

No. 08-2457; No. 09-2615

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

THREE ANGELS BROADCASTING NETWORK, INC.,
an Illinois Non-Profit Corporation;
DANNY LEE SHELTON,

Plaintiffs-Appellees,

v.

GAILON ARTHUR JOY; ROBERT PICKLE,

Defendants-Appellants.

On Appeal from the United States District Court
for the District of Massachusetts
Case No. 07-40098

DEFENDANTS' SECOND STATUS REPORT

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Though not required to do so, Defendants hereby voluntarily present this status report to keep this Court abreast of developments in the district court.

On December 9, 2009, Defendants moved this Court to hold in abeyance Defendants' appeals until copies of subpoenaed bank statements produced by MidCountry Bank ("MidCountry") ("MidCountry records") were forwarded to this Court as part of the record on appeal. Defendants also moved the district court to forward the MidCountry records. (Record on Appeal Docket Entry ("RA") 204).

After Plaintiffs' counsel informed Defendants that Plaintiffs' counsel was in possession of the MidCountry records, and after the district court informed Defendants that it had not retained a copy, Defendants moved the district court on December 18, 2009, (a) for an order compelling Plaintiffs' counsel to return the MidCountry records, properly certified pursuant to the Federal Rules of Evidence, and (b) for a stay of the yet-unexecuted October 30, 2008, order calling for the return of the MidCountry records to MidCountry. (RA 210). That same day, December 18, the district judge referred the case to the magistrate judge for rulings on Defendants' two motions. The magistrate judge had previously been removed from the case on April 13, 2009.

On January 15, 2010, the district judge recused himself, making public the fact that a complaint of judicial misconduct had been filed against him, and that his "impartiality might reasonably be questioned by an objective observer." (RA 226). A new district judge was immediately assigned to the case.

Two weeks later, on January 29, three electronic orders or docket entries were entered between 3:40 and 3:42 pm EST by the magistrate judge's courtroom clerk. The first two orders were as follows:

Electronic ORDER entered denying [204] Motion to Forward Part of the Record by Gailon Arthur Joy, Robert Pickle.

Electronic ORDER entered denying [210] Motion to Compel Plaintiffs' Counsel to Return the MidCountry Records by Gailon Arthur Joy, Robert Pickle.

The third docket entry withdrew the reference to the magistrate judge.

On February 3, 2010, Defendants filed objections to the magistrate judge's orders, which objections and accompanying affidavit are attached hereto as **Exhibits A–B**. Defendants thereby seek a *de novo* review of these orders by the district judge newly assigned to the case.

Respectfully submitted,

Dated: February 5, 2010

s/ Gailon Arthur Joy, *pro se*

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and

s/ Robert Pickle, *pro se*

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CERTIFICATE OF SERVICE

I, Bob Pickle, hereby certify that on February 5, 2010, I served copies of this status report with accompanying exhibits on the following registered parties via the ECF system:

John P. Pucci, J. Lizette Richards
*Attorneys for Danny Lee Shelton
and Three Angels Broadcasting Network, Inc.*

M. Gregory Simpson
*Attorney for Danny Lee Shelton
and Three Angels Broadcasting Network, Inc.*

And on the following parties by way of First Class U.S. Mail:

Gerald Duffy, Kristin L. Kingsbury,
Jerrie Hayes, William Christopher Penwell
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Dated: February 5, 2010

s/ Bob Pickle
Bob Pickle