

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
_____ /

STATE'S THIRD 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. On 10/18/2012, the State filed a Second Motion and Memorandum for Gag Order. The Motion was heard by the Court on 10/26/2012, and an order denying the Motion was issued by the Court on 10/29/2012. Since that date, this case has continued to have an inordinate amount of media coverage and Defense Counsel continues to talk about the case on local and national television.

Defense Counsel also continues to publicize the case through the use of a website, providing commentary, and encouraging comments about the case through social media. The case is set for trial on 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 prior Motions 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. Two recent examples of Defense Counsel comments to the media are listed below:
 - On 4/30/2013, after hearings the Court conducted an in-camera discussion with counsel for Defendant and the State regarding security and other scheduling / procedural matters.
 - On 4/30/2013, Defense Counsel commented about potential evidence to HLN. See <http://www.youtube.com/watch?v=HHkd1yvahnY>
 - On 4/30/2013, Defense Counsel commented to HLN about a matter discussed during the in-camera hearing that were supposed to remain confidential until the Court determined it should be disclosed. See http://www.youtube.com/watch?v=w_wEKGsw_S0
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 email to Mark O'Mara, Esq., Don West, Esq., Scott Ponce, Esq., and Rachel E. Fugate, Esq., this 23rd day of May, 2013.

ANGELA B. COREY
STATE ATTORNEY

By: 

Bernardo de la Rionda
Bar Number: 365841
Assistant State Attorney