

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' THIRD STATUS REPORT

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

SUMMARY OF 2ND STATUS REPORT

Defendants' Second Status Report ("2nd SR") filed on February 5, 2010, informed this Court of Defendants' February 3rd objections to the magistrate judge's electronic orders (2nd SR Ex. A), which orders were entered on January 29, 2010. Those orders denied without comment Defendants' motions to (a) forward to this Court the bank statements produced by MidCountry Bank ("MidCountry records"), (b) require Plaintiffs to return the MidCountry records to the district court, and (c) stay until the conclusion of Defendants' appeals the yet unexecuted order that required that the MidCountry records be returned to MidCountry Bank. (Record on Appeal Docket Entry ("RA") 204; RA 210).

DEVELOPMENTS SINCE FEBRUARY 5, 2010

Plaintiffs then filed a response to Defendants' objections on February 18, asserting that Defendants' objections were only authorized under Fed.R.Civ.P. 72(a). (Relevant pages thereof are attached hereto as **Exhibit A.**) In that response Plaintiffs made the following damaging admissions:

- "Not surprisingly, [the magistrate judge] also recused himself after ruling on the motions." (Ex. A p. 7).
- The MidCountry records "were filed under seal." (Ex. A p. 7).
- Defendants' "claims that [Plaintiffs] covered up allegations of child

molestation against a 3ABN employee” were part of what “framed the original basis for Plaintiffs’ lawsuit against them.” (Ex. A p. 5)

The significance of these three admissions is readily apparent:

- If the magistrate judge was required to recuse himself, then he should have done so prior to ruling on the motions at issue in Defendants’ objections, not after. Defendants’ objections must therefore be sustained.
- Since the MidCountry records were filed with the district court, those records constitute part of the district court record and part of the record on appeal. Those records must therefore be forwarded to this Court.
- Plaintiffs lied to the district court and obstructed discovery when they sought to prohibit discovery of the pedophilia allegations against Tommy Shelton on the basis of irrelevancy. (RA 75 pp. 12–13; RA 91 p. 8).

Defendants believed that these admissions, as well as Plaintiffs’ misrepresentations in Plaintiffs’ response, warranted a reply, which Defendants filed on February 26, and which is attached hereto as **Exhibit B**. Plaintiffs subsequently complained that Defendants’ reply was not authorized under the rules, and Defendants replied that, according to Plaintiffs’ own legal reasoning, Plaintiffs’ response to Defendants’ objections was likewise unauthorized.

Of particular interest in Plaintiffs’ February 18 response is Plaintiffs’ unsupported assertion that Defendants’ reporting regarding the child molestation allegations against Tommy Shelton was “uncorroborated, unfounded.” (Ex. A p. 7).

Defendants' reply cited extensive evidence *in the record* showing that Defendants' reporting on that issue certainly was corroborated and well founded. (Ex B p. 7).

On March 18, through news reports sparked by a press release of that date issued by the Fairfax County Police Department ("FCPD"), Defendants became aware that Tommy Shelton had been arrested on charges of pedophilia. Defendants then requested copies of the five felony arrest warrants which the FCPD had obtained, and received them on March 29.

Because the district court had yet to address any of the pending matters, including whether or not to accept Plaintiffs' response to Defendants' objections and Defendants' subsequent reply, Defendants moved the district court on April 1 to permit Defendants to supplement Defendants' reply with two exhibits: (a) the five felony arrest warrants and (b) the FCPD press release. The memorandum and affidavit for that motion, and the two exhibits in question, are attached hereto as **Exhibits C–F**.

Defendants' objections pertain to the MidCountry records. (2nd SR Ex. A). Plaintiffs injected the issue of the pedophilia allegations into their opposition to Defendants' objections in Part II of Plaintiffs' legal argument. (Ex. A pp. 5, 3). Plaintiffs sought thereby to convince the district court that Defendants have engaged in a "campaign of harassment," and that Defendants are seeking the return of the MidCountry records to the district court, and the forwarding of those records to the First Circuit, "for reasons unrelated to this litigation." (Ex. A pp. 5–6).

Defendants' reporting on the child molestation allegations against Tommy Shelton, and Danny Lee Shelton's cover up thereof, included allegations arising from incidents that allegedly occurred in Virginia in the 1990's. (Ex. C p. 1, with citations to the record). Since a magistrate in Fairfax County, Virginia, has found probable cause that such crimes did indeed occur (Ex. E), Plaintiffs are left without any legal basis for their outrageously fallacious and sanctionable assertion: that Defendants' reporting about the allegations against Tommy Shelton was "uncorroborated, unfounded." (cf. Ex. C p. 2 n.1).

IN SUMMARY

Defendants' objections to the magistrate judge's orders are still pending in the district court. Meanwhile, Plaintiffs have made very damaging admissions on the record, and Virginia authorities have charged Tommy Shelton with crimes relating to child molestation.

Respectfully submitted,

Dated: April 6, 2010

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CERTIFICATE OF SERVICE

I, Bob Pickle, hereby certify that on April 6, 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
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And on the following parties by way of First Class U.S. Mail:

Gerald Duffy, Kristin L. Kingsbury,
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Dated: April 6, 2010

s/ Bob Pickle
Bob Pickle