

1999 WL 9836
United States District Court, S.D. New York.

Lakisha REYNOLDS, et al., Plaintiffs,
v.
Rudolph GIULIANI, et al., Defendants.

No. 98 Civ. 8877(WHP). | Jan. 7, 1999.

Attorneys and Law Firms

Rebecca L. Scharf, Welfare Law Center, Inc., New York, New York, for Plaintiffs.

Jonathan Pines, New York, New York, for the City Defendants.

William H. Bristow, III, Assistant Attorney General, New York, New York, for the State Defendants.

Opinion

MEMORANDUM AND ORDER

PAULEY, J.

*1 On December 21, 1998, this Court received an *ex parte* application from Mr. Posr A. Posr, executive director of an organization known as Pro Se Views, seeking permission to videotape and televise further courtroom proceedings in this civil action. Mr. Posr submitted a second *ex parte* application on December 22, 1998 requesting the same relief. Copies of both applications were promptly circulated to all counsel of record. On December 23, 1998, Mr. Posr and the parties were given an opportunity to be heard on this matter. For the following reasons, the application is denied.

Background

On December 16, 1998, plaintiffs commenced this action against the City of New York, Mayor Rudolph Giuliani and several other defendants challenging the procedures through which the City provides food stamps and other public assistance to needy individuals. The complaint seeks preliminary and permanent injunctive relief on behalf of a proposed class of all New York City residents

who have or will apply for such assistance. An evidentiary hearing concerning plaintiffs' application for preliminary injunctive relief is scheduled to begin on January 14, 1999.

Discussion

Local Civil Rule 1.8 is entitled "Photographs, Radio, Recordings, Television" and states:

No one other than court officials engaged in the conduct of court business shall bring any camera, transmitter, receiver, portable telephone or recording device into any courthouse or its environs without written permission of a judge of that court. Environs as used in this rule shall include the entire United States Courthouse property, including all entrances to and exits from the buildings.

S.D.N.Y. Local R. 1.8 This Court has complete discretion to permit or reject television coverage of its proceedings. *See Williams v. New York City Police Department*, 1997 WL 361974, at *1 (S.D. N.Y.1997); *Sigmon v. Parker Chapin Flattau & Klimpl*, 937 F.Supp. 335, 336 (S.D.N.Y.1996); *Katzman v. Victoria's Secret Catalogue*, 923 F.Supp. 580, 584-85 (S.D.N.Y.1996).

In his *ex parte* submissions to the Court, Mr. Posr avers that he successfully videotaped an oral argument before the United States Court of Appeals for the Second Circuit and caused that videotape to be televised on public television; that he is a member of a registered press organization; and that further proceedings in this action should be televised because they concern a matter of public importance.

When he appeared in open court on December 23, Mr. Posr conceded that he has never videotaped an evidentiary hearing or trial. In response to questioning by the Court, Mr. Posr described how he proposed to operate a camera and microphones in my courtroom. Mr. Posr explained that he would stand behind a single camera and manually operate it in the well of the courtroom directly across from the witness box. A microphone would be placed at the judge's bench, at the witness stand and at the attorney's podium.

*2 On further questioning by the Court, Mr. Posr explained that employing only one camera, he would pan from counsel at the podium, to the witness on the stand, and ultimately to the bench—depending on who was speaking. The distance from the witness stand to where Mr. Posr would operate his camera manually is only approximately 16 feet. From that vantage point (which incidently is exactly where a law clerk typically sits), Mr. Posr would be required to pan his camera nearly 180 degrees as he alternately focused on the judge, the witness and counsel—a task akin to videotaping a tennis match from mid-court.

Counsel for the New York City defendants oppose Mr. Posr's application. In a letter to the Court dated December 30, 1998, the City defendants state that Mr. Posr's efforts to videotape the upcoming evidentiary hearing and any subsequent proceedings could prove distracting to witnesses and counsel. The Court agrees. Plaintiffs'

counsel has intimated that her clients are unhappy with the prospect of having to testify about their plights on public television.

Conclusion

Mr. Posr's admitted inexperience in videotaping trial court proceedings, coupled with the physical dimensions and spacial constraints of my courtroom, dictate that his application be denied. Mr. Posr's presence would be exceedingly conspicuous and unduly distracting. Given the intrusive way in which Mr. Posr plans to station himself in the courtroom, the Court is concerned that the video camera and its operator will disturb the dynamics of the hearing. Accordingly, Mr. Posr's application is denied.