



ADMINISTRATIVE OFFICE of PENNSYLVANIA COURTS

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Chief justice clarifies incomplete and misleading account of Supreme Court actions in book *The Quiet Don*

HARRISBURG — Chief Justice of Pennsylvania Ronald D. Castille said today that a recently published book, *The Quiet Don* by Matt Birkbeck, contains a misleading and incomplete portrayal of the Supreme Court of Pennsylvania’s consideration of cases related to implementation of the Commonwealth’s Gaming Act.

In a detailed response below, Chief Justice Castille outlines the process the court followed in hearing cases cited by Birkbeck.

“The book in question provides a well-known account of a northeast Pennsylvania crime syndicate, but also attempts to weave assertions of impropriety on the part of this court that are not remotely supported by facts,” Chief Justice Castille said.

“There is no doubt that Mr. Birkbeck failed to fully research and understand the legal process about which he writes. Consequently, his narrative falls so far short of a complete story as to merit comment.

“Facts matter and misinterpretation of facts can be damaging to the trust that is necessary to sustain our court system. As the response details, this court’s handling of cases in question was nothing but straight forward.”

The response follows:

Response to assertions of author Matt Birkbeck
in *The Quiet Don*
October 9, 2013

Only the facts get in the way of the author’s assertions regarding the Supreme Court’s considering petitions filed by an applicant for a gaming license.

On October 1, 2007, petitioner Louis DeNaples sought review by the Supreme Court of orders entered by Grand Jury Supervising Judge Todd Hoover. The Supreme Court stayed Judge Hoover’s orders pending consideration of the petition, which was accelerated.

There was nothing extraordinary in the Supreme Court's actions in agreeing to consider the petition. Staying a lower court's orders is a normal procedure when the Court considers a petition and the Court has exclusive direct review responsibility over Grand Jury issues.

Among the issues raised by the petitioner was one of first impression; that is the authority of county district attorneys to engage in grand jury investigations into matters arising out of the licensing procedure established by the Gaming Act. Given the Court's exclusive responsibility for Grand Jury issues and the novelty of the issue raised, there was also nothing extraordinary about the Supreme Court's reviewing petitioner's claims. Petitioner also sought to quash the Grand Jury investigation asserting ongoing leaks of grand jury information.

The Supreme Court's published opinion of December 10, 2007, held that on the matter of first impression both the state Attorney General and the local District Attorney had concurrent authority to investigate alleged criminal violations of the Gaming Act. Petitioner's motion to quash the Grand Jury investigation was rejected and the stay dissolved.

Subsequently, a presentment was entered against Mr. DeNaples by the Grand Jury; he again petitioned for review by the Supreme Court on February 11, 2008, asking that charges against him be quashed and that an investigation into leaks from the Grand Jury be instituted.

After consideration of briefs from both sides, the Court on May 2, 2008, granted petitioner's request for exercise of extraordinary jurisdiction (not King's Bench as indicated by the author) but expressly and only limited to the question of alleged leaks by the Grand Jury. The Supreme Court denied petitioner's other claims, including his request for a stay of prosecution.

The Grand Jury supervising judge was ordered by the Supreme Court on May 2, 2008, to conduct an evidentiary hearing into the alleged Grand Jury leaks and consider whether a special prosecutor should be appointed to pursue allegations. The supervising judge's opinion was filed on August 4, 2008.

On February 24, 2009, the Supreme Court in a Per Curiam Order on the single matter of alleged Grand Jury leaks, the only issue over which it had retained jurisdiction, directed the Grand Jury Supervising Judge to appoint a special prosecutor to conduct and oversee further inquiry into allegations of violations of Grand Jury secrecy. The Supreme Court again retained jurisdiction for that single purpose, but noted that its limited retention of jurisdiction was not to be construed as a stay by the Court of any criminal prosecution. If any law enforcement agencies construed the actions by this Court as anything other than normal procedure in Grand Jury actions, then those agencies were mistaken in their perception.

In short, proceedings referenced by the author before the Supreme Court in matters related to the Gaming Act were consistent with normal court practice, significantly limited in scope and at no time presented inhibitions to prosecution of presentments handed down by the Grand Jury.

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