

IN THE THIRTEENTH JUDICIAL CIRCUIT COURT  
FOR HILLSBOROUGH COUNTY, FLORIDA  
Criminal Justice and Trial Division

STATE OF FLORIDA

CASE NO: 11-CF-001376A

v.

JULIE K. SCHENECKER,  
Defendant. /

DIVISION: D

ORDER GRANTING STATE'S MOTION FOR RECONSIDERATION  
OF THE COURT'S THIRD ORDER GRANTING, IN PART, DEFENDANT'S  
MOTION FOR IN CAMERA INSPECTION AND TO EXCLUDE  
DISCOVERY FROM PUBLIC DISCLOSURE

THIS MATTER is before the Court on the State's Motion for Reconsideration of the Court's Third Order Granting, In Part, Defendant's Motion for In Camera Inspection and to Exclude Discovery from Public Disclosure, filed on July 26, 2011.

After reviewing photographs submitted by defense counsel and considering the factors set forth in *Miami Herald Publishing Co. v. Lewis*, 426 So. 2d 1 (Fla. 1983), the Court entered its Third Order Granting, In Part, Defendant's Motion for In Camera Inspection and to Exclude Discovery From Public Disclosure, restricting access to victim photographs in accordance with Rule 3.220(l), Florida Rules of Criminal Procedure. Due to the age of the victims, the nature of their deaths, and the gruesome crime scenes depicted, the Court found the photographs would threaten the Defendant's right to a fair trial if they were fully disclosed. As such, the Court ordered that the photographs be placed with the Hillsborough County State Attorney's Office and made available to the public for inspection with certain restrictions.

Subsequent to the filing of the Defendant's Motion for In Camera Inspection and to Exclude Discovery from Public Disclosure, but prior to the Court's July 15, 2011, order granting the Defendant's motion in part, a new law took effect. Section 406.136(1), Florida Statutes (2011)

provides “[a] photograph or video or audio recording that depicts or records the killing of a person is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.” The “killing of a person” is defined as “all acts or events that cause or otherwise relate to the death of any human being, including any related acts or events immediately preceding or subsequent to the acts or events that were the proximate cause of death.” § 406.136(2), Fla. Stat. (2011).

In its motion for reconsideration, the State asserts that the photographs of the victims in this case are confidential under this statute and, therefore, should be withheld from public disclosure. The State requests that the Court reconsider its order providing restricted access to these photographs arguing the photographs of the victims depict acts or events that caused or otherwise related to their death, as well as acts or events immediately preceding or subsequent to the acts or events that were the proximate cause of death. The State argues the legislature’s intent to withhold such photographs is apparent from its statement that

[s]uch photographs or video or audio recordings provide a view of the deceased in the final moments of life, often bruised, bloodied, broken, with bullet wounds or other wounds, cut open, dismembered, or decapitated. As such, photographs or video or audio recordings that depict or record the killing of any person are highly sensitive representations of the deceased which, if heard, viewed, copied or publicized, could result in trauma, sorrow, humiliation, or emotional injury to the memory of the deceased . . . The Legislature further recognizes that there continue to be other types of available information, such as crime scene reports, which are less intrusive and injurious to the immediate family members of the deceased and which continue to provide for public oversight.

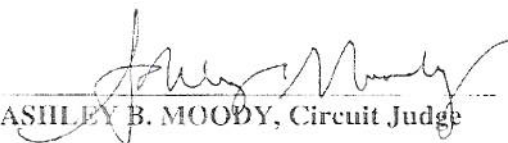
Laws 2011, c. 115, § 2.

The Court finds that the broadly defined term of “killing of a person” extends the protection of this new statute to the victim photographs in this case. The photographs depict events immediately subsequent to the acts or events that were the proximate cause of their death. If viewed, the photographs would result in trauma, sorrow or emotional injury to the memory of

the victims. Further, there are less intrusive types of information available to the public, such as crime scene reports. Accordingly, these photographs are confidential under section 406.136, Florida Statutes and must be withheld from public disclosure.

It is therefore **ORDERED AND ADJUDGED** that the State's motion for reconsideration is hereby **GRANTED**. It is **FURTHER ORDERED** that photographs numbered **203, 205, 209-212, 214, 217-220, 265-267, 270, 275-279, 322-332, 336, 341, 343-344, 347, 349-361, 401-409, 411-414, 429, 543-548, 561-562, 578-582, and 584-591 SHALL BE WITHHELD** from public disclosure.

**DONE AND ORDERED** in Chambers in Hillsborough County, Florida, this 3<sup>rd</sup> day of August, 2011.

  
ASHLEY B. MOODY, Circuit Judge

Send copies to:

Gregg Thomas and Paul McAdoo, Attorneys for Media General Operations, Inc.  
Alison Steele, Attorney for Times Publishing Co.  
Assistant State Attorney, Jay Pruner  
Assistant Public Defender, Robert Fraser

**Second District Court of Appeal Case Docket****Case Number: 2D11-4342****Civil Certiorari Petition from Hillsborough County****MEDIA GENERAL OPERATIONS, D/ B/ A TAMPA TRIBUNE vs. STATE OF FLORIDA & JULIE K. SCHENECKER****Lower Tribunal Case(s): 11CF001376A**

11/07/2011 11:36

Date Docketed	Description	Date Due	Filed By	Notes
09/02/2011	Case Filing Fee			
09/02/2011	Petition Filed		Gregg D. Thomas, Esq. 0223913	EMERGENCY EMAILED 09/06/11
09/02/2011	MISCELLANEOUS ORDER	09/07/2011		suppl. petition with COS on AG
09/06/2011	Certificate			OF SERVICE (FAX) ORIGINAL FILED ON 09/07/11 AA Rachel E. Fugate, Esq. 144029
09/06/2011	certiorari response	09/08/2011		reply due 24 hrs. thereafter
09/07/2011	ORD-CORRECTED ORDER	09/08/2011		09/06/11 order
09/07/2011	RESPONSE		Robert Fraser, A.P.D. 218529	TO "MEDIA GENERAL'S EMERGENCY PETITION" (FAX) hard copy filed 9-9-11
09/08/2011	RESPONSE		Cerese Crawford Taylor, A.A.G. 990760	TO PETITION (FAX) - original filed 9/12/11 and emailed 9/7/11
09/16/2011	certiorari denied			
09/16/2011	Denied - Order by Judge			Altenbernd, Villanti, and Morris.
10/10/2011	Case Closed			