

[J-60-2007]
IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA,	:	No. 2 WAP 2006
	:	
	:	
	:	Appeal from the Order of the Superior
	:	Court entered August 22, 2005 at No. 373
v.	:	WDA 2004 reversing the Order of the
	:	Court of Common Pleas of Allegheny
	:	County entered March 2, 2004 at No.
JAMIE LYNN UPSHUR,	:	MISC 410 March 2004.
	:	
	:	ARGUED: September 11, 2006
	:	
APPEAL OF: WPXI, INC.	:	RESUBMITTED: April 13, 2007

CONCURRING OPINION

CHIEF JUSTICE CAPPY

DECIDED: JUNE 20, 2007

I join the Opinion Announcing the Judgment of the Court in all respects. I write separately only to emphasize that WPXI is only entitled to access a copy of the audiotape. There is simply no reason that WPXI should be given custody of the tape itself, as such custody could raise serious security concerns regarding potential evidence. The risk of inadvertent destruction or loss of evidence is too great. Rather, it is within the trial court's supervisory powers to determine the best way to provide access to the audiotape in question.

Additionally, I point out that the party seeking access to the document in question should be charged with the costs related to replication.