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39972-J
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ORDER
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ATTORNEYS
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VOLS.
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1996
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IN THE CRIMINAL DISTRICT COURT NO.

DALLAS COUNTY, TEXAS

THE STATE OF TEXAS }
VS: } NO. F-96-
DARLIE LYNN ROUTIER } & F-96-
39972-J
39973-J 9

STATEMENT OF FACTS
MOTION HEARING
FOR VIOLATION OF GAG
ORDER
AND TO DISMISS

VOL. 8 OF 53

September 20,

Friday

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Sandra M. Halsey, CSR, Official Court Reporter

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C A P T I O N

BE IT REMEMBERED THAT, on Friday, the 20th day
of
September, 1996, in the Criminal District Court
Number 3
of Dallas County, Texas, the above-styled cause came
on
for a hearing before the Hon. Mark Tolle, Judge of
the
Criminal District Court No. 3,
of Dallas County, Texas,
without a jury, and the
proceedings were held, in open
court, as follows:

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Sandra M. Halsey, CSR,
Official Court Reporter

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A P P E A R

A N C E S

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HON. JOHN VANCE,

6

Criminal District Attorney

7

Dallas County, Texas

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BY: HON. GREG DAVIS

10

Assistant

District Attorney

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Dallas County,

Texas

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AND:

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HON. JOHN GRAU

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Assistant

District Attorney

16

Dallas County,

Texas

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AND:

19

HON. SHERRI

WALLACE

20

Assistant

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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

Reporter Sandra M. Halsey, CSR, Official Court

1 ADDITIONAL APPEARANCES:

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3

HON. DOUGLAS MULDER

4

Attorney at Law

5

Dallas County, Texas

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APPEARING FOR MRS. DARLIE

KEE

9

AND MR. DARIN ROUTIER,

10

for the purpose of

this

11

Hearing.

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AND: HON. JOHN WEDDLE

14

Attorney at Law

15

Dallas County, Texas

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APPEARING FOR

CHIEF BOB KNOWLES

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for the

purpose of this

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Hearing.

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Sandra M. Halsey, CSR, Official
Court Reporter

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Mrs.

P R O C E E D I N

September 20th, 1996
Friday
9:30 a.m.

(Whereupon, the

proceedings were held

Open court, in the

And hearing of the
Defendant, being
represented by her

and the representatives

The State of Texas, but
without the presence of a
jury, as follows:)

THE COURT: All right. Bring out

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

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

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

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

Reporter Sandra M. Halsey, CSR, Official Court

1 as State's Exhibit
ZZZ,

2 for all purposes,
after

3 which time, the
4 proceedings were
5 resumed as

follows:)

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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

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

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

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

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

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

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

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

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

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

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(Whereupon,

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Concluded the

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Proceedings

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In this

cause,

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On this date.)

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Sandra M. Halsey, CSR, Official Court Reporter

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CERTIFICATION PAGE

THE STATE OF TEXAS)
THE COUNTY OF DALLAS)

I, Sandra M. Halsey, Official Court Reporter of
Criminal District Court Number 3, of Dallas County,
Texas,

do hereby certify that I reported in Stenograph notes
the
foregoing proceedings, and that they have been edited
by
me, or under my direction and the foregoing transcript
contains a full, true, complete and accurate
transcript of
the proceedings held in this matter, to the best of my
knowledge.

I further certify that this transcript of the
proceedings truly and correctly reflects the exhibits,
if
any, offered by the respective parties.

SUBSCRIBED AND SWORN TO, this ____ day of
_____, 1996.

Sandra M. Day Halsey, CSR
Official Court Reporter
Criminal District Court

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

1 STATE OF
TEXAS)
2 COUNTY OF
DALLAS)

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JUDGES CERTIFICATE

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.

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MARK TOLLE, JUDGE

21

Criminal District Court Number 3

22

Dallas County, Texas

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Sandra M. Halsey, CSR, Official Court Reporter

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