

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2008-031021-001 DT

03/27/2013

HONORABLE JOSEPH C. WELTY

CLERK OF THE COURT
T. Henninger
Deputy

STATE OF ARIZONA

JUAN M MARTINEZ

v.

JODI ANN ARIAS (001)

KIRK NURMI
JENNIFER L WILLMOTT
DAVID JEREMY BODNEY

CAPITAL CASE MANAGER

HEARING

9:08 a.m.

Courtroom 5A, South Court Tower

State's Attorney: Juan Martinez
Defendant's Attorney: Kirk Nurmi and Jennifer Willmott
Defendant: Present

Court Reporter, Lydia Estrada-Gray, is present.

A record of the proceeding is also made by audio and/or videotape.

This is the time set for oral argument of Defendant's Motion for Protective Order regarding public records request received by the Office of Public Defense Services.

David Bodney, counsel on behalf of ABC Inc. and CNN Inc. is present in the courtroom.

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The Court requests clarification from Mr. Bodney on the requests submitted to the Office of Public Defense Services.

Mr. Bodney advises the Court that his clients are only interested in the dollar amounts not the detailed billing statements.

Discussion is held between the parties.

Upon defense counsel's oral request to be heard *ex parte* and under seal and good cause appearing,

IT IS ORDERED granting defense counsel's request.

9:26 a.m. Court and defense counsel are now present in chambers.

The defendant is not present.

Court Reporter, Lydia Estrada-Gray is present.

IT IS ORDERED Court Reporter, Lydia Estrada-Gray seal the portion of today's hearing from 9:26 a.m. until 9:30 a.m., not to be opened or transcribed without further order of the Court.

Discussion is held.

9:30 a.m. Matter concludes.

LATER:

The Court has considered the public records requests filed by the Maricopa County Office of Public Defense Services (OPDS), defendant's Motion for Protective Order, counsel's arguments, and the Court's minute entry in this case dated September 25, 2012.

In the previous ruling on September 25, 2012, the Court denied a motion by defendant to have all billing records sealed. The Court noted that OPDS "routinely redacts privileged information from billing documents prior to releasing documents sought through a public record request," and found the OPDS practice sufficient to prevent the harm defendant sought to avoid in the motion to seal. Defendant's current Motion for Protective Order is nearly identical, both in terms of reasons for the request and relief sought.

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The “law of the case” doctrine generally prevents the court from reopening questions that have already been decided by the court. However, the doctrine is procedural and “does not deprive a judge of the power to change his or her own nonfinal rulings or the nonfinal rulings of another judge of that same court sitting on the same case simply because the question was ruled on at an earlier stage.” *Davis v. Davis*, 195 Ariz. 158, 162, ¶¶ 13-14, 985 P.2d 643, 647 (App.1999). Defendant’s current motion is nearly identical to the previous motion and does not provide a new legal justification or a change in circumstances sufficient to warrant a deviation from the previous ruling in this case.

Counsel for the ABC News and CNN-HLN Network/Turner stated the public record requests for records from OPDS do not seek any detailed billings. Rather, these public records requests to OPDS seek only total hours billed, total dollars paid, and the rates paid. As a result, the current public records requests can be satisfied under the Court’s minute entry in this case dated September 25, 2012.

For the foregoing reasons,

IT IS ORDERED denying defendant’s Motion for Protective Order.

IT IS FURTHER ORDERED OPDS shall respond to the public records requests for total hours billed, total dollars paid, and the range of rates paid, without providing detailed billing information.

cc: Court Reporter Lydia Estrada-Gray

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encouraged to review Supreme Court Administrative Order 2011-140 to determine their mandatory participation in eFiling through AZTurboCourt.