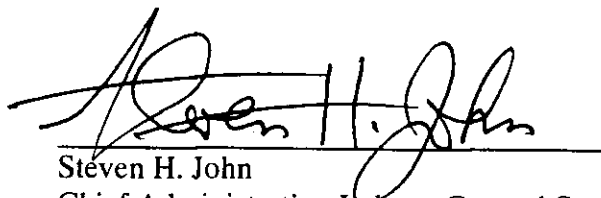
Any Covered Person may notify the press or the public of the time and place of any hearing to be conducted before the Court.

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Any Covered Person may issue a written release concerning these cases, provided the Court has approved the specific release in a Court Order before it is released to the press or to the public. Any Covered Person who wishes to get approval for such release shall provide a copy of the proposed release to all counsel of record before presenting it to the Court.

Any Covered Person may petition the Court, with notice to all counsel of record, for permission to make a public comment or to publicly release information when that comment or release is not specifically permitted by this Order. However, no such comment or release shall be made until the Court has approved it in an Order, and the content of any proposed comment or release may not be revealed in the petition. Subject to the above restrictions, it is therefore

ORDERED that extrajudicial comments or the release of documents by the State, any of the attorneys, the Defendant, or any agents of these parties, are prohibited until the resolution of these cases.



Steven H. John
Chief Administrative Judge – General Sessions
Fifteenth Judicial Circuit

March 21, 2014
Conway, South Carolina

