

Gag Order Discussion

THE COURT: All right. Let the record
21 reflect that these proceedings are being held outside the
22 presence of the jury and all parties in the trial are
23 present.

24 MR. GREG DAVIS: It's my understanding
25 that there is a gag order in this case and that this
Sandra M. Halsey, CSR, Official Court Reporter
838

1 applies to witnesses and potential witnesses.

2 THE COURT: That is correct.

3 MR. GREG DAVIS: My understanding was
4 that yesterday, and also this morning, that witnesses
5 that I would expect to be called by the defense, since
6 they were sent out of the courtroom, when I asked that
7 the rule be invoked as to all witnesses, that those
8 witnesses have spoken with the press, after the testimony
9 concluded yesterday.

10 Sarilda Routier and Darlie Kee

11 speaking about the testimony given by Dr. Santos, and
12 testimony presented by the State of Texas.

13 My understanding was that Darlie Kee

14 in fact held a short news conference this morning again,
15 discussing the nature of Dr. Santos's testimony, as well
16 as a number of witnesses, and the types of testimony that
17 the defense expected to present in this case.

18 Now, again, it was my understanding

19 that we had a gag order. My recollection is that Darlie
20 Kee, in fact, was warned by this Court in an earlier
21 hearing concerning the gag order. The Court made it very
22 clear to her what that gag order meant to her.

23 MR. DOUGLAS MULDER: Well, Judge, I
24 don't think --

25 THE COURT: Just a minute.

Sandra M. Halsey, CSR, Official Court Reporter
839

1 MR. DOUGLAS MULDER: Certainly no one
2 is --

3 THE COURT: Just a minute.

4 Anything else?

5 MR. GREG DAVIS: And also, again, I
6 just need some ground rules on our comments to the media
7 too.

8 THE COURT: Well, both sides are under
9 the gag order. If Ms. Kee has done this, we'll take that
10 up.

11 MR. GREG DAVIS: Yes, sir. Just in

12 particular, comments made by counsel to media after the
13 conclusion of the testimony. I mean, if we're going to
14 go into how the case is going, and what we feel about the
15 testimony, then certainly the State would like to put our
16 position out there every day too.

17 THE COURT: All right. Well, both
18 sides are instructed not to discuss the case until it's
19 over. It's just that simple.

20 MR. DOUGLAS MULDER: Well, Judge, we
21 understand that. But I think, as I read the Court's
22 Order, and I won't refer to it as a gag order, because
23 the Court doesn't refer to it as a gag order. But, as I
24 understand the Court's order, anyone, including the
25 spectators here, are certainly free to comment on
Sandra M. Halsey, CSR, Official Court Reporter
840

1 anything that went on in Court. I mean, that's fair
2 game. And if they want to give their interpretations, so
3 be it.

4 I mean, you know, I haven't come in
5 here crying to anybody about anything. I'm probably the
6 only one.

7 MR. RICHARD C. MOSTY: Well, for
8 instance, I saw Dr. Santos on TV giving an interview
9 myself.

10 MR. GREG DAVIS: Well, again, we don't
11 have a problem -- if we're allowed to comment on the
12 case, then we're more than happy to do that. We just
13 want to be on even footing here.

14 THE COURT: Well, you will be able to
15 comment on the case and what goes on in the courtroom
16 every day.

17 MR. GREG DAVIS: Okay. That's fine.

18 THE COURT: That's fine there.

19 MR. GREG DAVIS: We'll do that then.

20 THE COURT: We'll deal with Ms. Kee
21 later.

22 MR. DOUGLAS MULDER: Judge, you know,
23 she, likewise, is free to comment on anything that goes
24 on in Court and give her interpretation. I'm sure the
25 reporters ---

Sandra M. Halsey, CSR, Official Court Reporter
841

1 THE COURT: The Court is aware of
2 that. The Court will --

3 MR. DOUGLAS MULDER: Well, then I
4 needn't waste anymore time, Judge. We're ready to go.

5 THE COURT: Who is your first witness?

6 All right. Bring the jury in, please.