

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA: NO. 3932-16

v.

WILLIAM H. COSBY, JR.

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CLERK OF COURTS
JESSIE
L. STALE
MONTGOMERY COUNTY
PENNSYLVANIA
2018 MAY 18 PM 2:30

MEMORANDUM AND ORDER SUR THE MEDIA COALITION'S "MOTION FOR IMMEDIATE ACCESS TO DISCHARGED JUROR NAMES."

1. On April 26, 2018, the jury returned a verdict in the above captioned matter.
2. On April 27, 2018, non-party intervenors ABC, Inc. (on behalf of WPVI-TV, American Broadcasting Companies Inc., and ABC News), The Associated Press, BuzzFeed, Inc. (publisher of Buzzfeed.com), Cable News Network, Inc., CBS Broadcasting, Inc. (on behalf of CBS News and KYW-TV), NBC Universal Media, LLC (On behalf of NBC News and WCAU-TV), The New York Times Company, and WP Company LLC (publisher of The Washington Post) (collectively, the "Media Coalition"), filed a "Motion for Immediate Access to Discharged Juror Names."
3. On April 27, 2018, Philadelphia Media Network, PBC, which publishes the Philadelphia Inquirer, The Philadelphia Daily News and Philly.com; PG Publishing Co., Inc., which publishes the Pittsburgh-Post Gazette and Post-Gazette.com; WHYY, Inc., which broadcasts WHYY-TV and WHYY-FM and publishes NewsWorks.org; and LNP Media Group, Inc., which publishes LNP, Lancasteronline.com and The Caucus, filed a "Notice of Joinder As to Motion for Immediate Access to Discharged Juror Names."
4. The same date, NYP Holdings, Inc. (publisher of the New York Post), filed a "Motion to Intervene and Notice of Joinder as to Motion For Immediate Access to Discharged Juror Names."
5. Intervenors seek access to the jurors' names pursuant to Commonwealth v. Long, 922 A.2d 892, 904 (Pa. 2007).
6. The Commonwealth opposes the release of the jurors' names.
7. The Defendant takes no position.
8. On April 30, 2018, Juror Number One was interviewed on camera for Good Morning America, which airs on ABC, a party to this action.
9. On April 30, 2018, the remaining 11 jurors submitted a joint statement to media outlets, including NBC and the New York Times, parties to this action.

10. This Court held argument on May 1, 2018. The parties were granted intervenor status at that time.¹
11. A copy of the statement released by the 11 jurors, as it appeared in the New York Times, was admitted as CW Exhibit 1, and attached hereto.
12. In their statement, the jurors requested privacy and respect and expressed their collective desire to return to their normal lives as ordinary citizens of this Commonwealth.
13. This Court is aware that most, if not all, of the discharged jurors have already been repeatedly contacted by members of the media, beginning as early as the evening they returned to their homes, despite the fact that their names have not been released by this Court.
14. As recently as Mother's Day, Sunday, May 13, 2018, a national media organization contacted no less than six jurors telephonically and at their private residences in an attempt to obtain interviews.
15. The press has a qualified First Amendment right to the names of the jurors in this case. Commonwealth v. Long, 922 A.2d 892, 904 (Pa. 2007).
16. With regard to post-trial release of the names, this Court carefully balanced the rights of the parties to a fair and impartial trial, preservation of the confidentiality of the deliberation process, the security and privacy concerns of the discharged jurors and the press's First Amendment rights and finds that, on balance, this Court is bound by the our Supreme Court's decision in Long. The names of the jurors must be released.
17. However, the Court, in keeping with the instruction set forth in Pa. SSJI (Crim), §7.10 (2016), attached hereto and incorporated by reference, finds that the jury deliberations in this case are confidential. Further, future jurors will be reluctant to speak up or to say what they think when deliberating if they fear that what they say during deliberations will not be kept secret.
18. Likewise, the privacy concerns of the jurors as expressed in their statement are of paramount importance to this Court. The parties to this action are hereby put on notice of the jurors' request for privacy.
19. The Court has delayed the disclosure 21 days to provide a cooling off period and to permit the jurors to return to their private lives.
20. The names of the jurors shall be released conditioned upon the following:

¹ Several parties were granted intervenor status during the first trial in the above captioned matter, and to the extent it was necessary, renewed their motion at the instant argument.

- a. Jurors may refuse any interview request of him or her;²
 - b. Should a juror indicate that he or she does not wish to be interviewed, any further attempts to obtain an interview may be subject to further action by the Court or local law enforcement.³
 - c. Jurors shall not disclose, anything said or done in the jury room by any of their fellow jurors that may indicate his or her thoughts or opinions;
 - d. Jurors shall not disclose arguments or comments made, or votes cast, by fellow jurors during deliberations.
21. The names shall be released by Court Administration after the jurors are contacted by the Court and given the above directives.

Based on the foregoing, the Court issues the following:

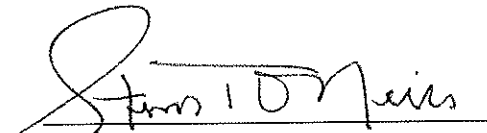
²The Court notes that some jurors have already advised members of the media of such a refusal.

³Such repeated attempts may constitute Criminal Trespass or Harassment as defined in the Pennsylvania Crimes Code. 18 Pa.C.S.A. § 3503 (b)(1)(i); 18 Pa.C.S.A. § 2709 (a)(2), (6), (7).

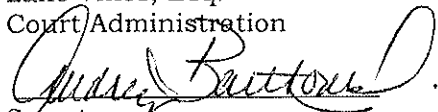
ORDER

And now, this ^{18th} day of May, 2018, upon consideration of the Media Coalition's, "Motion for Immediate Access to Discharged Juror Names," it is hereby **ORDERED** and **DECREED** that, the request for names of the jurors is **GRANTED** and a list of the same shall be provided to the Court Administrator for distribution, following contact by the Court. **Jurors shall not disclose anything said or done in the jury room by any of their fellow jurors that may indicate his or her thoughts or opinions. Jurors shall not disclose arguments or comments made, or votes cast, by fellow jurors during deliberations.**

BY THE COURT:


STEVEN T. O'NEILL, J.

Copy of the above Order
mailed on ~~5/18/18~~ to the following:
Eli Segal, Esq.
Paul J. Safier, Esq.
Kevin R. Steele, Esq. (District Attorney's Office)
Lane Vines, Esq.
Court Administration


Secretary

7.10 (Crim) Post-Trial Interviews of Jurors by Media

1. Now that there you have reached a verdict, it is possible that reporters for the press and other media will want to interview you. There are some things that you should not discuss with reporters. I'll tell you about them shortly.
2. I'm not going to direct you to refuse to talk to news reporters. There is no law forbidding them to question discharged jurors. The Constitution guarantees freedom of the press. I will remind you of something that ex-jurors sometimes forget when confronted by reporters with note pads, cameras, or microphones. You have no legal obligation to answer any of their questions. You can decline to be interviewed or you can terminate an interview at any time.
3. As private Americans, you were called on by this court to perform one of the great duties of citizenship--to decide whether an accused individual committed the crime with which he or she has been charged. It is not part of your responsibilities to be a spokesperson for the criminal justice system. I assume that when you became jurors you were not looking for celebrity or financial gain. You have all performed your duty as jurors and are now free to return to the privacy of your own lives.
4. I anticipate that the reporters who are covering the trial will do their jobs in a professional manner and will respect your right to privacy. If, however, some reporter should harass you after you make it clear that you don't want to be interviewed, you can come and tell me about that reporter's conduct and I'll consider what can be done to help you.
5. Now, getting back to the things that you should not discuss with reporters even if you are willing to be interviewed, keep in mind that jury deliberations are confidential. You should not disclose anything said or done in the jury room by any of your fellow jurors that may indicate his or her thoughts or opinions. For instance, you should not disclose arguments and comments made, or votes cast, by your fellow jurors during deliberations. An important reason for not disclosing what is said and done during jury deliberations is to encourage jurors now and in the future to deliberate freely in every case and to protect their privacy. Some people might be reluctant to speak up or say what they think while deliberating as jurors if they fear that what they say during deliberations will not be kept secret.

Official Statement from the Jurors in the Commonwealth v. Cosby 2018

In a country built on a profound belief in the power of its citizens, few duties are more important than those of individuals asked to serve as fair and impartial jurors in our great justice system. Guided by the essential notion that all men are innocent until proven guilty, we, the jurors of the recent Cosby trial, are proud to say -- with 100% conviction -- that each of us performed our duties with firm adherence to these sacred principles.

After thoughtful and meticulous consideration of the information and evidence provided to us, we came to our unanimous verdict. Our decision was not influenced in any way by factors other than what we heard and saw in the courtroom. Not once were race or the #metoo movement ever discussed, nor did either factor into our decision, as implied in various media outlets. Simply put, we were asked to assess the credibility of Ms. Constand's account of what happened to her, and each one of us found her account credible and compelling. Our request for review of certain evidence during the deliberation process was a matter of due diligence; our thorough discussion of the evidence led to a decision with which we felt certain, but our collective commitment to the process called for even further confirmation. After that second review, we had absolutely no reservations.

We used our diverse backgrounds and life experiences to broaden our individual perspectives for a thorough understanding of all that was presented. Each of us spoke of the weight of our responsibility -- we understood the consequences to human lives, to an American icon, and to all who are victims -- and we knew we needed to be comfortable with our decisions in order to be able to sleep at night with clear consciences. Each of us is walking away with that sense of peace, knowing we performed our duty in the manner it deserved.

The burden of sequestration for this Philly-spirited team of 18 was made lighter by the camaraderie of the group and the support and graciousness of the sheriffs and other court staff. These tireless stewards of the court went so far as to give those of us missing our four-legged family members a little taste of home with daily visits from Turks, the comfort dog who responds to commands that are spelled out and who made some very long days just a little bit more comfortable. While their work is serious, those who serve in the Montgomery County courts ensure that all called to play a role in that work are treated with respect and kindness.

While we are honored to have taken on this unique and important task, and are proud of the job we did, we are each anxious to return to our normal lives and ask for privacy and respect as we turn our attention back to the colleagues, friends, and family whose sacrifices in our absence were, in many cases, larger than our own. Thank you to all who contributed, directly or indirectly, to this right and just outcome.