

**IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT**

IN RE: ACCESS TO RECORDS OF : No. 33 WM 2010
PROCEEDINGS OCCURRING BEFORE :
THE COURT OF COMMON PLEAS OF :
ALLEGHENY COUNTY : Petition for Review
:
PETITION OF: PG PUBLISHING :
COMPANY :

IN RE: ACCESS TO RECORDS OF : No. 45 WM 2010
CRIMINAL PROCEEDINGS OCCURRING:
BEFORE THE COURT OF COMMON : Petition for Review; Motion for Leave to
PLEAS OF ALLEGHENY COUNTY : File Petition for Review Under Seal

PETITION OF: WPXI, INC.

ORDER

PER CURIAM

AND NOW, this 18th day of August, 2010, pursuant to the collateral order doctrine, the petitions for review in the above-captioned matters are granted. Further, the trial court orders dated April 8, 2010 and May 3, 2010 are reversed and the matter is remanded to the trial court for the court to conduct whatever proceedings it deems necessary to render conclusions regarding whether documents sought by Petitioners constitute public judicial documents which should be subject to the right of access, particularly in light of a presentment being returned on April 7, 2010, publicly disclosing numerous grand jury witness names and describing the content of the testimony of such witnesses, or, conversely, whether because they pertain to grand jury proceedings, or for some other reason, they should not be deemed public judicial documents subject to the right of access. See Commonwealth v. Fenstermaker, 530 A.2d 414, 417 (Pa. 1987)(specifying that the

threshold question in any case involving the right of access is “whether the documents sought to be disclosed constitute public judicial documents”); see also Commonwealth v. Upshur, 924 A.2d 642, 648 (Pa. 2007) (Opinion Announcing the Judgment of the Court) (any item that is filed with the court as part of the permanent record of a case and relied on in the course of judicial decision-making will be a public judicial record or document); but see also United States v. Smith, 123 F.3d 140, 148-9(3rd Cir. 1997)(noting that, not only are grand jury proceedings not subject to any First Amendment right of access, but even after the grand jury has concluded its proceedings, a private party petitioning for access to grand jury materials must show that “ the need for [access] outweighs the public interest in secrecy, and...the burden of demonstrating this balance rests upon the private party seeking disclosure. Moreover, to preserve the secrecy of grand jury proceedings, the district court must seal certain hearings and records that would jeopardize grand jury secrecy.”). The trial court should make specific and detailed findings and conclusions in this regard.

It is further ordered that Petitioner, WPXI be granted the right to intervene on remand in all matters relating to public access to judicial records. WPXI’s motion for leave to file petition for review under seal is denied.

Finally, this Court’s orders dated March 17, 2010, were not intended to seal any filings on the common pleas court docket.

Jurisdiction is relinquished.

Madame Justice Orié Melvin did not participate in the consideration or decision of this matter.