

**IN THE COURT OF COMMON PLEAS
OF PHILDELPHIA COUNTY
CIVIL TRIAL DIVISION**

ANGELO HARMON, individually, and as	:	JULY TERM, 2013
Administrator of the Estate of JUANITA	:	
HARMON, et al.	:	NO. 00720 – LEAD CASE
	:	
v.	:	Consolidated Cases:
	:	1306-987; 1306-1235; 1306-1108;
	:	1306-1236; 13056-1353; 1306-1363;
THE SALVATION ARMY, et al.	:	1306-1379; 1306-1453; 1306-1752;
	:	1307-678; 1308-1874; 1309-1903;
	:	1309-159; 1309-1429; 1312-1233;
	:	1406-2818; 1407-2440; 1506-0013;
	:	1506-196

ORDER and OPINION

Before this court is The Salvation Army Defendants’ Motion to Enforce and Compel the Production of Evidence and Documents requested in the Subpoena Served upon the Philadelphia District Attorney’s Office and any response thereto.

The Philadelphia District Attorney’s Office takes the position that they are prohibited from revealing whether any of the requested physical objects were used, rendered, shown, or even discussed before the Grand Jury. Nonetheless, without any such affirmative claim and despite the fact that certain requested items were obtained by voluntary compliance or pursuant to judicially approved search warrants not issued pursuant to Grand Jury proceedings, they claim this Court has no Jurisdiction. Pursuant to Philadelphia Court of Common pleas General Court Regulation No. 95-1 this court has jurisdiction over all major jury civil matters filed in the calendar year 2013 and all incident discovery issues including non-party objections to subpoena.

Harmon Vs Basciano Etal-ORDOP



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The Philadelphia District Attorney broadly claims that any reference to physical objects in testimony before a Grand Jury insulates those objects from any presentation, disclosure or use by any party other than law enforcement. To support this proposition the Philadelphia District Attorney cites to the Grand Jury Secrecy Act 42 Pa. C.S.A. § 4549 (b) and Pennsylvania Rules of Criminal Procedure 229 and 230.¹ If the District Attorney's position is correct then if a gun is merely referenced in testimony before a grand jury the innocent victims of a shooting could never obtain access to that weapon or even photograph that weapon for use at their civil trial for their injuries. This extreme position is not the law of Pennsylvania.

Clearly, the request for transcripts of the Grand jury proceeding and documents used before the grand jury are subject to the supervisory power of Judge Lillian H. Ransom, Supervising Judge of the applicable grand jury investigation. Accordingly as to these requests, the court declines to adjudicate and defers to Supervising Judge Lillian H. Ransom. This aspect of the motions and responses are transferred to Judge Lillian H. Ransom for ruling.

As to physical objects in the custody of the Philadelphia District Attorney which may or may not have been used before the Grand Jury this court has Jurisdiction and hereby ORDERS:

1. The Philadelphia District Attorney Office shall produce for examination by The Salvation Army Defendants requested physical objects, photographs, or documents in its possession which were not used by the grand jury within 3 days hereof and;
2. The Philadelphia District Attorney Office shall produce for examination by The Salvation Army Defendants all requested physical objects in its possession which were not physically presented to the Grand Jury within 3 days hereof.

¹ 42 Pa. C.S.A. § 4549 and Pa. R.Crim.P 230 refer to documents and transcripts exclusively. R.Crim.P 229 tangentially refers to custody of "physical evidence" actually "presented before the investigating Grand Jury."

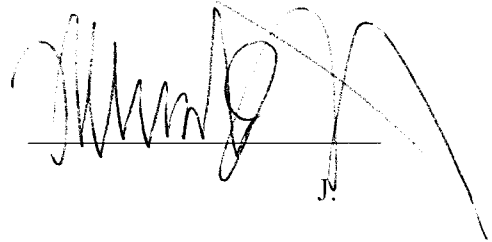
3. The Philadelphia District Attorney Office shall produce "Plato Marinakos' phone" for examination by counsel for Defendants' Plato A. Marinakos, Jr. and Plato A. Marinakos, Jr., Architect LLC. within 3 days hereof. Upon receipt of the cell phone Counsel for Defendant's Plato A. Marinakos, Jr. and Plato A. Marinakos, Jr., Architect LLC. shall prepare a privilege log and produce said privilege log along with any non-privileged electronically stored information to The Salvation Army Defendants within 15 days of receipt of the cell phone.
4. The Philadelphia District Attorney Office shall produce for examination by The Salvation Army Defendants "Griffin Campbell's phone" within 3 days hereof.
5. To avoid any disclosure as to what was or was not presented to the Grand Jury, the District Attorney Office shall not designate whether disclosure is being made pursuant to 1, 2, 3, or 4 above.
6. The District Attorney's Office may place reasonable terms and conditions for the handling of the physical objects to preserve their integrity.

All requests for testimonial, demonstrative, transcriptional, or documentary evidence used in any way before the grand jury are transferred to the Honorable Lillian H. Ransom, Supervising Judge of the applicable grand jury investigation.

BY THE COURT,

4/12/16

DATE


_____ J.