

Supreme Court dismisses gag order appeal in Dulos case

By DAVE ALTIMARI | HARTFORD COURANT

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The state Supreme Court has dismissed the appeal by Fotis Dulos’ attorney to overturn the sweeping gag order imposed on lawyers, law enforcement and even potential witnesses involved in the high-profile case.

The court issued an order late Wednesday with no explanation as to why it was dismissing it.

Both Dulos’ attorney Norm Pattis and The Courant had filed briefs asking the court to make a ruling on the gag order even though Dulos is now dead.

Pattis said Thursday he is disappointed the court didn’t go forward with the appeal.

“The gag order remains a repulsive stain on the state’s

constitutional terrain,” Pattis said. “The Court’s decision to use Mr. Dulos’s death as a pretext for avoiding the issue is chilling.”

Dulos died in January, two days after he attempted to kill himself in the garage of his Farmington home. Facing the possibility of going back to prison, Dulos clamped a vacuum hose to his car inside the garage and inhaled the carbon monoxide. He was pulled from the garage by Farmington police, who had been asked to do a wellness check on Dulos because he was supposed to be in Stamford for a hearing on his \$6 million bond being revoked.

Dulos was facing murder charges in the death of his estranged wife, Jennifer Farber Dulos, who disappeared May 24 after dropping her children off at school and hasn’t been seen since.

The state is expected to ask Judge John Blawie, who issued the gag order, to dismiss the criminal case at a hearing on March 3.

The state Supreme Court held an emergency hearing in December to consider Pattis’ challenge to a gag order imposed by Superior Court Judge John Blawie. A full panel of justices spent more than an hour questioning Pattis and assistant state’s attorney Robert Scheinblum about the merits

of the gag order. The order prohibits not only attorneys, but also potential witnesses and Dulos or his family from commenting on the case.

Rather than simply dismiss the Dulos murder case, the Courant asked the court to either vacate the gag order or make a ruling on whether it was unconstitutional.

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Attorney William Fish, in a brief filed late Tuesday on behalf of the Courant, wrote that not vacating the gag order will set a “dangerous precedent.”

Attorney Norm Pattis, who represented Dulos, also filed a brief asking the court to proceed with the case despite his client’s death, arguing that it’s not a moot issue as the state now contends. In his brief, Pattis reiterates again his desire to try and keep the criminal case alive by substituting Dulos’ estate as a defendant, vowing to fight all the way to the U.S. Supreme Court if necessary.

Pattis said the gag order still constrains both himself and

Dulos’ family from fighting to exonerate his name.

“The late Mr. Dulos’ estate also has a liberty interest in his legacy that public speculation tarnishes while a gag order silences his advocates and family,” Pattis said. “The late Mr. Dulos’ attorneys and his family have a story to tell based on a careful consideration of all available evidence. The gag order prevents them from telling that story.”

The Courant filed an amicus brief opposing the gag order, arguing that it exceeds the court’s authority and amounts to prior restraint of free speech. In its brief filed Tuesday, the Courant argued that if the court doesn’t vacate the gag order it will set a “dangerous precedent.”

“The Court should vacate the Gag Order because allowing the Gag Order to stand would have legal consequences, both for the media’s First Amendment rights in the present situation, but also establishing a dangerous precedent in future cases,” the brief says.

During the oral arguments in December, Pattis said that the gag order is unfair because Dulos is unable to fight back against the allegations raised in arrest warrants that he said “speculate” Dulos waited at his estranged wife’s New Canaan home on the morning of May 24, killed her and drove

the body away in her own vehicle. At that time, Dulos had been charged twice with tampering with evidence. The murder charge came later.

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The justices didn’t focus as much on the details of the Dulos case but more on the breadth of the gag order issued by Blawie and whether it is even necessary in Connecticut, where, under the state’s voir dire jury selection process, lawyers can question jurors and use challenges to keep them off the jury if they feel they are biased.

Several justices also pointed out that the state recently argued that pre-trial publicity didn’t have an impact in the high-profile Cheshire murders trials. Joshua Komisarjevsky is seeking a new trial based partly on the issue that his trial should have been moved out of New Haven because of the massive publicity surrounding the case. The state argued in that case that the voir dire process worked well. There was a gag order imposed in that case. ■