

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHARLES R. HICKS,

Defendant.

No. 11-cr-30207-DRH

MEMORANDUM & ORDER

HERNDON, Chief Judge:

Now before the Court is the government's motion pursuant to the crime victims' rights act (Doc. 52). The government requests that the Court direct all counsel, with respect to both court filings and all court proceedings, to only refer to the victim TH by the initials of her first and last name, and not to otherwise reveal her identity, pursuant to the Crime Victims' Rights Act (CVRA), 18 U.S.C. § 3771(a)(8). Defendant Charles Hicks requests that the Court deny the government's request, as the government's suggestion that T.H. should not be referred to or addressed by her name tends to jeopardize defendant's enjoyment of the presumption of innocence, and his right to be judged by fair and impartial jurors.

In Count I of the superseding indictment, defendant is charged with production of child pornography involving an alleged victim, T.H. (Doc. 30). As an alleged crime victim, T.H. has certain rights under the CVRA. Specifically, T.H.

has the “right to be treated with fairness and with respect for the victim’s dignity and privacy.” 18 U.S.C. § 3771(a)(8). Further, the CVRA notes that “[i]n any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded the rights described in subsection (a).” 18 U.S.C. § 3771(b)(1). The CVRA also directs that “[o]fficers and employees of the Department of Justice . . . engaged in the . . . prosecution of crime shall make their best efforts to see that crime victims are . . . accorded[] the rights described in subsection (a).” 18 U.S.C. § 3771(c)(1).

The government notes that TH will have to testify at trial concerning sexual activities she engaged in with defendant, as well as identify images &/or videos depicting her engaging in sexual activity or the lascivious display of her genitals. Thus, the use of only T.H.’s initials will ensure that she be treated with respect for her dignity and privacy while discussing such personal matters in front of strangers. Further, it will protect her identity from the members of the jury, audience members, and any potential members of the press who may be present.

In response, defendant argues the statutory rights afforded alleged victims such as T.H. must be measured against the constitutional rights bestowed upon defendant, including his Sixth Amendment right to a fair trial by an impartial jury. Defendant argues that if the jury views the parties, the witnesses, and the Court treating T.H. like a victim, it will be more inclined to view her as one. Thus, defendant states that the government’s request that T.H. not be referred to or

addressed by her name in front of the jury tends to jeopardize defendant's enjoyment of the presumption of innocence (Doc. 62).

In reply, the government notes that the jury will be instructed as to the defendant's presumption of innocence and the government's burden of proof. Additionally, it argues the use of T.H.'s initials will not otherwise indicate to the jury that T.H.'s testimony is more or less credible than that of any other witness (Doc. 72).

While the Court fully appreciates the importance of defendant's constitutional rights, it finds his instant reasoning unpersuasive. The Court agrees with the government and finds the CVRA affords protection to T.H.'s identity in front of the jury and in a public tribunal. Thus, the Court **GRANTS** the government's motion pursuant to the crime victims' rights act (Doc. 52). Thus, the Court directs all counsel, with respect to both court filings and all court proceedings, to only refer to the alleged victim by the initials of her first and last name, and not to otherwise reveal her identity.

IT IS SO ORDERED.

Signed this 28th day of February, 2013.


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David R. Herndon
Date: 2013.02.28
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**Chief Judge
United States District Court**