

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT NASHVILLE

FILED
May 22, 1996
C.C.A. NO. 01C01-9605-CC-00177
Cecil W. Crowson
Appellate Court Clerk

STATE OF TENNESSEE,)

Appellee,)

VS.)

COURTNEY B. MATHEWS,)

Appellant,)

and)

THE NASHVILLE BANNER)

THE TENNESSEAN, AND)

THE LEAF-CHRONICLE)

Appellants)

and)

MEREDITH CORPORATION)

(WSMV CHANNEL FOUR NEWS))

Intervenor.)

C.C.A. NO. 01C01-9605-CC-00177
MONTGOMERY COUNTY

OPINION

The defendant is charged with four counts of murder stemming from a mass murder in Montgomery County. The state seeks the death penalty in each murder count. At this time, jury selection has begun. Following the media's notification to the trial court pursuant to Tennessee Supreme Court Rule 30 that camera coverage would be sought, the defendant objected to any cameras, either television or still, in the courtroom. An evidentiary hearing was conducted, and the defendant presented several witnesses on the issue. The prosecution joined in with the defendant's request that cameras be banned.

The trial court entered an order on April 17, 1996, permitting television cameras in the courtroom with restrictions. Still cameras were to be banned from the courtroom during times when the jury was present. On May 1, 1996, the court, in a supplemental order, held that it would consider a plan for using still

cameras in the jury's presence if the plan "provide[d] for the use of still cameras without being seen or heard by the jury."

The Nashville Banner, The Tennessean, and The Leaf Chronicle filed a Tenn. R. App. P. 10 application contesting the limitations on the use of still cameras.¹ We granted the application on May 3, 1996. Subsequently, the defendant, through newly appointed counsel for the media coverage issues, filed a Rule 10 application opposing any type of in-court camera coverage. We granted his application.

By order dated May 15, 1996, the trial court approved a plan submitted by the print and electronic media regarding in-court camera use during the presence of the jury in the courtroom. The plan involves the construction of a screen in the courtroom through which photographs may be taken out of sight of the jury and witnesses.

On May 16, 1996, this Court, in a special panel, heard argument from the state, defendant, and media on the trial court's order. We affirm.

Supreme Court Rule 30 provides for in-court media coverage at trial proceedings. Coverage is subject, at all times, to the authority of the judge to "(i) control the conduct of the proceedings before the court; (ii) maintain decorum and prevent distraction; (iii) guarantee the safety of any party, witness, or juror; and (iv) ensure the fair administration of justice." Rule 30(A)(1) and (D)(2). Further, Rule 30 (D)(2) allows the trial court upon a proper showing to limit in-court media coverage in order to accommodate any of these important interests. Rule

¹Meredith Corporation (WSMV Channel Four News) filed a motion to intervene, but did not file a separate Rule 10 application.

30(H)(2) contemplates that in appropriate cases, court facilities may be altered at the expense of the media in order protect trial participants, witnesses and jurors from distraction or harm while allowing in-court coverage.

Here, the trial court held an evidentiary hearing; however, the media was not allowed to counter the evidence presented by the defendant and the state.² Much of the defendant's and state's evidence at the hearing was specific to this case and dealt with juror and witness concerns about safety and the potentially negative effects of in-court media coverage on the behavior of witnesses and jurors. Taking judicial notice of the lay-out of the courtroom, the judge concluded that the configuration of the trial courtroom made it difficult if not impossible to locate cameras unobtrusively. Finally, it is apparent the trial judge was concerned about the fact that this is a death penalty case subject to heightened concerns of fairness and exacting review.³

In making its decision, the court considered the guidance we gave in State v. Freddie Morrow, No. 01C01-9601-CC-00022, 1996 WL 170679 (Tenn. Crim. App. Apr. 12, 1996). We find that the court was cognizant of Morrow's holding that Rule 30 presumptively entitles the media to in-court camera coverage. There is, however, substantial evidence in this record that concerns about safety and distractions warrant making the presence of in-court cameras as inconspicuous as possible. This evidence coupled with the physical limitations of the courtroom lead us to conclude that the trial judge did not abuse his discretion in the decisions he has made in this highly provocative trial. The judge has endeavored

²The Court is of the opinion that the trial court should have allowed the media to present proof on these issues. However, this error does not change our holding. The print media admitted at oral argument that the restrictions on in-court camera coverage imposed by the trial court, although somewhat burdensome, will not seriously hamper the media's ability to make the desired photographs of the trial proceedings.

³The defendant argues that Rule 30 implicitly contains an exclusion of capital cases from its provisions. We decline to read Rule 30 in such a manner. It is obvious that such cases carry with them the highest degree of public and media interest and are thus likely to be the very proceedings for which Rule 30 will most often be invoked. However, the fact that a case involves possible application of the penalty of death is certainly an important consideration in accommodating the defendant's right to a fair trial and the media's interests in covering the proceedings.

to accommodate the interests of all the parties involved; and on the record before us, this Court cannot find any abuse of discretion in this matter.

The evidence does not preponderate against the findings of the trial judge. No error of law, which is apparent in this record, requires this Court's reversal of the trial judge's actions.

We affirm pursuant to Rule 20 of the Tennessee Court of Criminal Appeals Rules.

ENTER, this the _____ day of May, 1996

PER CURIAM
(PEAY, SUMMERS, AND SMITH, JJ.)