

Volume VII- Ottis Toole File  
File 24  
Duval Co. Judge's Orders  
10/25/83

IN THE CIRCUIT COURT, FOURTH  
JUDICIAL CIRCUIT, IN AND FOR  
DUVAL COUNTY, FLORIDA.

CASE NO. 83-7565 CF

DIVISION: "R"

STATE OF FLORIDA

vs.

OTTIS ELWOOD TOOLE

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ORDER RESTRICTING EXTRA JUDICIAL  
STATEMENTS BY THE PROSECUTION, COUNSEL  
FOR THE DEFENSE AND COURT PERSONNEL

This cause was heard on the Motion of the Defendant through his attorney for restriction of publicity and after hearing arguments of counsel and being fully advised, the Court finds as follows:

The Defendant is before the Court on a charge of first degree Murder. Since being held in the Duval County Jail, the Defendant has allegedly made statements regarding other homicides throughout the State of Florida. In one such statement, the defendant has allegedly implicated himself in a homicide that was the subject of a recently televised movie. Since the statements, the Defendant has been the subject of extensive media coverage daily.

The Court notes that a local newspaper reported that a psychiatrist appointed by the Court found the defendant competent to stand trial, before the written reports were released to either counsel for the state and defense. Further, a local television news show reported that the defendant would appear in Court today to enter a plea of guilty to the charge. Other news reports describe the defendant as being involved in a number of murders and links the defendant to a convicted murderer

While the publicity involving the instant case has been moderate, the publicity regarding the defendant and his alleged involvement in other crimes have been nationwide, exten-

sive and prejudicial.

Based on the extensive publicity generated by this defendant, the Court finds that some restriction on pre-trial publicity is warranted and justified to protect his sixth amendment right to a fair trial and to avoid reversal if no action is taken. In Sheppard v. Maxwell, 384 U.S. 333, the U.S. Supreme Court commented on the trial court's duty when it said:

"Due Process requires that the accused receive a trial by impartial jury free from outside influences. Given the pervasiveness of modern communications and the difficulty of effacing prejudicial publicity from the minds of the jurors, the trial court must take strong measures to ensure that the balance is never weighed against the accused...of course, there is nothing that proscribes the press from reporting events that transpire in the courtroom ...But we must remember that reversals are but palliatives; the cure lies in those remedial measures that will prevent the prejudice at its inception. The Courts must take such steps by rule and regulation that will protect their processes from prejudicial outside interferences. Neither prosecutors, counsel for defense, the accused, witnesses, court staff nor enforcement officers coming under the jurisdiction of the court should be permitted to frustrate its function."


Accordingly, it is

ORDERED:

That the attorneys representing the defendant and the state, all court personnel and members of the Jacksonville Sheriff's Office are directed not to discuss or release any facts pertaining to the defendant or the subject matter herein with any member of the news media or other person or agencies whom they believe will cause said information to be publicly disseminated.

In the event of investigative cooperation between ~~the Jacksonville Sheriff's Office and other law enforcement~~ agencies, the Jacksonville Sheriff's Office shall advise the receiving agency of the contents of this Order.

DONE AND ORDERED at Jacksonville, Duval County, Florida  
this 25th day of October, 1983.

  
CIRCUIT JUDGE

Copies furnished to:

State Attorney's Office  
Alfred Washington, Esquire  
Jacksonville Sheriff's Office  
Court Reporter  
Bailiffs