

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

COMMONWEALTH OF VIRGINIA)	
)	
)	CRIMINAL NUMBER FE-2015-859
v.)	
)	
ADAM TORRES)	INDICTMENT — MURDER
)	
)	
)	

ORDER REGARDING ELECTRONIC COVERAGE OF PROCEEDINGS

Before the Court is the submission of the local news media regarding electronic coverage of the trial proceedings in this case. The local news media (The Washington Post, WRC-TV, WUSA-TV, WJLA-TV, and the Associated Press) request the placement of one video camera and one still camera in the courtroom during trial. For the reasons stated below, the motion is GRANTED in part and DENIED in part.

Background

On November 11, 2015, Mr. Mike Semel of The Washington Post requested, pursuant to Virginia Code §19.2-266, to place cameras in the courtroom to cover the trial and related proceedings in the matter. On November 18, 2015, counsel for The Washington Post filed a supplementary submission detailing the alleged public interest in this case and the media’s request for one video camera and one still camera to be placed in the courtroom during trial. On November 18, 2015, the other media entities listed above joined in the Post’s motion.

On November 20, 2015, the Court heard argument from the parties and counsel for the local news media, Mr. Laurin H. Mills. The Court noted the arguments made in support of the motion and the objections by the Commonwealth and the Defendant.

The Statute Permitting Electronic Coverage of Trials

Virginia Code §19.2-266 states in part:

A court may solely in its discretion permit the taking of photographs in the courtroom during the progress of judicial proceedings and the broadcasting of judicial proceedings by radio or television and the use of electronic or photographic

means for the perpetuation of the record or parts thereof in criminal and in civil cases, but only in accordance with the rules set forth hereunder.

The Supreme Court of Virginia has interpreted “solely in its discretion,” as used in the above Code section, to give the Court wide latitude “in making the initial determination whether to permit still photography or cameras in the courtroom.” *Virginia Broadcasting Corporation v. Commonwealth of Virginia, et al.*, 286 Va. 239, 251 (2013). “There is no requirement that evidence be presented to the trial court to support the initial decision, and the trial court is not required to explain its reasons for denying a request.” *Id.* at 253.

Decision of the Court

The Court has carefully considered the arguments made in support of and against electronic coverage of the trial proceedings. The Court concludes that still photography electronic coverage of the trial should be, and hereby is, GRANTED, but that broadcast/video electronic coverage of the trial should be, and hereby is, DENIED. This Order in no way impacts either the public’s or the news media’s right to attend the trial proceedings.

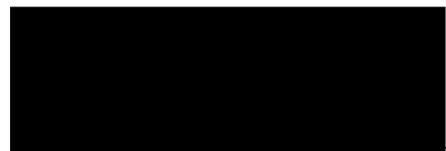
In making this decision, the Court carefully considered the arguments made by counsel for the Commonwealth and the defendant, each of whom oppose any electronic coverage of the trial, as well as the arguments made by counsel for the local news media in support of electronic coverage.

The Court believes that there is sufficient merit in these arguments to warrant a prohibition on broadcast/video electronic coverage of the trial. However, the Court does not believe that still photography should also be prohibited. One pool photographer will be permitted in the courtroom during trial proceedings, subject to the following guidelines:

1. In accordance with the statute, this Court “shall at all times have authority to prohibit, interrupt or terminate electronic media and still photography coverage” of this proceeding. Further, this Court may restrict coverage as it deems appropriate “to meet the ends of justice.” Virginia Code §19.2-266.
2. There shall be no photography of police informants, minors and undercover agents. Virginia Code §19.2-266. In the event that such a witness is expected to testify, the party calling the witness shall notify the Court in advance.
3. Photography of jurors shall be expressly prohibited at any stage of the proceedings, including the portion of trial during which the jury is selected. Virginia Code §19.2-266. There may be no photographing of jurors at any stage of the trial.

4. Still photography may occur at any pre-trial hearings, and may resume after the jury is selected, seated, and sworn.
5. There shall be no photographing of any exhibit.
6. There shall be no photographing of any person sitting in the gallery.
7. Either party may request that the Court order that a particular witness not be photographed.
8. The local news media is permitted to place one still camera in the courtroom, at a location to be designated by court personnel. The Court shall provide the local news media a contact person within the court staff.
9. With regard to the equipment employed by the local news media and the use of the equipment in the courtroom, all media personnel placing or operating electronic equipment in the courtroom shall familiarize themselves and be governed by the "Location of Equipment and Personnel" and the "Equipment and Personnel" sections of Virginia Code §19.2-266.
10. The remaining provisions of Virginia Code §19.2-266 apply as well to the electronic coverage authorized under this Order.
11. Each individual designated to be the pool photographer shall be provided a copy of this ORDER and a copy of Virginia Code §19.2-266 by the bailiff or other sheriff's personnel.

SO ORDERED, this 23 day of November, 2015.



ROBERT J. SMITH
Judge, Fairfax County Circuit Court