

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

**COMMONWEALTH OF PENNSYLVANIA** :  
 :  
**vs.** : **NO. 1414-2010**  
 :  
**JAY HARTSOCK,** : **CRIMINAL ACTION - LAW**  
**Defendant** :

**ORDER**

**AND NOW**, this **1<sup>st</sup>** day of **March, 2011**, this order is entered pursuant to the Commonwealth's Motion for Reconsideration of this Court's order of January 31, 2011. After consideration of the motion, including hearing argument on February 16, 2011, the motion is **GRANTED** in part and the order of January 31, 2011 shall be amended to provide for protective provisions for Defense Counsel's treatment of the discovery duly provided to her per the order of January 31, 2011.

In its motion the Commonwealth requests that this Court reconsider its order of January 31, 2011 in that the Commonwealth protests part of the relief granted therein. Specifically, in its order of January 31, 2011, this Court directed that the Commonwealth comply with its mandatory discovery obligations and disclose the 2,500 plus page forensic report which entailed the internet history of a certain computer in-full without any alterations, including without any images redacted. Some of these images are images of child pornography, the very images that Mr. Hartsock faces criminal charges for allegedly possessing.

Just as the internet history is the source of the charges against Mr. Hartsock, Mr. Hartsock has indicated that the internet history may also possibly provide him with a defense to the charges

against him. Thus, this Court directed, in its order of January 31, 2011, that the Commonwealth provide to Mr. Hartsock's Defense counsel a copy of the report in-full without any alterations, including without any images redacted.<sup>1</sup> This Court believes that this is the only way that counsel for Mr. Hartsock may properly prepare for trial, including the possibility of raising a defense to the charges against him.

The Commonwealth asserts that it cannot disclose the report in-full to Defense counsel because then the Commonwealth would be guilty of dissemination of child pornography under 18 Pa.C.S. § 6312(c). This Court does not agree. 18 Pa.C.S. § 6312(f), entitled Exceptions, allows for the Commonwealth to provide discovery to Defense counsel. 18 Pa.C.S. § 6312(f) states, "This section does not apply to any material that is viewed possessed, controlled, brought or caused to be brought into this Commonwealth, or presented for a bona fide educational, scientific, governmental or judicial purpose." Clearly, discovery serves a judicial purpose. The language of 18 Pa.C.S. § 6312(f) denoting that the exception applies to "this section" clearly describes that the exception applies to 18 Pa.C.S. § 6312 in its entirety, including 18 Pa.C.S. § 6312(c).

As directed in the order of January 31, 2011, the Commonwealth is DIRECTED to immediately provide discovery to Defense counsel and provide a copy of the report to Defense counsel in-full without any alterations, including without any images redacted. The order of January 31, 2011 is HEREBY AMENDED, however, to provide for the following protective provisions: Defense counsel shall not make any copies the report provided to her, Defense counsel's office shall, at all times, retain possession of the report that is provided to her, and at the

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<sup>1</sup> The Commonwealth previously provided the report with images redacted.

conclusion of proceedings, Defense counsel shall return her copy of the report to the District Attorney's Office for destruction.

BY THE COURT,

Joy Reynolds McCoy, Judge

cc: PD – Robin Buzas, Esquire  
DA – Kenneth Osokow, Esquire