

SHEET 1

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, PROBATE PART
WARREN COUNTY
DOCKET NO. WRN-P-02-438-D
APP. DIV. NO. _____

IN THE MATTER OF)
THE ESTATE OF) TRANSCRIPT
LINDA ANN RAMBO,) of
) MOTION
)

Place: Warren Co. Courthouse
413 Second Street
Belvidere, N.J. 07823

Date: October 15, 2003

BEFORE:

HONORABLE FRED H. KUMPF, J.S.C.

TRANSCRIPT ORDERED BY:

MARCIA BLUM, ESQ. (Office of the Public
Defender, Appellate Section, 9th Floor,
31 Clinton Street, Box 46003, Newark, NJ 07101)

APPEARANCES:

ED WOSINSKI, ESQ.
Attorney for Roy Rambo

MICHAEL J. PERRUCCI, ESQ. (Florio, Perrucci
& Steinhardt)
Attorney for Estate of Linda Rambo

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APPENDIX D

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Argument - Wosinski

3

1 THE COURT: All right. IN THE MATTER OF THE
2 ESTATE OF LINDA RAMBO, Docket No. P-02-438-D. May I
3 have your appearances please?

4 MR. WOSINSKI: Good morning, Your Honor. Ed
5 Wosinski (phonetic) appearing on behalf of the Law
6 Offices of James Dork (phonetic), moving party,
7 representing Dr. Ray -- excuse me -- Roy Rambo.

8 MR. PERRUCCI: Michael Perrucci, Your Honor,
9 on behalf of the estate of Linda Rambo.

10 THE COURT: All right. This is your
11 application, sir, go ahead.

12 MR. WOSINSKI: Thank you, Judge. To start
13 off with, Judge, this is a case that I believe cries
14 out for the cornerstone of our justice system, not only
15 criminally, but I believe civilly. Our criminal
16 justice system starts off with that a person is
17 innocent until proven guilty.

18 That's a cornerstone of everything, even
19 civilly because that's the point where liberty can be
20 taken from someone; not money, but liberty. In this
21 particular case we're seeking from the Court to allow
22 Dr. Rambo to access what arguably under even the case
23 law CARAS that somewhat goes against us is his marital
24 property right now.

25 We're seeking to access that so that he can

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1 then mount a defense. And that defense is his
2 constitutional right.

3 And basically if we look at some of the case
4 law in New Jersey alone quoting from STATE V.
5 MORGESTEIN, 14-- excuse me -- 141 New Jersey Super.
6 525, the Sixth Amendment of the Constitution of the
7 United States provides in part in all criminal
8 prosecutions the accused shall enjoy the right to have
9 the assistance of counsel for his defense.

10 It goes on to say the right of counsel is
11 incorporated in the Fourteenth Amendment, also stated
12 through GIDEON V. WAINWRIGHT, 372 U.S. 335, and
13 includes within it a scope of the right of defendants
14 to secure counsel of his own choice.

15 Additionally, that is memorialized in our own
16 Constitution on again in STATE V. MORGESTEIN on 526,
17 the New Jersey Constitution, Article 1, Paragraph 10.
18 "In all criminal prosecutions the accused shall have
19 the right to have the assistance of counsel in all
20 defense."

21 As furthermore memorialized in STATE V.
22 YORMACK, under 117 New Jersey Super. at 315, quoting
23 from it, from the case, "It is firmly established that
24 one -- one accused of a crime has a right to the
25 assistance of counsel for his defense." GIDEON V.

1 WAINWRIGHT it cites.

2 "Additionally, has a right to the fair
3 opportunity to secure counsel of his own choice." It
4 does say that the right to choose counsel is not an
5 absolute right, however, it goes on to state in further
6 cases that not that he doesn't have the right to choose
7 counsel, but that he can't use that right to delay
8 proceedings.

9 That's not what we're doing here at all, Your
10 Honor. Additionally, further in a New Jersey case,
11 STATE V. YACHINDO on 138 New Jersey Super., quoting on
12 Page 67.

13 THE COURT: I don't think you have to talk
14 about the right to -- the Sixth Amendment right. I
15 think what you need to talk about is why you're
16 entitled to these particular assets.

17 MR. WOSINSKI: Okay, Judge. Well, let's
18 start first with the CARAS case which is quoted most
19 often in this particular situation. And I would say
20 that Your Honor should distinguish from CARAS, three
21 points I feel should be distinguished and where the
22 Justices may have unfortunately not focused enough on.

23 In the CARAS case they did very little
24 discussion, almost no discussion of a person's
25 constitutional rights. We're talking about the United

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Argument - Wosinski

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1 States Constitution and the New Jersey constitutional
2 rights to have a defense of his own choosing.

3 Additionally, I believe in CARAS and many of
4 the cases that are quoted around CARAS had to do with
5 when there were minor children of the deceased. And I
6 believe the Justices were more concerned on how do you
7 protect assets for minor children.

8 In this case we don't have that condition.
9 The Rambos' son was emancipated, did not live with
10 either of the parties, and he's not a minor child. So
11 I believe that should be differentiated. Additionally,
12 it goes on to say that no one should profit from an
13 allegation eventually proven of the taking of someone's
14 life.

15 Again, it's an allegation at this point,
16 Judge. That's number one. And in CARAS, CARAS allowed
17 equity to trump an established rule of law. There's no
18 doubt that between that and underneath New Jersey
19 Statutes Annotated 3B:7-1 we're not arguing that 50
20 percent of the estate should go in a constructive
21 trust.

22 There was joint tenancy on almost all the
23 assets in this case. We're not arguing about that 50
24 percent at this point. If he's cleared of all criminal
25 charges and if there's a civil action and he's cleared

Argument - Wosinski

7

1 and he finds not guilty on a civil action of an
2 intentional killing, then there will be another
3 argument on that.

4 But we're talking about the 50 percent that
5 arguably is his. It's a marital asset. CARAS went and
6 said equity trumps the law and we should take that. In
7 fact, if we're going to deal with equity, Judge, I
8 believe that leaves it in your hand to say then equity
9 should show that his constitutional right is to allow
10 him to have a defense.

11 To do anything else, Judge, is to try him now
12 and convict him now because he no longer has the chance
13 to use those assets to mount a defense. Yes, he's
14 innocent until proven guilty, but the State is going to
15 mount a case against him. He should have the ability
16 to choose those people.

17 In this case he was declared an indigent by
18 letters from opposing counsel. He wrote to coun-- he
19 wrote to the probation department saying based on the
20 statute, based on CARAS, these are the assets, we're
21 freezing them up. That's why he's indigent.

22 He's not when you look at the assets, when
23 you look at 50 percent of what's his, he's far from
24 indigent, not even a question. So he's not indigent.
25 And again in CARAS it's equity, but equity

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1 also should in my opinion respectfully to Your Honor
2 show that he should have a defense because if that
3 defense is provided to him and he would prevail with
4 that defense, what would be the wrong? The wrong in
5 equity be he might not survive that way should he have
6 a public defender.

7 At this point as an indigent he's had two
8 public defenders, one that left his -- his
9 representation, not by him firing him, but left and he
10 has now -- has another public defender.

11 In his certification he has told you that
12 there's been no investigation. No one has taken any
13 statements, done anything at this point. And it was
14 scheduled to go to trial in September.

15 We again are not talking about a third-degree
16 crime, a second-degree crime. We're talking about a
17 first-degree crime where he will spend the rest of his
18 natural days in jail. Again, we're talking about
19 money, Judge. We're talking about money that gives him
20 the constitutional right to represent himself.

21 Additionally, what I would like to present to
22 the Court at this point is another Appellate Division
23 in JACOBSON v. JACOBSON, 151 New Jersey Super. at 62.
24 It's exactly on point. This was a case where a
25 gentleman owned a pharmacy, he was a pharmacist. He

1 was accused of killing his wife.

2 There had been a prior Chancery Division
3 action pursuant to a divorce complaint. There was
4 assets that were frozen. He was accused of dissipating
5 assets. Same in this case. We have a dentist, a
6 professional with a dentist practice accused of
7 dissipating assets. They froze everything in the trust
8 account.

9 The Appellate Division said no, we are going
10 to allow him to access that money for his defense. And if
11 this case goes into all the constitutional rights that
12 he has which I've quoted already because the three
13 cases I quoted to Your Honor in the beginning of my
14 argument are taken right from JACOBSON.

15 And again it says counsel of choice. And if
16 you go through on Page 67, "Defendant of course is
17 entitled to retain qualified counsel of their own
18 choice."

19 THE COURT: Did that case involve the
20 application of N.J.S.A. 3B:7-1 --
21 MR. WOSINSKI: No, it did not, Judge. It did
22 not involve that, but it did involve a Chancery
23 decision where a Judge made an equitable decision to
24 freeze those accounts. Then he made the further
25 decision that I'm going to open up those accounts. And

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Argument - Wosinski

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1 that's exactly what happened in that particular case.
 2 And that's -- what's of importance I believe,
 3 Judge, is in that particular case it allowed him to do
 4 that. If you look through that case and that case -- I
 5 again believe is very important in this case there was
 6 a sale of a pharmacy. Here there was a sale of the
 7 dental practice.

8 And, again, he's not indigent. And it went
 9 on at this particular Court, that was the argument
 10 there. He's indigent. Well, he's indigent if you
 11 freeze all his assets. He's not indigent if -- and
 12 again, Judge, we're not looking at her side of the
 13 equation.

14 That -- that's allowed at this point. We
 15 agree that there will be a constructive trust on that.
 16 But what is the harm here? There is none, Judge,
 17 besides we're looking at money. But again these are

18 allegations. I don't care what anyone puts in a
 19 certification of who was found where, was there a gun,
 20 what was said, that's not evidentiary at this point.
 21

22 That will come out in the criminal trial.
 23 But he has the right to that defense. That's
 24 fundamental, Judge. At this point we're asking for a
 25 minimum that -- we've asked originally for 50 percent
 which is his, which is -- again even in CARAS says it's

Argument - Wosinski

11

1 his, it's marital property.

2 But we'll even go less than that, Judge.
 3 Originally in the moving papers by counsel they equated
 4 this estate as a million dollars and plus. Even in
 5 their further letters one piece is worth 400, 200, 300.
 6 We're saying -- Judge, at minimum allow the 50 percent
 7 to go in a constructive trust for the deceased.

8 50 percent to go in a constructive trust and
 9 allow 200,000 of that 50 percent to go to his defense
 10 between counsel fees, experts, and between an
 11 investigator. In court today I do have the counsel
 12 that wants to go forward in the case and the
 13 investigator. They've been chosen by Mr. Rambo.

14 Unfortunately, I have to argue that -- Mr.
 15 Dork, I am co-counsel, would be co-counsel in this
 16 case. But all those things are in place to get going
 17 with this trial. Without that he basically does not
 18 have in his opinion at this point effective counsel of
 19 his choice.

20 And once again, to conclude, Judge, that's a
 21 constitutional right. Yes, in Equity we can change
 22 things, but again, Judge, you're going to have to look
 23 at taking away a person's fundamental and United States
 24 constitutional rights and confirmed by our -- our
 25 Constitution.

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Argument - Wosinski/Perrucci

1 And I say that, Judge, in Equity you
2 shouldn't do that because we're dealing again with
3 dollars versus a man's liberty. And we are also
4 willing to ask this Court to give us a portion of that
5 50 percent. It's going to be more -- more than --
6 \$200,000 for his 50 portion. He should be allowed to
7 access that, Judge, for his own defense. Thank you.

8 MR. PERRUCCI: Thank you, Your Honor. In
9 this particular case the law is extremely clear. I
10 think what --

11 THE COURT: Let me just -- what has been sold
12 and what has not been sold at this point?

13 MR. PERRUCCI: The -- the [REDACTED] home
14 that was used as a dental office that was held in
15 tenancy by the entirety has been sold. And other than
16 paying some routine bills the money has been held in
17 escrow.

18 The [REDACTED] property which is the other
19 piece of real estate which was the marital home has not
20 been sold at this point.

21 THE COURT: Is that the farm or is --
22 MR. PERRUCCI: That's the farm, Judge.

23 Right. 11 acres, I believe.
24 THE COURT: And that's the only real estate
25 that there is?

13

Argument - Perrucci

1 MR. PERRUCCI: They're the only two pieces of
2 real estate. There's a small lot in like North or
3 South Carolina that we can't seem to give away. But,
4 Judge, I think, you know, counsel made an impassioned
5 speech, but quite frankly he's dead wrong on the law.

6 The case he just handed me a few minutes ago,
7 JACOBSON, is a 1977 case. It was before the statutory
8 change of the law under 3B:7-1, et seq., as well as
9 prior to IN RE CARAS that doesn't even cite it. And it
10 is quite inapposite on the facts of this case.

11 The -- I guess what counsel is asking this
12 Court to do is to rule 3B:7-1, 3B:7-2, et seq., is
13 unconstitutional. I think they're asking for a
14 statutory determination that the statutory scheme that
15 the Legislature passed in New Jersey is
16 unconstitutional.

17 I mean very clearly it suggests that a
18 surviving spouse -- devisee who criminally and
19 intentionally kills the decedent is not entitled to any
20 benefits under the testate or intestate estate. And it
21 passes as though the killer had predeceased the
22 decedent.

23 So, as Your Honor knows, we're not talking
24 about a pharmacy that's held in someone's name, we're
25 talking about two pieces of real estate that are held

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Argument - Perrucci

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1 as husband and wife. The [REDACTED] property and the
2 farm on [REDACTED] were both in both of their names
3 as husband and wife, tenancy by the entirety.

4 Under the statute it's crystal clear that in
5 that particular situation that the killer is presumed
6 to have predeceased the murder victim and as a result
7 the entire estate would flow into the murder victim's
8 estate.

9 IN RE CARAS supports that. IN RE CARAS was a
10 situation that took it upon itself to create trust
11 because at the Law Division at that particular time,
12 Probate Court in Monmouth county, that particular
13 individual, Mr. Caras, had not been convicted yet.

14 So as part of the Court's equitable powers,
15 since the criminal trial just like here had not come
16 up, they created constructive trust because they didn't
17 want the assets depleted by defense counsel in regard
18 to the murder trial.

19 And then subsequently when the Appellate
20 Division looked at it it was clear that he had been
21 subsequently convicted. So the result, Your Honor,
22 obviously upon a conviction or even a trial in this
23 particular case on a civil trial, if we succeed there's
24 no doubt that all the assets go to Linda Rambo's estate
25 and they would flow through her particular estate.

Argument - Perrucci

15

1 In the meantime, what Judge Seybolt
2 (phonetic) did was create a constructive trust and
3 freeze all these assets. And I think that's what we've
4 been operating on. The law is crystal clear in that
5 regard.

6 This is not a situation where Mr. Rambo had
7 100 or \$200,000 in a separate account that we could
8 designate was his assets and there would be a question
9 as to whether Linda would have any claim to that.
10 These are tenancy by the entirety properties, Your
11 Honor.

12 And the only other major asset to my
13 knowledge are two life insurance policies that the
14 insurance companies had not put forward yet waiting for
15 the criminal determination.

16 So we don't have a situation anywhere
17 remotely able to take any equitable argument and say
18 that Mr. Rambo is entitled to some of the assets
19 because obviously the entire policy in this area of the
20 law and all of these slayer statutes that there have
21 been numerous Law Review articles written about it both
22 at Harvard and Iowa Law Review have talked about all --
23 what they call the slayer statutes, they've all been
24 held in recent -- to be constitutional.

25 To attack it from a constitutional basis on

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Argument - Perrucci

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1 Sixth Amendment grounds I think does not win the day,
2 Your Honor. As the Courts have recently said, Chief
3 Justice Renquist of the Supreme Court on the WHEAT case
4 has made it clear that the right to counsel under the
5 Sixth Amendment does not mean the right to a particular
6 lawyer.

7 I mean if that were the case, everyone can
8 come in and say, you know, we want the government to
9 pay for F. Lee Bailey. In this particular case, Your
10 Honor, the law is very clear and I think Your Honor's
11 bound by the statutes and case precedent.

12 THE COURT: What -- do you have a position
13 concerning the sale of the [REDACTED] farm?

14 MR. PERRUCCI: We're not adverse to that
15 particular sale, Your Honor. I think there was some
16 preliminary discussion at one of the prior hearings
17 that I was not here that the Court had suggested that.

18 I think the one thing for the estate's benefit is -- if
19 Your Honor's at all familiar with [REDACTED]
20 which is basically Old Route 22 coming off of 78 in
21 Pohatcong Township.

22 It's 11 acres mostly in Alpha Borough. It
23 joins up against an industrial zone. I mean the one
24 thing I think the estate should seriously consider is
25 what's the highest and best use for that particular

Argument - Perrucci/Wosinski

17

1 land.

2 It probably makes some sense to go before the
3 planning board and/or zoning board to try to get it
4 rezoned so we can increase the value of it before it's
5 sold. But, short of that, we don't have any objection
6 to it being sold.

7 MR. WOSINSKI: Judge, if I may respond
8 briefly. Thank you. First of all, I am not
9 representing to the Court that I believe that the
10 statute, again N.J.S.A. 3B:7-1, et seq., and 7-2 in
11 particular, are unconstitutional.

12 Absolutely if Dr. Rambo is found guilty then
13 the statute applies, but it applies then, Judge. It
14 says a surviving spouse -- devisee who criminally and
15 intentionally kills; are we still in America, Judge, he
16 hasn't been found guilty of that in any court of law.

17 He's been indicted. Nothing further. So the
18 statute is constitutionally sound on its face once that
19 comes to be. As far as CARAS again, Judge, CARAS does
20 exactly what happens many times, especially in the
21 Chancery Division, equity did in those Justices eyes
22 say that -- should be a constructive trust, however,
23 when I quoted a '77 case it's interesting that CARAS
24 never bothered to quote that case. That was on the
25 record.

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Argument - Wosinski

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1 And they went into the constitutional rights
2 of this person. And again, Judge, I think when we get
3 down to equity we really have to look at what we're
4 talking about. We're talking about dollars. Yes, he
5 shouldn't profit from something he did, but he should
6 have the right first to defend himself so that he can
7 show that he didn't do that intentionally or otherwise.

8 That's what we're talking about here, Judge.
9 And we're not asking again. -- at minimum we're asking
10 for at least 200,000 that -- which is less than his 50
11 percent share that until he's found guilty the statute
12 can't take away from him.

13 That's why it's put in a constructive trust
14 on both sides because if he is found innocent and the
15 civil case does not by a preponderance of evidence show
16 that he had intentionally killed, everything goes to
17 him. That's our laws.

18 And finally, Judge, with the argument of the
19 United States case saying that anyone will go for F.
20 Lee Bailey, we're talking about indigents. Indigents
21 cannot use the argument that I don't like this guy and
22 I want this guy who's private practice, but what
23 indigents can do even in our system in many counties,
24 they have conflicts for P.D.s and P.D. pools.
25 So if you're not comfortable and you don't

Argument - Wosinski

19

1 have the rapport with that particular person, you can
2 ask for someone else. No, you can't ask for F. Lee
3 Bailey or you can't ask for William Harth (phonetic)
4 who's a private attorney unless you can pay for them.

5 Again, Judge, just to sum one more time,
6 we're talking about money versus a person's liberty for
7 the rest of his life. Thank you.

8 THE COURT: Let me take a minute and look at
9 that case since that case --

10 MR. WOSINSKI: I have a copy for you, Judge,
11 if you want.

12 THE COURT: No. I have -- I have it right
13 inside. Let me just take a minute to look at that and
14 I'll be -- my decision.

15 (off the record. Back on the record)

16 THE CLERK: Come to order --

17 THE COURT: Be seated. Thank you. I didn't
18 ask you whether you had an opinion about counsel's
19 position concerning or defense position concerning the
20 highest and best use of the property so perhaps change
21 the zoning before its attempt to be sold.

22 MR. WOSINSKI: Judge, we don't have a
23 position at this point. Again, we would assume that
24 since the son was not at the property prior to this
25 alleged incident that the property should be sold and

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Decision

1 it should be listed at a fair market value and sold.

2 THE COURT: Okay. All right. This is an
3 application filed by Roy Rambo to have property, real
4 estate located at [REDACTED] in Alpha,
5 Block [REDACTED], Lot [REDACTED], and Block [REDACTED] Lot [REDACTED] to be sold
6 -- first to be sold and then a portion of the amount be
7 used for paying for the defense of -- of Roy Rambo's
8 criminal charges for killing his wife.

9 The defendant is the son of the decedent and
10 is the only heir of the decedent. The property in
11 question, there was a prior order of this Court to sell
12 one piece of property that was the [REDACTED] home
13 which was the dental office of Roy Rambo, Dr. Rambo.

14 And that has been sold and except for paying
15 expenses -- some expenses, the amount is being held in
16 escrow. Both of the properties were held apparently as
17 tenants in entireties.

18 Aside from the impact of the -- of Mr. Rambo
19 killing his wife, the intestacy laws would -- the
20 manner of holding of those properties as tenants in the
21 entirety would essentially mean that the -- those
22 pieces of real estate would pass to the plaintiff in
23 this matter in the normal course.

24 There is, as counsel for the plaintiff
25 pointed out, case law, JACOBSON V. JACOBSON, 152 New

21

Decision

1 Jersey Super. 62, Appellate Division 1977, case which
2 deals with that issue, that is whether the marital
3 assets are available to a husband who has been charged
4 with killing his wife.

5 And that case does provide essentially that
6 monies would be available to -- from the marital estate
7 to pay for legal expenses associated with the charges
8 for killing his wife.

9 That decision, however, as counsel for the
10 defendant pointed out, in 1977 pre-dated the enactment
11 of N.J.S.A. 3B:7-1 and 3B:7-2 which were enacted in
12 1981 and became effective in May of 1982.

13 Those particular provisions provide that a
14 person who is -- has intentionally killed their spouse
15 is not to inherit either by way of joint tenancy or any
16 other way any of the assets of the estate.

17 So the application of those statutes would
18 seem to indicate that the -- until there's been a
19 determination on the question of whether the -- Dr.
20 Rambo actually did intentionally kill his wife that
21 those -- or if it is determined that he intentionally
22 killed his wife, he would not be able to receive any of
23 the assets from the -- those properties held by way of
24 -- by the entireties under N.J.S.A. 3B:7-2.

25 So the question is in the circumstance of

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1 this case is whether any of those assets -- first the
2 question of whether the property should be sold and,
3 second, whether any of those assets or proceeds would
4 be available to Dr. Rambo for his defense in the
5 criminal action.

6 Obviously if he's found to be guilty
7 ultimately none of these assets would -- he would be
8 entitled to. If he's found to be innocent, because of
9 the difference in the standard of proof there may have
10 to be a subsequent hearing here in order to determine
11 whether based upon the preponderance of the evidence he
12 is guilty of intentional killed.

13 Obviously the criminal case being based upon
14 a standard of beyond a reasonable doubt. So there's a
15 difference of standards under the two -- under the
16 criminal action as to here.

17 So even if he's found to be innocent in the
18 criminal action, there may have to be an initially
19 hearing here to determine whether by a preponderance of
20 the evidence he's still found to be -- intentionally
21 killed his wife.

22 And if that in fact is found to be not the
23 case, then obviously he would be entitled to --
24 entitled to the entire estate because N.J.S.A. 3B:7.2
25 -- 7.1 would not be applicable.

1 This is the reason why I think in CARAS the
2 proceeds of the -- of the estate, marital estate were
3 held in -- in constructive trust until a final -- that
4 was also a case where it was prior to the determination
5 in the criminal matter and the Court determined that
6 the matter -- that the assets should be held in trust
7 pending an outcome of whether N.J.S.A. 3B:7-2 acted to
8 prohibit the access to the marital assets.

9 So in the circumstances of this case I think
10 that is the appropriate thing to do. First of all, I
11 think it is appropriate to sell this property. I don't
12 -- not requiring that it be sold immediately, but I
13 think you should take the steps to obtaining the most
14 value that you can from that -- from the sale of that
15 property and then those proceeds should be held in
16 trust in the same way that the proceeds from the sale
17 of the dental practice building has been held in trust
18 pursuant to the order of Judge Seybolt.

19 And although there is a Sixth Amendment
20 right, that right is not -- is not without some -- is
21 not a absolute right. Obviously the doctor will have a
22 -- an opportunity to have counsel, whether it's a
23 counsel that he pays for or whether counsel that is
24 provided to him.

25 STATE V. RAY indicates that defendant's right

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Decision

24

1 to counsel of his choice is not absolute and must give
2 way when required by the fair and proper administration
3 of justice.

4 In the circumstance of this case I conclude
5 that the funds from the sale of the [REDACTED]
6 [REDACTED] farm are to be held in trust and are not
7 available to Dr. Rambo for purposes of his defense in
8 the criminal matter.

9 And, therefore, I will permit the sale of the
10 property, but I will -- direct that those be held in
11 trust pending the outcome of the criminal proceedings.

12 MR. PERRUCCI: Thank you, Your Honor.

13 MR. WOSINSKI: Thank you, Judge.

14 THE COURT: Would you prepare --

15 MR. PERRUCCI: Yes, Your Honor.

16 THE COURT: -- an order under the five-day
17 rule?

18 (Proceedings concluded)

CERTIFICATION

I, REGINA Z. MONAGHAN, the assigned
transcriber, do hereby certify that the foregoing
transcript of proceedings in the Warren County Superior
Court on October 15, 2003, Tape No. 1, Index No. 4152 -
7235, is prepared in full compliance with the current
Transcript Format for Judicial Proceedings and is a
true and accurate compressed transcript of the
proceedings as recorded.

Regina Z. Monaghan

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July 17, 2006

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