

IN THE SUPERIOR COURT OF HALL COUNTY

FILED
HALL CO., GA

2009 MAR 11 PM 4:01

STATE OF GEORGIA

DWIGHT L. BOND, CLERK
SUPERIOR COURT

STATE OF GEORGIA)

v.)

ALLAN ROBERT DICKIE,)

Defendant.)

CRIMINAL ACTION

FILE NO. 07-CR-1296-C

ORDER ON DEFENDANT'S MOTION FOR LIMITED RESTRICTIVE ORDER

This case is before the Court on Defendant's Motion for Limited Restrictive Order. After careful consideration of arguments by counsel and review of the record, the Court enters the following Order:

Defendant moves this Court for a Limited Restrictive Order prohibiting the media from continuing to report, in pictures or in words, that Defendant has certain tattoos upon his body, particularly his forehead. *The Gainesville Times* has reported a description of the tattoo on Defendant's forehead at least once prior to Defendant's Motion. Defendant contends that "few, if any, other measures exist that would likely mitigate the effect of unrestrained pretrial publicity" regarding Defendant's tattoo.

"[P]re-trial publicity, even if pervasive and concentrated, cannot be regarded as leading automatically and in every kind of criminal case to an unfair trial." Neb. Press Ass'n v. Stuart, 427 U.S. 539, 554 (1976). Furthermore, there is a "strong presumption" in Georgia favoring the general rule that a criminal trial shall be open to the press and public on equal terms. R.W. Page Corporation v. Lumpkin, 249 Ga. 576, 579 (1982).

As the requested Limited Restrictive Order is directed at the media, it is considered a prior restraint. Atlanta Journal-Constitution v. State, 266 Ga. App. 168 (2004) [citing Dow Jones

& Co. v. Simon, 842 F.2d 603 (2nd Cir., 1988), cert. denied, 488 U.S. 946 (1988)]. There is a heavy presumption against the constitutional validity of prior restraint of the media. Neb. Press Ass'n v. Stuart, 427 U.S. 539, 558 (1976). Having considered the nature and extent of the pretrial news coverage, whether other measures would likely mitigate the effects of unrestrained pretrial publicity, the precise terms of the proposed Order and how effectively it would operate to prevent the threatened danger, Id. at 562, the Court finds that Defendant has failed to overcome the heavy presumption against prior restraint and has failed to show that no alternatives, other than the requested Limited Restrictive Order, would sufficiently mitigate the adverse effects of pretrial publicity.

The defendant has the ability to cover the tattoo on his forehead and any other tattoos upon his body with makeup or by other reasonable means to shield it from the Jury's view at all times.

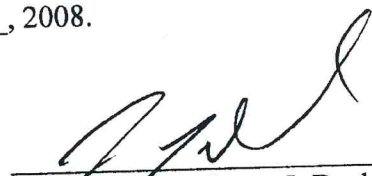
The Court hereby DENIES Defendant's Motion for Limited Restrictive Order, as it is an impermissible prior restraint on the media, but as a precautionary alternative measure will permit Defendant to cover his tattoos at Court appearances.

IT IS HEREBY ORDERED that the defendant's photo in the Comprehensive Justice Information System be changed to one in which the defendant does not have a tattoo on his forehead.

In addition, Georgia's policy favors open judicial proceedings, and the decision whether or not to allow electronic and photographic coverage of a trial is within the discretion of the trial court. Morris Communications, LLC v. Griffin, 279 Ga. 735 (2005). Accordingly,

IT IS HEREBY ORDERED that still photography and audio recording of the proceedings in this case shall be permitted subject to the rules set forth in Attachment "A" of this Order and the discretion of the Court.

So ORDERED this 11 day of March, 2008.


The Honorable Jason J. Deal
Judge, Superior Courts
Northeastern Judicial Circuit

cc: Lee Darragh, District Attorney
Lindsay Burton, Assistant District Attorney
Mike Morrison, Assistant District Attorney
Douglas A. Ramseur, Attorney for Defendant
Joseph W. Vigneri, Attorney for Defendant