

[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
v.	:	Court entered August 22, 2005 at No. 373
	:	WDA 2004, reversing the Order of the
	:	Court of Common Pleas of Allegheny
JAMIE LYNN UPSHUR	:	County entered March 2, 2004 at No.
	:	MISC 410 March 2004.
	:	
	:	
APPEAL OF: WPXI, INC.	:	ARGUED: September 11, 2006

DISSENTING OPINION

JUSTICE FITZGERALD

DECIDED: JUNE 20, 2007

I respectfully dissent. I believe that providing the media with copies of evidence for public dissemination during trial court proceedings can severely undermine the integrity of a criminal trial. I would affirm the Superior Court's holding reversing the trial court's order in this case, especially because the audiotape was never entered into evidence or otherwise filed with the court and made part of the record, despite the fact that it was played during the preliminary hearing. See Commonwealth v. Upshur, 882 A.2d 499, 503 (Pa.Super.2005). Although I do not oppose release of a transcript of the tape, I do not view the tape itself as a "public judicial record" subject to public access under the circumstances.