

FILED

IN THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI FEB 17 2011

filed
2-17-11

STATE OF MISSOURI,)
Plaintiff)

v.)

ALYSSA D BUSTAMANTE,)
Defendant)

BRENDA A. UMSTATTD
CLERK CIRCUIT COURT
COLE COUNTY, MISSOURI

Cause No. 09AC-CR03516-01F

Division No. 4

Defendant's Request to Establish Media Guidelines for Court Appearances

COMES NOW Alyssa Bustamante, by and through counsel, and requests this court to establish specific guidelines for media covering the court appearances in this cause. The movant in this cause is entitled to due process and a fair trial pursuant to the V and XIV amendments to the United States Constitution and Article One, Section 10 of the Missouri Constitution; is entitled to the Right to Counsel pursuant to the VI amendment to the United States Constitution and Article One, Section 18(a) of the Missouri Constitution; is entitled to an impartial jury pursuant to the VI amendment of the United States Constitution and Article One, Section 18(a) of the Missouri Constitution; and is protected from self-incrimination by the V amendment to the United States Constitution and Article One, Section 19 of the Missouri Constitution. These rights can be infringed upon by intrusive media coverage that includes video recording, audio recording and photography during hearings, court appearances and at trial. In order to protect these Constitutional rights of the movant while providing media access, as previously ordered by the court, the movant requests that media guidelines be established to control the environment that the movant will be required to defend herself within.

1. Movant is charged with murder in the first degree and armed criminal action and has entered a pleas of not guilty.

2. Several court appearances have been conducted at which numerous media organizations have appeared, taken still photos, and created video and audio recordings.

3. Media presence in the courtroom is authorized and regulated by Rule 16 of the Supreme Court Operating Rules in the Missouri Rules of Court. The relevant portion of Rule 16 for addressing the presence of media in the courtroom is 16.02 set out below.

16.02 IN GENERAL

Broadcasting, televising, recording, and photographing will be permitted in the courtroom under the following conditions:

- a) Permission first shall have been expressly granted by the judge, who may prescribe such conditions of coverage as provided for in this Court Operating Rule No. 16, including the manner in which objections may be raised under Court Operating Rule No. 16.03 (c).
- b) Media coverage of a proceeding shall not be permitted if the judge concludes that under the circumstances of the particular proceeding such coverage would materially interfere with the rights of the parties to a fair trial.
- c) Media coverage is prohibited of any court proceeding that, under Missouri law, is required to be held in private. Further, no coverage shall be permitted in any juvenile, adoption, domestic relations, or child custody hearing. Notwithstanding the foregoing, the news media, if permitted by the judge, may record and photograph a juvenile who is being prosecuted as an adult in a criminal proceeding.
- d) Media coverage of prospective jurors, jurors, and jury selection is prohibited.
- e) There shall be no audio pickup or broadcast of conferences in a court proceeding between attorneys and their clients, between co-counsel, between counsel and the judge held at the bench or in chambers, or between judges in an appellate proceeding.
- f) There shall be no focusing on nor photographing of materials on counsel tables; however, the media will be given access during periods of recess to exhibits that have been introduced and received into evidence, absent objection from counsel in the proceedings.
- g) The quantity and types of equipment permitted in the courtroom shall be subject to the

discretion of the judge within the guidelines set out in this Court Operating Rule No. 16.

h) Notwithstanding the provisions of any of the guidelines set out in this Court Operating Rule No. 16, the judge, upon application of the media coordinator, may permit the use of equipment or techniques at variance therewith if the application for variance is included in the advance notice of coverage. Such variances may be allowed by the judge without advance application or notice if all counsel and parties consent to it. Ruling upon any variance application shall be in the sole discretion of the judge.

i) If media coverage of a proceeding is granted, members of the media shall not record interviews for broadcast in the hallways immediately adjacent to the entrances to the courtroom. Photographing through the windows or open doors of the courtroom is prohibited.

j) The judge may, as to any or all media participants, limit or terminate photographic or electronic media coverage at any time during the proceedings if the judge finds:

- 1) that these guidelines or rules imposed by the judge have been violated or
- 2) that substantial rights of individual participants or rights to a fair trial may be prejudiced by such manner of coverage if it is allowed to continue.

k) The privilege of photographic and electronic coverage provided for by this Court Operating Rule No. 16 may be exercised only by persons or organizations that are part of the news media or educational television.

l) There may be media coverage of investitive or ceremonial proceedings at variance with the provisions of this Court Operating Rule No. 16 in the discretion of the presiding judge or judges.

m) No media coverage shall be permitted in criminal proceedings until the defendant is represented by counsel or has waived such representation.

4. The court has the authority to prescribe the conditions of coverage and limit coverage (16.02a, 16.02b, 16.02j) if the rights of the participants may be prejudiced.

5. Movant requests that the court limit media coverage in the following manner:

a. To protect Alyssa's right to counsel and protection from self-incrimination the court order that all video, audio and still recording devices be forbidden to record Alyssa and counsel communicating in any manner.

b. To protect Alyssa's right to counsel and protection from self-incrimination and prevent inadvertent recording of Alyssa or attorneys the court order

that all audio recording be required to be made through the court sound system. No other microphones be allowed in the courtroom.

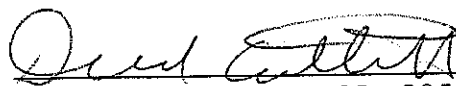
c. To protect Alyssa's right to due process and an impartial trial that counsel be given advance opportunity to make specific objections should there be any request by media to record or photograph exhibits (16.02f). Counsel hereby states that they generally object to any recording of documents or exhibits in the courtroom during hearings or trial.

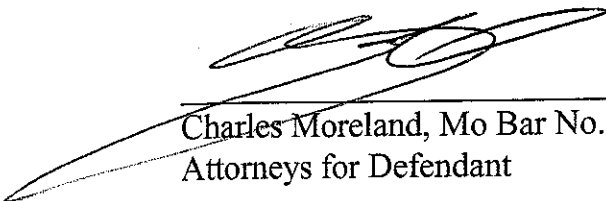
d. In addition to the protections enumerated in Rule 16.02i, movant requests the court prohibit any interviews by media from taking place on the floor of the courthouse where the trial is being held.

e. Movant request that the court bar all video, audio and photographic recording in the courtroom during hearings on any Motion to Suppress so as to limit the publication or dissemination of any evidence that may be found to be unconstitutionally collected and excluded from the trial. *Movant further requests that, during any hearing on a motion to suppress, the courtroom be closed to all persons other than those who have a right to be present.*

WHEREFORE, counsel request that this Honorable Court enter an order setting guidelines for actions of media during all further court appearances in this cause.

Respectfully submitted,

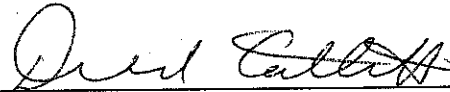

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Certificate of Service

I certify that a true copy of the above and foregoing was personally served on all parties
this 17th day of February, 2011.



Donald Catlett