

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

UNITED STATES OF AMERICA

vs.

2:08-cr-94-FtM-99DNF

SAMIR NEL CABRERA

OPINION AND ORDER

_____ This matter comes before the Court on a Motion to Allow "Live Blog" From Laptop Computer or Cell Phone in Courtroom (Doc. #93) filed on March 16, 2009, by Multimedia Holdings Corporation, d/b/a "News-Press", and two of the newspapers' reporters, Dick Hogan and Patrick Gillespie. These interveners seek an order allowing them to bring and use a laptop computer or cell phone into the courtroom during the sentencing hearing of the criminal defendant in this case so that they can "live blog" the proceeding as it occurs. They argue that with the advent of the electronic media over the internet, it is expected that news events be covered in a timely if not instantaneous fashion, and "live blogging" will greatly enhance the ability of the News-Press to perform that function. Otherwise, the newspaper reporters will be relegated to taking notes "with a pad and pencil."

The interveners rely on internet accounts of several district judges in other states who have allowed "live blogging" in a

criminal case.¹ The Court has found no published federal opinion, and interveners have cited none, which approves of such "live blogging" in a criminal case. Rule 53 of the Federal Rules of Criminal Procedure generally prohibits broadcasting of federal judicial proceedings: "Except as otherwise provided by a statute or these rules, the court must not permit the taking of photographs in the courtroom during judicial proceedings or the broadcasting of judicial proceedings from the courtroom." FED. R. CRIM. P. 53. Interveners had cited no federal statute or other rule in the Federal Rules of Criminal Procedure which would authorize the broadcasting requested by the motion. The former version of Rule 53 was upheld against a First Amendment challenge in United States v. Hastings, 695 F.2d 1278 (11th Cir. 1983). Such broadcasting of court proceedings is also prohibited by Local Rule 4.11(a)(2), Local Rules of the United States District Court for the Middle District of Florida. Since the purpose of bringing the computer or cell phone into the courtroom is to engage in conduct prohibited by the federal and local rules, the Court finds no reason to authorize such equipment in the courtroom.

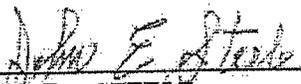
Accordingly, it is now

ORDERED:

¹"The term 'blog' is a portmanteau of 'Web log' and is a term referring to an online journal or diary." Doe v. MySpace, Inc., 528 F.3d 413, 415 n.1 (5th Cir. 2008).

The Motion to Allow "Live Blog" From Laptop Computer or Cell Phone in Courtroom (Doc. #93) is **DENIED**.

DONE AND ORDERED at Fort Myers, Florida, this 21st day of April, 2009.



JOHN E. STEELE
United States District Judge

Copies:
Counsel of Record
Counsel for Interveners