

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

SUPERIOR COURT

[Filed: August 11, 2015]

STATE OF RHODE ISLAND

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v.

Case No. P2/1992-2010A

TYRONE DALE

DECISION

GIBNEY, P.J. Before the Court is LMG Rhode Island Holdings, Inc.’s<sup>1</sup> (Providence Journal) Motion to Intervene, seeking to unseal court records in the above-captioned criminal proceeding. This Motion follows Tyrone Dale’s suicide on June 15, 2015, three days after he was charged with a sexual assault allegedly similar to that in the instant case and to which he pled nolo contendere in 1992. The State objects to the Motion, arguing that intervention is procedurally improper within a criminal action. This Court agrees.

I

**Facts & Travel**

In 1992, Tyrone Dale (Mr. Dale) pled no contest to simple assault related to a male student at St. Aloysius Home in Smithfield, Rhode Island. The entire record of this case was sealed. Over twenty years later, in June 2015, the State charged him with second degree sexual assault of a fifteen-year-old male who resided in another group home. Mr. Dale committed suicide three days after being charged.

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<sup>1</sup> LMG Rhode Island Holdings, Inc. owns the Providence Journal, a newspaper widely read throughout the State of Rhode Island.

Now the Providence Journal seeks to intervene, requesting that this Court lift the seal of the proceedings in the above-captioned matter so that it may more fully report on recent events surrounding Mr. Dale's actions. It claims that the recent charge stems from events similar to the crime that he pled to in 1992. The State objects, arguing that our Supreme Court's decision in State v. Cianci prohibits third-party intervention in criminal proceedings. 496 A.2d 139 (R.I. 1985).

## II

### Discussion

The Providence Journal seeks to intervene in this case, claiming that the First Amendment provides a presumptive right of access to court documents, including those in the present matter from 1992. The State, however, contends that while the Providence Journal may indeed ultimately obtain copies of such court documents, the present procedural path is not proper. Rather, it asserts that the Rhode Island Supreme Court has made it clear that the Providence Journal must file a separate civil action seeking declaratory judgment in order to access the records. The Providence Journal responds that such a course of action would exalt form over substance—asserting that our Supreme Court's holding in Cianci is inapplicable because, as Mr. Dale is dead, intervention will not interfere with the right to a fair trial.

In Cianci, the Providence Journal Company<sup>2</sup> similarly sought to intervene in a criminal proceeding to unseal documents related to a former Mayor of Providence's conviction for assault with a deadly weapon and simple assault. Id. at 141-42. The Court noted that intervention in Cianci did not present “any threat to [the] defendant's Sixth Amendment right to a fair trial.” Id. at 142. Nevertheless, it found it “obvious . . . that such a procedural device has no place in a

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<sup>2</sup> While likely under different ownership at the time, the Providence Journal Company issued the same publication as the Providence Journal here.

criminal proceeding.” Id. at 146. Cianci explained that “an intervenor, whether a representative of the press or any other private party, has no substantial interest in the actual subject matter of a criminal prosecution, nor would any such intervenor wish to be bound by any judgment of conviction.” Id. Rather, “representatives of the press or the public [must] institute a separate, independent action against the sealing authority by way of a complaint for declaratory judgment in the Superior Court.” Id. In 1991, our Supreme Court reiterated its holding “that third parties may not intervene in a criminal proceeding.” Providence Journal Co. v. Superior Court, 593 A.2d 446, 447 n.1 (R.I. 1991). It also dispelled any misconception that such a rule applied only to pretrial criminal proceedings. Id.

Accordingly, the Providence Journal’s Motion to Intervene must be denied. Even assuming arguendo that such denial exalts form over substance, our Supreme Court’s directive is binding: there can be no third-party intervention in criminal proceedings. Id. The Providence Journal here may file a separate civil action, seeking a declaratory judgment to unseal the records in the above-captioned matter.

### **III**

#### **Conclusion**

For the reasons set forth above, the Providence Journal’s Motion to Intervene is denied. Counsel shall submit the appropriate Order for judgment.



**RHODE ISLAND SUPERIOR COURT**

*Decision Addendum Sheet*

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**TITLE OF CASE:** State of Rhode Island v. Tyrone Dale

**CASE NO:** P2/1992-2010A

**COURT:** Providence County Superior Court

**DATE DECISION FILED:** August 11, 2015

**JUSTICE/MAGISTRATE:** Gibney, P.J.

**ATTORNEYS:**

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