

## COMMENTS FROM ASSOCIATE JUSTICE NETTI C. VOGEL, MAY 16, 2018

As you all know, there has been an issue that has received a good deal of media attention in recent weeks. I have not addressed it sooner because I did not want anything to interfere with my primary focus, that being, to fashion an appropriate sentence for a man convicted of killing his young daughter. The ten year old victim, a child who was tortured and beaten to death, deserved no less than my full attention.

My interest today as it has been for my 23 years on the bench is to move cases through the system fairly and impartially. Now that my work on the case has ended, I have a few comments and corrections to make.

This was a difficult case for jurors to sit through for three weeks. There were videos of a child being beaten and audio recordings where she was heard crying out in pain while being thrashed off screen with a whip. Autopsy photos depicted marks all over her body from those beatings and many others.

Solely out of concern for the safety and protection of those jurors, immediately following the verdict I told the spectators that they must refrain from initiating contact with jurors. In no way did I seek to hinder freedom of speech. As I also told the spectators, the jurors themselves were perfectly free to speak to anyone about their experience if they wanted to do so.

After learning that the Providence Journal took issue with my comments, before suit was brought, I notified General Counsel for the Court that in the future, I would not preclude the media from initiating contact with jurors. The Providence Journal was advised of this decision.

Additionally, at my direction, each of the twelve jurors were notified in writing that a reporter from the Providence Journal wanted to speak to the jury. They were invited to send an email or leave a voice message if they were interested in talking to her. Those letters were prepared, reviewed and approved by General Counsel and other Court officials. General Counsel provided a draft of the letter to lawyers for the Providence Journal. To date, not one juror has expressed an interest in speaking to the reporter. I understand that the newspaper recently contacted some of the twelve jurors on its own initiative, and as of Monday, none agreed to speak to the paper, with a few actually hanging up on the reporter.

For the record, I had no involvement whatsoever in the determination not to release the so-called jury list in this case. The Court spokesperson's statement that attributed the decision to me was made in error, an error he readily acknowledged to me, an error which was pointed out to the lawyers for the Providence Journal long before they continued to report the decision as mine. In fact, I specifically declined to offer an opinion on the subject and referred the inquiry to the Superior Court administrator. I understand that she responded to the request after consulting with the Office of General Counsel.

Finally, the reporter for the Providence Journal had full access to the names of each juror who decided the case. The case had a date certain trial assignment. It is common knowledge in the trial community that the names of all jurors summoned to appear on any given date is published and available in the office of the jury commissioner. Jurors are listed by assigned number, name and city or town of their residence. The reporter actually was present in the courtroom immediately after the completion of final arguments when the clerk called out the numbers of the 12 jurors who would decide the case. She chose not to record the juror numbers although I understand that the paper has since obtained a transcript of those very proceedings that she had attended so the paper could obtain the information she did not write down.

I chose to vacate the order which I had announced from the bench on April 6<sup>th</sup>, to end the distraction caused by the controversy. It was largely moot by that point for the reasons I have explained. I did so without comment in an effort to keep the focus where it belonged, on the preparation and issuance of an appropriate sentence, to give voice to a child victim who cannot speak for herself.

After meeting that obligation, I felt it appropriate to comment on the controversy. I thank you for your attention. I consider the matter closed.