

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR SEMINOLE COUNTY, FLORIDA

STATE OF FLORIDA

VS.

CASE NO.: 2012-001083-CFA
SA NO: 1712F04573

GEORGE ZIMMERMAN
_____ /

SECOND* MOTION FOR GAG ORDER

The State of Florida, on 4/26/2012, filed a Motion for Gag Order. The Motion was heard by the Court on 4/27/2012, and an order denying the Motion was issued by Judge Kenneth R. Lester, Jr., on 4/30/2012. Since that date, this case has continued to have an inordinate amount of media coverage. Defendant and Defense Counsel have appeared on national television and talked about the case.

Defense Counsel continues to publicize the case through the use of a website, providing commentary, and encouraging comments about the case through facebook and twitter. Defense Counsel also continues to discuss the case with the media.

The Court yesterday set a trial date of June 10, 2012. Unless Defense Counsel stops talking to the media about the case, in person or by use of Defendant's website, it will more difficult to find jurors who have not been influenced by media accounts of the case. The State would renew its Motion for Gag Order.

The State by and through the undersigned Assistant State Attorney, pursuant to Rule 3.220 (l)(1), Florida Rules of Criminal Procedure, and Rule 4-3.6 of the Rules Regulating the Florida Bar, moves this Honorable Court to enter an order prohibiting any attorney involved with the prosecution or defense of this cause, any personnel employed or affiliated with said attorneys, and law enforcement personnel from making or releasing any extrajudicial statements to the media about the following: facts of this case, any evidence or the lack thereof in this case, the credibility or the lack of credibility of any potential witnesses, opinions about guilt or innocence, and any appropriate or anticipated penalty.

As grounds the State states:

1. This case has already received extensive pretrial publicity in the print and television media, and on the internet.
2. Recently, an attorney for Defendant commented about potential evidence that was published in this case. If there is no limit to attorneys commenting about the facts in the case, attorneys for the State could rebut by commenting about other potential evidence in this case which contradicts or more accurately details what is described in the published evidence, and the commentary would never end. The case would be tried in the media and not in the courtroom. An impartial jury could never be seated.
3. This case should be tried in the courtroom and not in the media.
4. The State and Defendant wish to be able to receive a fair trial.
5. The Court has an obligation to preserve the integrity and fairness of the judicial process and can place limitations on lawyers involved in a case. "Muzzling lawyers (involved in a case) who may wish to make public statements to gain public sentiment for their clients has long been recognized as within the court's inherent power to control professional conduct. State ex rel. Miami Herald Publ. Co. v. McIntosh, 340 So. 2d 904 (Fla. 1977).
6. The Florida Bar also places limitations on the type of information that may be disseminated to the media. Rule 4-3.6 of the Rules Regulating the Florida Bar states:
Trial Publicity
 - (a) Prejudicial Extrajudicial Statements Prohibited. A lawyer shall not make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communications if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding due to its creation or an imminent and substantial detrimental effect on that proceeding.
 - (b) Statements to Third Parties. A lawyer shall not counsel or assist another person to make such a statement. Counsel shall exercise reasonable care to prevent investigators, employees, or other persons assisting in or associated with a case from making extrajudicial statements that are prohibited under this rule.

WHEREFORE, the State requests this Honorable Court Grant this Motion.

CERTIFICATE OF SERVICE

I HERBY CERTIFY that a copy of the foregoing has been furnished by hand to Mark O'Mara, Esq. / Don West, Esq., and by email to Scott Ponce, Esq., and Rachel E. Fugate, Esq., this 18th day of October, 2012.

ANGELA B. COREY
STATE ATTORNEY

By: 

Bernardo de la Rionda
Bar Number: 365841
Assistant State Attorney