

11-14-08

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PLYMOUTH, ss.

COMMONWEALTH OF MASSACHUSETTS

SUPERIOR COURT
CRIMINAL ACTION
NO. 07-00147

COMMONWEALTH OF MASSACHUSETTS

COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF JUSTICE
PLYMOUTH COUNTY
NOV 14 2008

vs.

CAROLYN RILEY AND MICHAEL RILEY

RULINGS OF LAW ON CBS CORPORATION'S
MOTION FOR RECONSIDERATION OR, IN THE ALTERNATIVE,
FOR A STAY PENDING APPEAL

CBS Corporation ("CBS"), a non-party subpoenaed witness requests the court reconsider its Order of December 19, 2007, that denied CBS' Motion to Quash or for Protective Order ("the Order") and ordered CBS to comply with a summons issued pursuant to Mass. R. Crim. P. 17(a)(2). The Order required CBS to provide the videotaped interview of defendant Carolyn Riley conducted on April 30, 2007 on April 30, 2007, by the CBS program "60 Minutes," including video "outtakes;" and further ordered CBS to produce documents relative to the interview, or which relate to the arrangements made in order to conduct the interview, involving defendant Carolyn Riley and/or her attorney, Michael Bourbeau, and CBS/60 Minutes or its agents.

A December 17, 2007, Motion to Quash or for Protective Order was filed by CBS, and was DENIED by this court on December 19, 2007. On January 22, 2008, CBS filed a petition for interlocutory review with the Supreme Judicial Court pursuant to G. L. c. 211, § 3. On March 18, 2008, a Single Justice of the Supreme Judicial Court DENIED CBS' petition without a hearing. The time within which CBS/60 Minutes could seek an appeal from the ruling of the Single Justice expired on March 25, 2008. (S.J.C. R. 2:21).

Based on the information provided by the Commonwealth's attorney and CBS' legal counsel at a September 30, 2008 status hearing before this court, CBS has now complied with the Order in substantial part by providing the video "outtakes" or other sought information.

However, the Commonwealth still seeks documents that set forth what financial or other arrangements and obligations were entered-into by Carolyn Riley and/or her attorney Michael Bourbeau and CBS in order to conduct the aforementioned interview. In short, the Commonwealth contends that CBS has not yet provided documents that might contain "promises, rewards, and inducements" to Carolyn Riley to obtain the aforementioned video-recorded interview.

The Motion for Reconsideration asserts that "the interview was conducted with no preconditions, other than '60 Minutes' agreeing that it would not broadcast photographs of the decedent's siblings, there are no documents containing promises, rewards or inducements made to the defendant (none having been made). See Affidavit of Kyra Darnton, ¶¶ 3-4."

Ms. Darnton's Affidavit notwithstanding, this court finds it highly improbable that a giant, national/international media corporation such as CBS would engage a criminal defendant to conduct an interview to be broadcast nationally over its television network with nothing more than a verbal representation that certain family photographs would not be exposed to the public's view. Logic suggests that at the least – whether considered as "preconditions" or not – CBS likely entered into some form of written agreement with Carolyn Riley and/or her attorney Michael Bourbeau that reserved certain broadcast and re-broadcast rights to the interview; set forth terms of use of the interview (video and/or audio) for Internet or CBS web sites' use; use of the defendant's likeness or voice on the television network or on its radio or Internet sites; use of

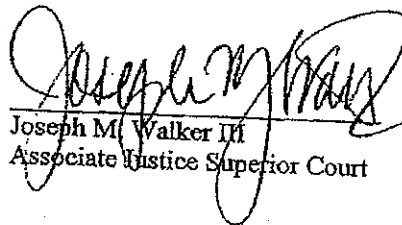
the interview audio for use by CBS-owned radio affiliates, etc. Moreover, it seems logical that CBS would seek to protect itself, to limit its liability for any repercussions -- legal or otherwise -- that might ensue as a result of its use of the interview on its television network or its web or other CBS media outlets. What compensation or consideration that the defendant Carolyn Riley and/or her attorney received for surrendering such broadcast rights to CBS, this court cannot know.

ORDER

Accordingly, CBS' Motion for Reconsideration, or in the Alternative, for Stay Pending Appeal is **DENIED**, and,

The court hereby **ORDERS**, once more, CBS/60 Minutes to provide the Commonwealth's attorney documentation of its relationship with Carolyn Riley and/or her attorney, Michael Bourbeau, as previously set forth in the December 19, 2007 **ORDER**. CBS shall have thirty (30) days to comply with the terms of this renewed **ORDER**.

Regarding the Commonwealth's Petition for Civil Contempt against CBS/60 Minutes, as set forth in Paper NO. 73 of this docket, the matter is referred to Justice Healy for his consideration, decision and further order, as may or may not become necessary. This court otherwise elects to surrender jurisdiction of this case to Justice Healy.


Joseph M. Walker III
Associate Justice Superior Court

DATED: November 12, 2008