

IN THE CRIMINAL COURT FOR KNOX COUNTY, TENNESSEE
DIV. I

DM-~~115~~

FILED
BY JOY R. REED
2009 FEB 13 PM 4:20
KNOX COUNTY CRIMINAL COURT
KNOXVILLE, TN

STATE OF TENNESSEE,

Plaintiff,

v.

LETALVIS D. COBBINS,

Defendant.

No. 86216 A
CAPITAL CASE

MOTION
TO EXCLUDE FURTHER
PRETRIAL MEDIA COVERAGE
AND/OR MOTION TO WITHDRAW AS COUNSEL

Come the accused, and his undersigned counsel, who move this Honorable Court to enter an Order which enjoins further public dissemination by the media of the subject matter of pre-trial hearings in this case, or alternatively move this Court to enter an Order permitting counsel to withdraw from further representation in this cause. In support of the foregoing Mr. Cobbins and his attorneys would show as follows:

1. Mr. Cobbins stands indicted for numerous crimes, including allegations that he committed first degree murder. The State has filed notice of its intent to seek a sentence of death should Mr. Cobbins be convicted of a predicate crime. Accordingly, Mr. Cobbins is entitled to a heightened standard of due process of law.
2. Lead counsel Kimberly Parton was appointed to represent Mr. Cobbins at the inception of this case in February of 2007. Co-counsel G. Scott Green was appointed to represent Mr. Cobbins on November 7, 2008.

3. This case has generated national publicity prompting the creation of numerous internet sites about the defendants and/or victims; and it has prompted demonstrations in Knox County by groups foreign to this jurisdiction. Appended to this motion are representative samples of such sites which are incorporated herein as Collective Exhibit #1.
4. This case has generated intensive local media coverage, which coverage has fueled hostile threats, accusations, and diatribes by the public. These comments are directed toward Mr. Cobbins, his co-defendants, and toward the attorneys who have been appointed by this Court to represent the various defendants.
5. On January 30, 2009 this Court heard motions to suppress Mr. Cobbins statements to law enforcement, and this Court scheduled motions filed by Mr. Cobbins and LeMarcus Davidson to suppress evidence resulting from various search warrants executed by law enforcement at 2316 Chipman Street.
6. On January 30, 2009 local media outlets WBIR TV, WATE TV, WWLT TV, and the Knoxville News Sentinel published stories about the aforesaid proceedings on each entities' internet web site. The News Sentinel and WBIR TV each provide an opportunity for reader comment about any story each may publish.
7. An example of comments which are directed toward Mr. Cobbins' attorneys (and presumably Mr. Davidson's attorneys) from KNOXNEWS.COM are set forth as follows:
 - (i) TNARNG (January 30, 2009 12:53pm)
(in response to azvolgirl)

"It takes time to make sure some scum-sucking lawyer doesn't find a loophole to get them set free. They are out there. Rest assured justice will be served in due time".

- (ii) 25punk (January 30, 2009 2:59pm)
(In response to TNARNG)
"You've just described Poston, Lomonaco...both of which are already involved in this crime."
- (iii) waytogo (January 30, 2009 6:33pm)
"I could never live with myself if I were a public defender".

A copy of each of the January 30th stories and accompanying reader comments published in KNOXNEWS.COM are attached as collective Exhibit #2 to this motion and are incorporated by specific reference.

8. Apparently KNOXNEWS.COM has a site monitor who screens and removes certain comments. Those comments set forth above, however, survived this screening process. Conversely, WBIR's site is apparently not monitored, nor scrutinized. Among the reader comments directed toward attorneys on the WBIR web site are the following:

- (i) danorbecky wrote:
"the defense needs to pay along with the clients. How could anyone defend these people".
(January 30, 2009 10:14pm EST on WBIR.com)

Immediately preceding this comment the following was posted:

- (ii) rollovervols wrote:
"how embarrassing it must be to have to defend these idiots, but wait these guys have no sense of morality they want the body that was found in the trash can thrown out. How on earth could you have the balls to say something like that and still live long enough to walk to your car. A good sniper would do the job quickly quietly and painlessly. Lawyers like this one have no business in the practice. They rank below those injury hotline lawyers".
(January 30, 2009 9:48pm EST on WBIR.com)

The "report abuse" link adjacent to rollovervols post was activated prior to 12:00 midnight on January 30, 2009, however, this post/comment was still present on January 31, 2009. The undersigned contacted WBIR TV by telephone at approximately 11:30am, spoke with a female in the news room, and advised her the comment was posted. A second call to the newsroom at 1:05 pm on January 31, 2009 was required before the comment was removed. WBIR did not publish an admonition to its readers when the comment was ultimately removed, and rollovervols remaining posts were not stricken. A copy of the story and related reader comments from WBIR.COM are appended to this motion as collective Exhibit #3 and are specifically incorporated by reference.

9. As shown in Exhibit #3, the WBIR site has a link for readers to "recommend" (endorse) each comment. Not a single person who commented subsequent to the comment posted by rollovervols criticized the content of the subject post. In fact (as reflected by Exhibit #3) six (6) subsequent readers recommend, or endorse, rollovervols incitement of violence toward attorneys who are appointed by this Court to defend Mr. Cobbins and/or his co-defendants.
10. No matter how egregious the allegations against Mr. Cobbins and his co-defendants, our system of justice guarantees that each receive the effective assistance of counsel. An attorney learns early in each person's professional career that he/she may be called upon to undertake an unpopular cause(s). Each of us took an oath, as a condition precedent to receiving a license to practice law in this state, that he/she will zealously defend the interest of the

client irrespective of the public favor or disfavor associated with such representation. Each of us accept the reality that criticism resulting from zealous representation is a consequence of the oath we took. That oath, however, does not with it carry an obligation that our safety, or the safety of our family, be compromised simply for doing the job the law compels each of us to perform.

11. Each attorney appointed by this Court to represent Mr. Cobbins and his co-defendants does so at a tremendous cost. The hourly rate paid by the State of Tennessee for capital case representation is a fraction of the hourly rate each attorney in this case normally bills. Every hour spent by an attorney appointed to this case is an hour he/she cannot bill at his normal hourly rate thereby, resulting in a decreased ability to pay his/her creditors, and thereby resulting in a diminished ability to support his/her family. This case now contains over 17,000 pages of documents which must be reviewed, hundreds of exhibits which must be inspected, and over one hundred forty witnesses who must be interviewed. The time which must be devoted necessitates working late at night and on weekends, rather than spending time with our families. None of us solicited this case nor asked to be appointed, but all of us accept the sacrifice that comes with Court ordered appointment. That sacrifice, however, should never include a threat to our safety, nor to the safety of our families.
12. The media, especially in the age of instant access via the internet, has an enormous responsibility due to its influence over public opinion. The manner in which a story is reported, the editorial position of the media outlet, and

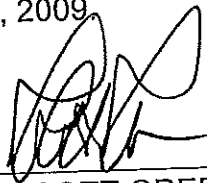
public comment generated by that outlet's published content, all bear directly upon the attitude(s) and upon the prejudice(s) which society embrace. One need look no further than the tragedy which occurred on a quiet summer morning within a place of worship on Kingston Pike to understand the consequences of disseminated hatred. If the media cannot responsibly report, and/or monitor the public dissemination of its website content where such failure to monitor affects the effective representation of counsel for one or more defendants, it should not be allowed to further publicly disseminate information about this case. While the public has a right to be informed about these proceedings, that privilege will always be subservient to the constitutionally guaranteed right to receive effective assistance of counsel where one is charged with a capital crime. See generally, *State v Drake*, 701 Sw2d 604,607 (Tenn. 1985); *State v James*, 902 Sw2d 911 (Tenn. 1995); *Knoxville News Sentinel v Huskey*, 992 Sw2d 359 (Tenn Cr. App., 1998). Moreover, the various media outlets could insist that any comment on its internet site be accompanied by the author's name and address, rather than some anonymous screen name such as "rollovervois". It is respectfully submitted that removing the mask of anonymity would curtail many of the threats that have been posted.

13. Alternatively, this Court should permit each counsel who so requests to withdraw from further representation. The Motion to Suppress the result of the search(s) at 2316 Chipman Street is far from frivolous. In fact failure to file and argue such a motion could well result in a reversal by an appellate court were a conviction to occur. To provide effective assistance of counsel

to Mr. Cobbins the undersigned must be able to litigate the same without concern that he/she will become the target of a bullet from a "snyper" (sic).

WHEREFORE, based upon the foregoing, Mr. Cobbins respectfully moves this Honorable Court to enter an Order enjoining further public dissemination of any pre-trial hearings in this case, or in the alternative the undersigned respectfully move this Honorable Court to enter an Order allowing each to withdraw from further representation in this cause.

Submitted this 13 day of Feb., 2009.



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CERTIFICATE OF SERVICE

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Knoxville News Sentinel
2332 News Sentinel Drive
Knoxville, TN 37921

WBIR-Television
1513 Hutchinson Ave.
Knoxville, TN 37917

WATE TV 6
1306 N. Broadway
Knoxville, TN 37917

WVLT Television
6516 Papermill Dr.
Knoxville, TN 37919

on this the 12 day of Feb., 2009.



G. SCOTT GREEN