

SUPREME COURT OF PENNSYLVANIA

In re Dauphin County Fourth Investigating Grand Jury, 610 Pa. 296

19 A.3d 491 (2011) · No. Nos. 13 MM 2008, 28 MM 2008 · Decided April 11, 2011

SUMMARY

The Supreme Court of Pennsylvania considered alleged violations of grand jury secrecy during an investigation into licensing-related conduct involving Louis A. DeNaples and Mount Airy #1, LLC. The court addressed the appointment and investigation of a special prosecutor and the authority of the Dauphin County District Attorney to investigate potential violations of Pennsylvania's Gaming Act. The matter concerned the scope of extraordinary jurisdiction and procedures for investigating alleged disclosures of protected grand jury information.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Chief Justice Ronald D. Castille; Chief Justice Castille; Justice Eakin; Justice Baer; Justice Todd; Justice McCaffery; Justice Orie Melvin
JURISDICTION	Pennsylvania
DECIDED	April 11, 2011
DOCKET	Nos. 13 MM 2008, 28 MM 2008
DISPOSITION	other
PROCEDURAL POSTURE	Petitioners sought extraordinary review concerning alleged violations of secrecy requirements during an investigating grand jury proceeding. After a prior remand for an evidentiary hearing and appointment of a special prosecutor, the Supreme Court reviewed the special prosecutor's report and determined the appropriate disposition of the secrecy inquiry.
STANDARD OF REVIEW	Extraordinary or plenary jurisdiction under 42 Pa.C.S. § 726; review of the special prosecutor's report and the grand-jury-secrecy inquiry.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Pennsylvania
PARTIES	Louis A. DeNaples, Mount Airy # 1, LLC, Father Joseph F. Sica v. Commonwealth of Pennsylvania, Dauphin County District Attorney's Office

TOPICS

grand jury

criminal procedure

appellate procedure

statutory interpretation

gaming compacts

PRACTICE AREAS

criminal procedure

grand jury

appellate procedure

gaming law

QUESTIONS PRESENTED

1. Whether the Supreme Court should require the special prosecutor to pursue further efforts to identify the source of alleged grand jury-secrecy violations.
2. Whether the Pennsylvania Shield Law's protection of confidential journalistic sources should yield to governmental interests in investigating alleged criminal disclosures of grand jury information.
3. What disposition was appropriate after the special prosecutor identified seriously flawed procedures that facilitated potential breaches of grand jury secrecy but could not conclusively determine the source of the leaks.

HOLDINGS

1. The special prosecutor was not required to undertake further efforts to compel reporters to identify confidential sources because the investigation had already served a useful purpose and further inquiry was not shown to be necessary on the record presented.
2. Pennsylvania's investigating grand jury process requires firm judicial supervision and procedures designed to preserve secrecy; when colorable allegations of a breach warrant investigation, appointment of a special prosecutor is appropriate.
3. The Supreme Court Prothonotary was directed to unseal the special prosecutor's report and forward the report and the opinion to the Pennsylvania Attorney General for any action deemed appropriate; jurisdiction was relinquished.

KEY QUOTATIONS

"The secrecy of grand jury proceedings is "indispensable to the effective functioning of a grand jury." (19 A.3d 503)

"The supervising judge has the continuing responsibility to oversee grand jury proceedings, a responsibility which includes insuring the solemn oath of secrecy is observed by all participants." (19 A.3d 504)

"The convening of a grand jury is not an occasion for prosecutorial grandstanding." (19 A.3d 510)

FACTUAL BACKGROUND

A Dauphin County investigating grand jury examined alleged false statements and organized-crime connections associated with a casino-license application. Newspaper reports disclosed the existence of the investigation, the identities of witnesses, and details purportedly derived from grand jury proceedings. The district attorney had publicly posted hearing dates, witnesses and reporters shared a courthouse hallway, and witnesses were identified when called, despite the availability of a private entrance. A special prosecutor investigated possible

leaks but could not identify their source because reporters invoked Pennsylvania's Shield Law and the available evidence was inconclusive.

PROCEDURAL HISTORY

The Dauphin County Court of Common Pleas authorized an investigating grand jury examining matters related to a casino-license application. Petitioners alleged that grand jury information had been disclosed to the media. The Supreme Court exercised extraordinary jurisdiction limited to the secrecy issue, remanded for an evidentiary hearing, later directed appointment of a special prosecutor, and retained limited jurisdiction. The special prosecutor found that the investigation was inconclusive but identified seriously flawed procedures that facilitated potential disclosures. The Supreme Court ordered the report unsealed and forwarded to the Pennsylvania Attorney General, then relinquished jurisdiction.

DISPOSITION

other

CASES CITED

- In re Dauphin County Fourth Investigating Grand Jury, 596 Pa. 378, 943 A.2d 929 (2007)
- In re Investigating Grand Jury of Philadelphia County (Appeal of Philadelphia Rust Proof Co.), 496 Pa. 452, 437 A.2d 1128 (1981)
- Pirillo v. Takiff, 462 Pa. 511, 341 A.2d 896 (1975)
- In re Twenty-Fourth Statewide Investigating Grand Jury, 589 Pa. 89, 907 A.2d 505 (2006)
- Camiolo v. State Farm Fire & Casualty Co., 334 F.3d 345 (3d Cir. 2003)
- In re June 1979 Allegheny County Investigating Grand Jury, 490 Pa. 143, 415 A.2d 73 (1980)
- Castellani v. Scranton Times, 598 Pa. 283, 956 A.2d 937 (2008)
- In re County Investigating Grand Jury VIII, 2003, 2005 WL 3985351 (Lacka. C.P. 2005)
- Pocono Manor Investors, L.P. v. Pennsylvania Gaming Control Board, 592 Pa. 625, 927 A.2d 209 (2007)
- Pap's A.M. v. City of Erie, 571 Pa. 375, 812 A.2d 591 (2002)
- In re Mack, 386 Pa. 251, 126 A.2d 679 (1956)