

November 29, 2018

VIA HAND DELIVERY AND FILED WITH CLERK'S OFFICE

The Honorable Domenica A. Stephenson
Leighton Criminal Court Building
2600 S. California Ave., Rm. 204
Chicago, Illinois 60608

Re: *People v. David March, Joseph Walsh, and Thomas Gaffney*, No. 17 CR 09700-01, No. 17 CR 09700-02, No. 17 CR 09700-03

Dear Judge Stephenson:

I am writing on behalf of the news media Intervenors in the above-referenced case.¹ For several months, Intervenors have been following and reporting on the prosecution and trial of this case, in which the public clearly has great interest. We understand that the Court has removed the courtroom monitor that is displaying to the media and public the trial exhibits that have been entered into evidence and made of record in the case. We understand that the rationale for this decision is that some (but by no means all) of the exhibits that have been shown (or will be shown) may include personal information of the officers or witnesses. Without slighting that concern, we strongly urge the Court to reconsider this blanket order denying contemporaneous access to admitted trial evidence.

"[I]t would be difficult to single out any aspect of government of higher concern and importance to the people than the manner in which criminal trials are conducted." *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 575 (1980). As the Court is aware, any exhibits introduced at trial are part of the record of this judicial proceeding, and accessible by the press and public as a matter of well-established law in Illinois and every other state. *See, e.g., Skolnick v. Altheimer & Gray*, 191 Ill. 2d 214 (2000). In addition to the presumptive First Amendment right of public access to the criminal justice system, *e.g., Press-Enterprise Co. v. Super. Ct.*, 464 U.S. 501, 508-10 (1984), the public also has a common law right "to inspect and copy public records and documents, including judicial records and documents." *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 597 (1978); *People v. Zimmerman*, 2018 IL 122261, ¶¶ 40-41. This right "includes the right of the media to copy audio or video tapes which have been admitted into evidence in a criminal trial." *United States v. Guzzino*, 766 F.2d 302, 304 (7th Cir. 1985) (citing *United States v. Edwards*, 672 F.2d 1289, 1293-94 (7th Cir. 1982)). In contrast to discovery, once such evidentiary material is entered into the trial record, restricting access to it requires the most extraordinary circumstances that are not present here.

While Intervenors certainly appreciate the Court's interest in protecting personal information such as social security numbers and the like (where such exists), we respectfully submit that there are less restrictive alternatives to achieve that end than removing the monitor entirely, including redacting such information

¹ Intervenors are the Chicago Tribune Company, LLC; the Associated Press; Chicago Public Media, Inc.; and the Reporters Committee for Freedom of the Press.

before it appears on the monitor. See *Press-Enterprise*, 464 U.S. at 510 (measures restricting access must be “essential to preserve higher values and . . . narrowly tailored to serve that interest”); accord *Skolnick*, 191 Ill. 2d at 232; *Zimmerman*, 2018 IL 122261, ¶ 30. This would protect the personal information and at the same time continue to allow everyone to see all of the exhibits as they are introduced. Consistent with First Amendment and common law principles, the answer is not to prevent the press and members of the public from seeing in real time what the evidence is -- including the many exhibits, such as police videotapes of the shooting, that contain no personal information. Intervenors’ ability to promote public understanding of this case requires prompt access to the evidence put before the jury. “To delay or postpone disclosure undermines the benefits of public scrutiny and may have the same result as complete suppression.” *Grove Fresh Distrib., Inc. v. Everfresh Juice Co.*, 24 F.3d 893, 897 (7th Cir. 1994).

Accordingly, Intervenors respectfully request that all exhibits continue to be made public via the courtroom monitor, and, pursuant to the constitutionally required standards, that the parties be permitted to redact purely confidential information (e.g., social security numbers, home addresses of police officers) from the exhibits.

We appreciate the Court’s attention to this matter and would be happy to address any questions, concerns or instructions the Court may have in connection with this request.

Very Truly Yours,



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