

**STATEMENT OF LEGAL ISSUES**

1. Did the trial court violate Defendant's right to a public jury trial when it excluded the public from the courtroom while the alleged victim testified?

The trial court held there was no violation of Defendant's right to a public jury trial, and ordered the public (other than the press) to be excluded from the courtroom while the alleged victim testified.

J.T. 519-523, 687.

Waller v. Georgia, 467 U.S. 39, 104 S.Ct. 2210, 81 L.Ed.2d 31 (1984)  
Presley v. Georgia, 558 U.S. \_\_\_, 130 S.Ct. 721, 175 L.Ed.2d 675 (2010)  
Rapid City Journal v. Delaney, 2011 S.D. 55, 804 N.W.2d 388

2. Did the court err in refusing to impose sanctions against the State regarding the State's issuance of pre-indictment subpoenas?

The trial court refused to rule on the direct issue of the validity, and abuse of power, of the State's issuance of pre-indictment subpoenas to obtain evidence. However, the court found that even if the State had violated its subpoena power, the sanction would not be exclusion of the wrongly obtained evidence.

Motions Hearing Transcript, 12/3/10 at p. 150.

SDCL § 23A-14-2  
SDCL § 15-6-45(a)  
SDCL § 23A-5-15