

# Inner City Press

December 28, 2021

By E-mail

Hon. Alison J. Nathan, United States District Judge  
Southern District of New York, 40 Foley Square, New York, NY 10007

Re: US v. Maxwell, 20-cr-330 (AJN), fifth timely request for public call-in line, in light of Omicron, Court's statements & events, and opposition to continued redaction of flight logs; docketing

Dear Judge Nathan:

On behalf of Inner City Press and in my personal capacity, I have been covering the above-captioned case, and have repeatedly asked that a public call-in line be provided, in light of COVID-19 restrictions and spread.

Now this morning the Court has taken note of the rapid spread of Omicron. This is the time to belatedly provide the public call-in line, for jury notes, counsel's argument, and the reading of the verdict, if and when it happens.

Yesterday Inner City Press was informed that a person who has been attending the trial in the overflow courtroom(s) and reporting to a wider audience was not allowed into the courthouse, with COVID / Omicron and social distancing being cited as the reason (according to the individual).

While Inner City Press continues to inquiry into this seeking to confirm or disprove it, it highlights the need for a public call-in line, to ensure a public trial.

Also on transparency, while again requesting the unsealing / unredaction in the flight logs of all but victims' / survivors' names (there is a flight in the Rodgers log from Wilmington, Delaware to New Jersey, involving non-victims, in which Inner City Press is particularly interested), this is also a request that all court exhibits, including jury notes, be docketed on PACER on the same-day basis the US Attorney's Office was supposed to operate on USAfx (but at times did not).

While appreciating that the Court docketed before denying Inner City Press' November 12 request for a call-in line, Dkt. 451, since then travel restrictions to New York have been imposed on entire countries, including some visited by Jeffrey Epstein's plane, with defendant Maxwell aboard, in their tour of Africa with former President Clinton and others. Restrictions and cases are growing in New

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York, but still no call-in line. By contrast, on December 17 Judge Richard J. Sullivan provided a call-in line for an in-person criminal proceeding. And yesterday EDNY had a criminal proceeding with a call-in line, as did DDC.

Meanwhile, in this case, "the Government is willing to provide printed versions of a redacted version of its slides before the summation begins to members of the public in attendance, so they can follow along during the summation" -- only to those "in attendance." As noted, some cannot be in attendance.

A public call-in line should be provided for the summations, as Inner City Press has been requesting throughout this trial, and even before.

The implication that only documents on which the Court acts should be put in the docket is one that we oppose. The public has a right to know what the Court is NOT acting on, in this case.

Formally, this is a Press request that the flight logs and jury notes and other filings be further unsealed and/or unredacted consistent with *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110 (2d Cir. 2006) and other applicable case law. This is a request that this opposition to sealing be docketed as, for example, took place in *US v. Avenatti*, 19-cr-374 (JMF), Dkt 85, see <https://storage.courtlistener.com/recap/gov.uscourts.nysd.516151/gov.uscourts.nysd.516151.85.0.pdf>

The loss of First Amendment freedoms, even for a short period of time, unquestionably constitutes irreparable injury. *Elrod v. Burns*, 427 U.S. 347 (1976).

The First Amendment to the U.S. Constitution guarantees to the public a right of access to court proceedings. U.S. CONST. AMEND. I; *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 603 (1982). The public's right of access is strongest when it comes to criminal proceedings such as these, which are matters of the "high[est] concern and importance to the people." *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 575 (1980) (plurality opinion).

If deemed necessary, PLEASE TAKE NOTICE that Inner City Press and its undersigned reporter, in personal capacity, will move this Court before Honorable Alison J. Nathan, U.S. District Judge for the Southern District of New York, at a date and time directed by the Court, for entry of an order granting permission to be heard on unsealing the improperly redacted submissions in this case, on public access to trial exhibits including flight logs and court exhibits like jury notes and to

the provision of access, during COVID-19 including its Omicron variant and attendant travel restrictions, by listen-only audio line.

Non-parties such as Inner City Press and myself have standing to intervene in criminal proceedings to assert the public's right of access. *United States v. Aref*, 533 F.3d 72, 81 (2d Cir. 2008).

Please confirm receipt and docket this timely responsive filing (see eg in this case, Dkt 363 and 451), making Inner City Press an Interested Party (as was done in Dkt 362), and thank you for your attention to it as you continue to make logistical arrangements for the trial's endgame.

Respectfully submitted,

/s/

Matthew Russell Lee, Inner City Press

cc: Alison Moe, Maurene Comey at DOJ; Counsel Sternheim and Everdell