

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

IN RE: THE THIRTIETH COUNTY : No. 15 EM 2022
INVESTIGATING GRAND JURY :
 :

ORDER

PER CURIAM

AND NOW, this 10th day of February, 2023, upon consideration of the Petition for Specialized Review and the Commonwealth’s Response in Opposition, this matter shall be determined by this Court following full briefing and oral argument.

The issues, as stated by petitioner, are as follows:

1. Did the supervising judge err by ordering the public release of the investigating grand jury report of the Thirtieth County Investigating Grand Jury because the Report does not meet the statutory definition of an investigating grand jury report as that term is defined pursuant to 42 Pa.C.S. §4542?
2. Did the supervising judge err in concluding that the findings in the report were supported by a preponderance of the evidence . . . ?
3. Does the publication of the report violate [REDACTED]’s constitutional right to protection of his reputation where the report contains conclusions that are unsupported by the preponderance of the evidence and where the redactions fail to meaningfully protect [REDACTED]’s identity?

In addition, extraordinary jurisdiction is **EXERCISED**. See 42 Pa.C.S. §726 (setting forth standard for this Court’s extraordinary jurisdiction). The parties are

DIRECTED to address the following additional question:

What type or degree of criticism of a named but nonindicted individual in a grand jury report warrants notice and an opportunity to be heard under 42 Pa.C.S. §4552(e), and did the supervising judge’s discretionary decision to provide notice and an opportunity to be heard to some, though not all, named but nonindicted individuals in the grand jury’s report comport with

principles of due process and the fundamental right to reputation under Article I, Section 1 of the Pennsylvania Constitution, as interpreted by *In re Fortieth Statewide Investigating Grand Jury*, 190 A.3d 560 (Pa. 2018)?

In the interest of providing publicly accessible versions of the filings, Petitioner is **DIRECTED** to submit to this Court, within 14 days of this Order, a version of his Petition for Specialized Review that is redacted to remove information that explicitly or contextually identifies him or otherwise violates grand jury secrecy.

Similarly, the Commonwealth is **DIRECTED** to submit to this Court, within 14 days of this Order, a version of its Answer that is redacted to remove information that explicitly or contextually identifies petitioner or otherwise violates grand jury secrecy.

Each party shall have 7 days from the date it is served with the opposing party's redacted filings to lodge any objections to the proposed redactions with this Court. Any such objections shall be remanded to the supervising judge for prompt resolution.¹

Following the submission of the above redacted documents, the Prothonotary of the Supreme Court of Pennsylvania is **DIRECTED** to take any necessary steps to ensure that the redacted versions of the filings, as well as this instant Order, are promptly posted to the "Cases of Public Interest" page maintained by the Administrative Office of Pennsylvania Courts. A briefing schedule shall then be established, subject to similar redaction requirements, and this matter will be listed for oral argument.

The Office of Attorney General is **INVITED** to participate in this matter. Within 14 days of this Order, counsel for the Office of Attorney General **SHALL PROVIDE** notice as to its intent to participate to this Court's Prothonotary. In the event the Office of Attorney General opts to participate in these proceedings, it **SHALL BE** subject to the following provisions of this Order.

Counsel for the Office of Attorney General **SHALL TAKE** a secrecy oath, as given by the supervising judge, in connection with the subject grand jury report. Following that

¹ As the supervising judge is no longer available, the President Judge of the First Judicial District shall reassign the matter to the supervising judge of any successor grand jury.

oath, the supervising judge **SHALL PROVIDE** counsel for the Office of Attorney General all grand jury materials relative to the grand jury report, including an unredacted copy of the report itself.

Amici curiae are **PERMITTED** to participate in these proceedings by filing a brief. Any *amici curiae* briefs are subject to the time requirements set forth under Pa.R.A.P. 531(b)(4).

Once a briefing schedule is established, the Prothonotary is **DIRECTED** to take any necessary steps to ensure all redacted briefs are promptly posted to the “Cases of Public Interest” page maintained by the Administrative Office of Pennsylvania Courts.

The Application to File under Seal (submitted March 10, 2022), the Motion for Leave to File under Seal (submitted March 14, 2022), the Motion for Leave to File under Seal (submitted March 24, 2022), the Motion for Leave to File *In Camera* and under Seal (submitted March 24, 2022), and the Motion for Leave to File under Seal (submitted May 9, 2022), are **GRANTED**.

The Application for Stay of Publication of Report Pending Petition for Review and the Motion to Unseal the Existence of Report and of Pending Proceedings are **DISMISSED AS MOOT**.

This Court’s temporary stay, entered March 11, 2022, **REMAINS IN EFFECT** pending further order of this Court.

Justices Donohue and Wecht note their dissent.