

Connecticut Supreme Court grants emergency appeal on gag order in Fotis Dulos case

By DAVE ALTIMARI | HARTFORD COURANT

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Fotis Dulos, left, listens as his attorney Norm Pattis address the media after appearing at Superior Court in Stamford Sept. 23. Dulos, who is charged with evidence tampering and hindering prosecution in the May disappearance of Jennifer Dulos from New Canaan, is currently free on \$1 million bond and being monitored by a GPS system.

The state Supreme Court will hear an appeal by Fotis Dulos to have a gag order imposed by a Stamford judge revoked because it hinders his ability to fight allegations that he had something to do with the disappearance of his estranged wife, Jennifer Farber Dulos.

Chief Justice Richard Robinson granted attorney Norm Pattis' application to have the state's highest court review the gag order put in place on Sept. 12 by Judge John Blawie. Pattis must now file a legal brief by Oct. 9. The state will have until Oct. 28 to respond and the hearing will

be scheduled for sometime after Dec. 5.

In his brief seeking the court's intervention, Pattis said the state has been allowed to use two arrest warrant affidavits charging Dulos with tampering with evidence as the "functional equivalent of a public investigative grand jury, strategically feeding public speculation that Mr. Dulos is a murderer" even though he hasn't been charged with killing Farber Dulos.

Stamford/Norwalk State's Attorney Richard J. Colangelo Jr. had requested a gag order in August, arguing he was concerned about potentially false statements made by Pattis, including how Dulos' girlfriend, Michelle Troconis, took a lie detector test.

Blawie wrote in his order that intense media coverage of Farber Dulos' disappearance led to the publication of "theories masquerading as facts, and stories based upon unauthorized leaks of partial information, some apparently from law enforcement sources." The order bars any public comments from all parties involved including attorneys, law enforcement and potential witnesses.

"The extent and the nature of the coverage is not merely a result of the public record of the case, but rather, it reflects the tendency of some to fan the flames of publicity

by providing the media with salacious, inadmissible and often prejudicial details," Blawie wrote.

The Courant plans to file an amicus brief with the state Supreme Court opposing the gag order.

"Without question, the gag order impinges on the media's, including the Courant's, critical rights to gather information from the sources closest to the proceedings," wrote the Courant's attorney William S. Fish Jr.

In an 11-page response to an appeal requested by Pattis, a senior assistant state's attorney from the Office of the Chief State's Attorney agreed the case should be heard for several reasons, including that it could set precedent since no state Appellate Court addressed the legal standard of imposing a gag order. If the case is heard, attorney Robert J. Scheinblum wrote that the state Supreme Court should uphold Blawie's order barring comments on the case outside the courtroom.

Arguing Blawie applied the appropriate legal standard in issuing the order, Scheinblum wrote: "the trial court properly applied that standard to the facts and circumstances of this case and reasonably concluded that a gag order was necessary to safeguard the state's compelling interest in a fair trial untainted by the influence of an

extreme amount of prejudicial publicity surrounding this case."

Pattis has complained that it is an "unprecedented gag order" that silences lawyers, police and potential witnesses and hampers his ability to defend his client against public accusations that he killed Farber Dulos.

"No court in Connecticut has previously entered a gag order of this scope; and no Court has issued a gag order of any sort without an opportunity for a full hearing," Pattis wrote. "Judge Blawie's ruling does both, inviting Courts to engage in idiosyncratic balancing of the challenges of the social media era against the imperatives of assuring a fair trial. The issues presented by this bizarre ruling are simply too important and too far reaching to be decided in such an idiosyncratic and ad hoc manner."

Dulos, a Farmington developer, has twice been charged with evidence tampering in connection with the May 24 disappearance of Farber Dulos, but has denied any involvement.

Dulos has been arrested twice since June 1 on tampering with evidence charges. In the first case, he also was charged with hindering prosecution. He has posted two \$500,000 bonds and remains free.

In the most recent arrest in September, authorities released a 43-page arrest warrant

affidavit that said police obtained surveillance videos that show a red Toyota truck that state police said Dulos was driving coming and going from Farmington to New Canaan on the morning of May 24 — the day Farber Dulos disappeared. She has not been found.

A home security video also showed Farber Dulos' Chevy Suburban leaving her New Canaan home shortly before 10:30 that morning. State police said in the arrest warrant affidavit that they believe Dulos was driving and that the body of his dead wife was in it.

The affidavit also quotes Troconis as saying she saw Dulos at a Mountain Spring Road home his company owns cleaning a "coffee spill" out of the front seat of the Toyota. She said he handed her the towel and that it didn't smell like coffee.

Police said that they found Farber Dulos' blood in the truck.

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