

Inner City Press

February 3, 2022

By E-mail to Chambers

Hon. Dabney L. Friedrich, United States District Judge
E. Barrett Prettyman Courthouse
333 Constitution Avenue N.W., Washington D.C. 20001

Re: Application that public call-in / listen-only phone line be maintained for trial in USA v. REFFITT, 21-cr-00032-DLF

Dear Judge Friedrich:

This is an application for continued public listen-only call-in telephone access to the above captioned case, which I have been covering from the start, along with other January 6 cases, for Inner City Press. See, e.g., January 10, 2021, Seattle Times, "Seattle man charged with assaulting a federal officer at U.S. Capitol siege," "the magistrate judge ordered him to stay away from Washington, D.C., according to reporting by Inner City Press journalist Matthew Russell Lee," <https://www.seattletimes.com/seattle-news/crime/seattle-man-charged-with-assaulting-a-federal-officer-at-u-s-capitol-siege/> & <http://innercitypress.com/ddc106reffitticp102521.html>

At today's pre-trial conference I was surprised to hear, amid talk of special COVID protocols in the courthouse and in transporting the defendant the courthouse that the public listen-only call-in line which has existed throughout this case is slated to be terminated for the trial. This is a near-immediate objection.

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).

Clearly, this long-standing right has to be affirmed differently in this time of ongoing COVID-19 / Omicron, the impact of which was evidence even in today's pre-trial conference. The defendant will be transported differently if proof of vaccination cannot be shown; even voir dire is impacted by social distancing and other COVID-related issues.

There is simply no reason to cut off, at this point, the call-in line that has existed throughout this case. Some may not be able to or comfortable with the overflow courtroom which was alluded to.

This is a formal application that the call-in line for these proceedings be maintained for trial. The loss of First Amendment freedoms, even for a short period of time, unquestionably constitutes irreparable injury. *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

Inner City Press: In-house SDNY: Room 480, 500 Pearl Street, NY NY 10007
E-mail: Matthew.Lee@innercitypress.com - Tel: 718-716-3540
Regular Mail: Dag Hammarskjold Center, Box 20047, New York, NY 10017

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If necessary, under DDC Local Criminal Rule 57.6

"Any news organization ... shall file an application for such relief with the Court. The application shall include a statement of the applicant's interest in the matter as to which relief is sought, a statement of facts, and a specific prayer for relief."

Interest in the matter: Inner City Press covers dozens of the January 6 cases, its reporting has been cited in numerous other media. It seeks listen-only call-in telephone access to the trial in this case, as has existed as every previous stage of the proceeding in light of COVID-19 which has not receded.

Statement of facts: Call-in access has rightly existed to date; given the continuing COVID conditions, as reflected even in the Chief Judge's most recent Standing Orders, the call in line(s) should be maintained.

Specific prayer for relief: Maintain and do not cut off the listen-in call-in telephone access to this trial.

This is being emailed to Chambers, and the AUSA and defense & Coalition counsel, and should be docketed as Judge Mehta, for example, did in US v. Caldwell, 21-cr-00028 (APM) Dkt No. 353, at https://www.courtlistener.com/docket/59793849/united-states-v-caldwell/?order_by=desc#entry-363 I do not have filing privileges in DDC, and that should not be required for this application for access.

Thank you.

Matthew Russell Lee

cc: jeffrey.nestler@usdoj.gov, risa.berkower@usdoj.gov, wlw@wwelchattorney.com

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E-mail: Matthew.Lee@innercitypress.com - Tel: 718-716-3540
Regular Mail: Dag Hammarskjold Center, Box 20047, New York, NY 10017