

Volume 8

1 IN THE CRIMINAL DISTRICT COURT NO. 3
2 DALLAS COUNTY, TEXAS
3
4
5
6 THE STATE OF TEXAS }
7 VS: } NO. F-96-39972-J
8 DARLIE LYNN ROUTIER } & F-96-39973-J 9
10
11
12
13 STATEMENT OF FACTS
14 MOTION HEARING
15 FOR VIOLATION OF GAG ORDER
16 AND TO DISMISS ATTORNEYS
17 VOL. 8 OF 53 VOLS.
18 September 20, 1996
19 Friday
20
21
22
23
24
25

Sandra M. Halsey, CSR, Official Court Reporter 1

1
2 C A P T I O N
3
4
5 BE IT REMEMBERED THAT, on Friday, the 20th day of
6 September, 1996, in the Criminal District Court Number 3
7 of Dallas County, Texas, the above-styled cause came on
8 for a hearing before the Hon. Mark Tolle, Judge of the
9 Criminal District Court No. 3, of Dallas County, Texas,
10 without a jury, and the proceedings were held, in open
11 court, as follows:
12
13
14
15
16
17
18
19
20

21
22
23
24
25

Sandra M. Halsey, CSR, Official Court Reporter 2

1
2 A P P E A R A N C E S
3
4
5 HON. JOHN VANCE,
6 Criminal District Attorney
7 Dallas County, Texas
8
9 BY: HON. GREG DAVIS
10 Assistant District Attorney
11 Dallas County, Texas
12
13 AND:
14 HON. JOHN GRAU
15 Assistant District Attorney
16 Dallas County, Texas
17
18 AND:
19 HON. SHERRI WALLACE
20 Assistant District Attorney
21 Dallas County, Texas
22
23 APPEARING FOR THE STATE OF TEXAS
24
25

Sandra M. Halsey, CSR, Official Court Reporter 3

1
2
3 ADDITIONAL APPEARANCES:
4
5 HON. DOUGLAS PARKS
6 Attorney at Law
7 Dallas County, Texas
8
9 AND:
10 HON. WAYNE HUFF
11 Attorney at Law
12 Dallas County, Texas
13
14 Appearing for the Defendant

15 For the purpose of the trial
16 AND:
17
18 HON. BLAKE WITHROW
19 Attorney at Law
20 Dallas County, Texas
21
22 APPEARING FOR THE DEFENDANT
23 for the purpose of the appeal
24
25

Sandra M. Halsey, CSR, Official Court Reporter 4

1 ADDITIONAL APPEARANCES:
2
3 HON. DOUGLAS MULDER
4 Attorney at Law
5 Dallas County, Texas
6
7
8 APPEARING FOR MRS. DARLIE KEE
9 AND MR. DARIN ROUTIER,
10 for the purpose of this
11 Hearing.
12
13 AND: HON. JOHN WEDDLE
14 Attorney at Law
15 Dallas County, Texas
16
17
18 APPEARING FOR CHIEF BOB KNOWLES
19 for the purpose of this
20 Hearing.
21
22
23
24
25

Sandra M. Halsey, CSR, Official Court Reporter 5

1 P R O C E E D I N G S
2
3 September 20th, 1996
4 Friday
5 9:30 a.m.
6
7 (Whereupon, the following
8 proceedings were held in

9 Open court, in the presence
10 And hearing of the
11 Defendant, being
12 represented by her attorneys
13 and the representatives of
14 The State of Texas, but
15 without the presence of a
16 jury, as follows:)
17
18
19 THE COURT: All right. Bring out Mrs.
20 Routier, please.
21 All right. On the record in Causes
22 F-96-39972 and 39973-J, styled the State of Texas versus
23 Darlie Lynn Routier. And the purpose of this hearing
24 today is we're going to take up the notice of the
25 violation of the Court's gag order. We will do that

Sandra M. Halsey, CSR, Official Court Reporter 6

1 first. And then we will take up the motion for dismissal
2 of the court-appointed attorney.
3 And, as regards to the notice of
4 violation of the Court's gag order, we will take up first,
5 the allegations against Ms. Darlie Kee, and second Mr.
6 Darin Routier, and thirdly, against Chief Bob Knowles.
7 And, the State is represented by Mr.
8 Greg Davis, Mr. John Grau and Ms. Sherry Wallace.
9 Ms. Darlie Kee -- Mr. Mulder, you
10 represent Ms. Kee for the purposes of this hearing only;
11 is that correct?
12 MR. DOUGLAS MULDER: Yes, sir.
13 THE COURT: And then, Mr. Routier.
14 Where is Mr. Routier? Darin Routier.
15 MR. DOUGLAS MULDER: I will represent
16 him as well, Judge.
17 THE COURT: You are representing both?
18 MR. DOUGLAS MULDER: Yes, sir, Judge.
19 THE COURT: All right. Come on up
20 front, Mr. Routier, and have a seat up here then. All
21 right.
22 MR. DOUGLAS MULDER: Yes, sir.
23 THE COURT: Okay. Everybody has a
24 chair. So, Mr. Mulder, it's my understanding for this
25 hearing, you are representing both Darlie Kee and Darin

Sandra M. Halsey, CSR, Official Court Reporter 7

1 Routier?
2 MR. DOUGLAS MULDER: Yes, sir.

3 THE COURT: You are retained to
4 represent them; is that correct?
5 MR. DOUGLAS MULDER: I am retained by
6 Ms. Kee to represent her and she has asked me to represent
7 Darin as well, I didn't know that until this morning.
8 THE COURT: Is that correct, Ms. Kee?
9 MR. DOUGLAS MULDER: Judge, I had asked
10 Mr. Parks if he represented him and he said he didn't
11 think he could, so I just volunteered to represent him.
12 THE COURT: Very well. Chief Knowles
13 is represented by Mr. John Weddle and they are both
14 present, and Mrs. Routier is represented by the attorneys
15 of record, Mr. Douglas Parks and Mr. Blake Withrow.
16 The Court has heard the tapes, the
17 Court has read all the documents filed. The Court has
18 read the -- all motions and is totally familiar with them,
19 and is familiar with the affidavit filed by Chief Knowles.
20 So, the first part we will take up is
21 with regards to Darlie Kee. Does either side -- does the
22 State have anything in that?
23
24 (Whereupon, the following
25 mentioned item was

Sandra M. Halsey, CSR, Official Court Reporter 8

1 marked for
2 identification only
3 as State's Exhibit ZZZ,
4 after which time the
5 proceedings were
6 resumed on the record
7 in open court, as
8 follows:)
9
10
11 MR. GREG DAVIS: Yes, sir, with regards
12 to that, for the purpose of this hearing only, the State
13 would offer the copy of the audio tape, and I have labeled
14 that as State's Exhibit triple Z.
15 THE COURT: Any objection?
16 MR. DOUGLAS MULDER: No, I have no
17 objection.
18 THE COURT: All right. State's Exhibit
19 Number triple Z will be admitted, which are the audio
20 tapes.
21 MR. GREG DAVIS: Yes, sir.
22
23 (Whereupon, the above
24 mentioned item was

25 received in evidence

Sandra M. Halsey, CSR, Official Court Reporter 9

1 as State's Exhibit ZZZ,
2 for all purposes, after
3 which time, the
4 proceedings were
5 resumed as follows:)

6
7

8 THE COURT: Anything else?

9 MR. GREG DAVIS: No, your Honor.

10 THE COURT: I assume both sides are
11 familiar with what is in those tapes?

12 MR. DOUGLAS MULDER: Yes, sir.

13 THE COURT: All right. Anything, Mr.

14 Mulder, for Ms. Kee?

15 MR. DOUGLAS MULDER: No, sir, I would

16 just like to inquire of the Court as to whether or not she
17 was in Court at the time the gag order was imposed, or
18 whether or not she had been subpoenaed at that point, at
19 the time this tape was made.

20 THE COURT: Well, the Court has
21 reviewed the entire file carefully, and it's apparent that
22 Ms. Kee was not under subpoena at the time this interview
23 occurred. Since she was not under subpoena at the time
24 this interview occurred, the Court is unable to hold her
25 in contempt of Court.

Sandra M. Halsey, CSR, Official Court Reporter 10

1 So, we want to caution you, Ms. Kee,
2 however -- well, I will do that later on, but I cannot
3 hold you in contempt, because you were not under subpoena
4 at the time that statement was made on the radio, on the
5 Rick Roberts Show, but nonetheless, you are under subpoena
6 now; do you understand that?

7 MRS. DARLIE KEE: I do.

8 THE COURT: All right. Very well. All
9 right. Let's proceed to Darin Routier.

10 MR. DOUGLAS MULDER: Judge, she
11 understands that the gag order applies to her now,
12 however, she has not been furnished with a copy of the gag
13 order.

14 THE COURT: Well, we can remedy that
15 today.

16 All right. I would like to make
17 inquiry of your client, Mr. Mulder. Did anyone urge you,
18 or did anyone tell you to violate the gag order and if so,

19 who did it?
20 MRS. DARLIE KEE: I had a call from the
21 radio station, and she said that Rick Roberts was an
22 attorney, and he said that if I had not seen the gag
23 order, and if I had not been subpoenaed, that I probably
24 wasn't under the gag order. And then they asked John Read
25 to call me. They said he was on the show, and that he was

Sandra M. Halsey, CSR, Official Court Reporter 11

1 the lead attorney for the Johnny Hernandez case.
2 THE COURT: John Read of Dallas, local
3 attorney?
4 MRS. DARLIE KEE: I guess so. And so,
5 he called me, and he asked me the same thing, and he said
6 that if I had not seen the gag order, or if I had not been
7 subpoenaed, that I probably wasn't under the gag order.
8 THE COURT: All right. Do you have
9 anything for Mr. Darin Routier, Mr. Mulder?
10 MR. DOUGLAS MULDER: No, sir, I do not.
11 THE COURT: There is no evidence you
12 would like to put on at this time?
13 MR. DOUGLAS MULDER: No, sir.
14 THE COURT: All right. That is fine.
15 All right.
16 Mr. Routier, it was rather clear that
17 you were under the gag order, you knew that.
18 MR. DARIN ROUTIER: I had been
19 subpoenaed, but I didn't know that it pertained to me.
20 MR. DOUGLAS MULDER: Your Honor, as I
21 understand it, he did not discuss the evidence, or really
22 anything that pertained to the case.
23 THE COURT: Well, I have heard what Mr.
24 Routier stated on the show, I listened to those tapes
25 several times. You did not go into any of the facts of

Sandra M. Halsey, CSR, Official Court Reporter 12

1 the case. You were under the gag order, but since you did
2 not go into any of the facts in the case, the Court, at
3 this time, is unable to hold you in contempt. That does
4 not mean that I won't do it in the future; do you
5 understand that?
6 MR. DARIN ROUTIER: Yes, sir.
7 THE COURT: And, Ms. Kee, I want to
8 caution you very carefully. You are now under the gag
9 order, and I can assure you that I will not be this
10 lenient again, should you continue to make any statements;
11 is that clear?
12 MRS. DARLIE KEE: That's clear.

13 THE COURT: I have noticed that since
14 the gag order -- we're under the civil rules here, so you
15 have 30 days before we had this hearing.
16 I have noticed that neither of you have
17 said anything since that time.
18 All right. Thank you.
19 Now, let's go on --
20 MR. DOUGLAS MULDER: May they be
21 excused?
22 THE COURT: No, just stay right there a
23 minute.
24 Now, the next thing we have, is a
25 motion to hold Chief Bob Knowles in contempt of the gag

Sandra M. Halsey, CSR, Official Court Reporter 13

1 order, and that was filed by Mr. Parks.
2 Anything in that, Mr. Parks? Do you
3 want to proceed in that?
4 MR. DOUGLAS PARKS: We will just ask
5 the Court to take judicial notice of the motion, and the
6 attachments thereto, your Honor.
7 THE COURT: I have done that.
8 Anything, Mr. Weddle? Do you have anything?
9 MR. JOHN WEDDLE: Your Honor, we're
10 satisfied with the affidavit presented by Chief Knowles.
11 THE COURT: All right. Well, I have
12 read the affidavit, and also, I am satisfied that while
13 there was a gag order, that Chief Knowles had not been
14 given a copy of that gag order; is that correct?
15 MR. JOHN WEDDLE: That is a correct
16 statement. He had also not received a subpoena or any
17 other notice concerning any matters concerning this trial,
18 your Honor.
19 THE COURT: Well, let me look at this
20 one more time. Well, it's rather clear that Chief Knowles
21 did not have any notice of this gag order. And so while
22 technically he was under it, if he did not have actual
23 notice of it, I believe that the gag order was -- a copy
24 was never given to him; is that correct?
25 MR. JOHN WEDDLE: That's correct, your

Sandra M. Halsey, CSR, Official Court Reporter 14

1 Honor. He hasn't even been served with the Order to Show
2 Cause. And, just as a matter of course, because of the
3 way we handle things down there on routine matters, like
4 subpoenas, they bring those things to me and I handle
5 them. That happens probably, 12 or 15 times a week, and
6 so, he would have had no way of knowing that he had been

7 subpoenaed, or a subpoena had been issued in his name, or
8 anything else, until well after his statements were made
9 to the news media.

10 THE COURT: Well, in as much as it's
11 rather clear that Sheriff Knowles had never been served
12 with a copy of the gag order personally, I am mindful of
13 his long and excellent service to the citizens of Dallas
14 County, and his reputation as an outstanding law officer,
15 and so, I am not going to hold him in contempt at this
16 time.

17 However, Chief Knowles, I would
18 appreciate it very much if you would make sure that all
19 members of the sheriff's office understand that they are
20 under this gag order. Will you do that?

21 CHIEF BOB KNOWLES: Yes, sir.

22 THE COURT: All right. Fine. That
23 means jailers, Sheriff Jim Bowles, right on down.

24 Everybody, Chief Tony, you, everybody over there.

25 CHIEF BOB KNOWLES: Yes, sir.

Sandra M. Halsey, CSR, Official Court Reporter 15

1 THE COURT: Okay. And I would like to
2 caution all sides to please do that. But I am confident
3 that this won't happen again, and I think that it's pretty
4 well demonstrated over the last 30 days, because we have
5 had no comments from any of you, as regards to what is
6 going on in this trial from members of the press, or
7 anybody else.

8 Now, we're going to take up the matter
9 of the motion to dismiss the court-appointed attorneys.

10 And, I would like to ask that -- I have read this motion.

11 Does the State have anything, Mr. Davis?

12 MR. GREG DAVIS: No, sir, we don't have
13 anything further on that motion.

14 THE COURT: Well, the State (sic) has
15 read the motion, and so, Mr. Darin Routier, I'm going to
16 ask you, have you retained Mr. Douglas Mulder to represent
17 your wife, Darlie Routier, the defendant in these cases?

18 MR. DARIN ROUTIER: No, I have not.

19 THE COURT: To your knowledge, has your
20 wife made any arrangements to have Mr. Mulder represent
21 her in these cases?

22 MR. DARIN ROUTIER: Not that I know of.

23 THE COURT: Not that you know of, is
24 that what you said?

25 MR. DARIN ROUTIER: Well, I don't

Sandra M. Halsey, CSR, Official Court Reporter 16

1 understand exactly what you -- he has met with her, but --

2 THE COURT: If you would just stand up

3 when we ask you these questions, please. The question is

4 really simple: Have you retained Douglas Mulder, the

5 attorney, to represent your wife, Darlie Routier, the

6 defendant in these cases?

7 MR. DARIN ROUTIER: No.

8 THE COURT: To your knowledge, has your

9 wife made any arrangements to have Mr. Mulder represent

10 her?

11 MR. DARIN ROUTIER: No, sir.

12 THE COURT: All right. Mr. Mulder,

13 I'll ask you. Have you been retained to represent Darlie

14 Routier in this case?

15 MR. DOUGLAS MULDER: Judge, I have been

16 retained by her mother, as I explained to the Court, to

17 assist Mr. Parks and Mr. Huff and Mr. Withrow, if I can,

18 in her defense.

19 THE COURT: So you are more of a

20 consultant of some kind?

21 MR. DOUGLAS MULDER: Well, I would say

22 so.

23 THE COURT: Well, I have looked into

24 the Penal Code, and in the Code of Criminal Procedure, and

25 I cannot find any provision for a consultant, but as

Sandra M. Halsey, CSR, Official Court Reporter 17

1 regards to your status, you may consult with whoever has

2 hired you, and I assume that Ms. Kee has hired you, the

3 mother?

4 MR. DOUGLAS MULDER: Yes, sir.

5 THE COURT: And with the attorneys of

6 record, if they so desire.

7 Now the attorneys of record in this

8 case are Mr. Douglas Parks, the lead attorney, and Mr.

9 Wayne Huff and Mr. Blake Withrow. You may also be present

10 in the courtroom during the proceedings. However, you may

11 not make or file any motions in this case, nor shall you

12 be permitted to make any objections, question witnesses,

13 or make any arguments. These will be the duties of the

14 attorneys of record alone. Mr. Douglas Parks is the lead

15 attorney and he, along with Mr. Wayne Huff and Mr. Blake

16 Withrow are the attorneys of record, and they will make

17 all of the decisions concerning the trial of this case,

18 from the defense standpoint. Is that clear?

19 MR. DOUGLAS MULDER: Yes, sir, very

20 clear.

21 THE COURT: Okay. Thank you. Anything

22 else?

23 MR. GREG DAVIS: No, sir.
24 THE COURT: Either side have anything
25 else?

Sandra M. Halsey, CSR, Official Court Reporter 18

1 MR. DOUGLAS PARKS: No, sir.
2 THE COURT: All right. These
3 proceedings are concluded.
4 MR. GREG DAVIS: Did you want us to
5 stay here for something?
6 THE COURT: Yes, stay here for just a
7 minute.
8 We are back on the record in the Darlie
9 Routier matters, the notice of violation of gag order and
10 motion to substitute defense counsel hearing.
11 I just want to make it clear, Mr.
12 Mulder, that if you do enter the case full time, you must
13 file a motion to substitute counsel; is that clear?
14 MR. DOUGLAS MULDER: Yes, sir.
15 THE COURT: A formal motion.
16 MR. DOUGLAS MULDER: Yes, sir, I
17 understand.
18 THE COURT: And the Court will rule on
19 it at that time.
20 MR. DOUGLAS MULDER: All right.
21 THE COURT: Okay. I just wanted to
22 make sure that everybody understands that.
23 MR. DOUGLAS MULDER: Yes, sir.
24 THE COURT: Very well. That concludes
25 this hearing then.

Sandra M. Halsey, CSR, Official Court Reporter 19

1
2 (Whereupon, this
3 Concluded the
4 Proceedings held,
5 In this cause,
6 On this date.)
7
8
9
10
11
12
13
14
15
16

17
18
19
20
21
22
23
24
25

Sandra M. Halsey, CSR, Official Court Reporter 20

1 CERTIFICATION PAGE
2 THE STATE OF TEXAS)
3 THE COUNTY OF DALLAS)
4 I, Sandra M. Halsey, Official Court Reporter of
5 Criminal District Court Number 3, of Dallas County, Texas,
6 do hereby certify that I reported in Stenograph notes the
7 foregoing proceedings, and that they have been edited by
8 me, or under my direction and the foregoing transcript
9 contains a full, true, complete and accurate transcript of
10 the proceedings held in this matter, to the best of my
11 knowledge.
12 I further certify that this transcript of the
13 proceedings truly and correctly reflects the exhibits, if
14 any, offered by the respective parties.
15 SUBSCRIBED AND SWORN TO, this _____ day of
16 _____, 1996.
17 _____
18 Sandra M. Day Halsey, CSR
19 Official Court Reporter
20 Criminal District Court No. 3
21 Dallas County, Texas
22 Phone, (214) 653-5923
23
24 Cert. No. 308
25 Exp 12-31-96

Sandra M. Halsey, CSR, Official Court Reporter 21

1 STATE OF TEXAS)
2 COUNTY OF DALLAS)
3
4 JUDGES CERTIFICATE
5
6
7
8 The above and foregoing transcript, as certified by
9 the Official Court Reporter, having been presented to me,
10 has been examined and is approved as a true and correct

11 transcript of the proceedings had in the foregoing styled
12 cause, and aforementioned cause number of this case.

13

14

15

16

17

18

19

20 MARK TOLLE, JUDGE

21 Criminal District Court Number 3

22 Dallas County, Texas

23

24

25

Sandra M. Halsey, CSR, Official Court Reporter 22