

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

UNITED STATES OF AMERICA,

v.

DONALD J. TRUMP, et al.

Defendants.

Case No. 23-cr-80101-AMC

**PRESS COALITION MOTION REGARDING THE
ARRAIGNMENT OF FORMER PRESIDENT DONALD TRUMP**

Pursuant to Local Rules 7.1 and 77.1, a coalition of local and national news media organizations (the “Press Coalition”) that continue to cover the federal criminal proceedings in the above-referenced matter respectfully submit this motion regarding access to the arraignment of former President Donald J. Trump.¹

As the Court is aware, this is the first federal indictment ever brought against a former President of the United States. The American public’s interest in this case is beyond exaggeration. As the Honorable Magistrate Judge Bruce E. Reinhart explained when unsealing documents related to the FBI’s search warrant for documents at Mar-a-Lago, this case presents

¹ The coalition includes: Cable News Network, Inc., Advance Publications, Inc., American Broadcasting Companies, Inc. d/b/a ABC News, The Associated Press, Bloomberg L.P., CBS Broadcasting, Inc. o/b/o CBS News, CMG Media Corporation, Cox Enterprises, Inc. d/b/a The Atlanta Journal-Constitution, Dow Jones & Company, Inc., publisher of The Wall Street Journal, The E.W. Scripps Company, Fort Myers Broadcasting Company, Gray Media Group, Inc., Los Angeles Times Communications LLC, publisher of The Los Angeles Times, the McClatchy Company, LLC d/b/a the Miami Herald, National Public Radio, Inc., NBCUniversal Media, LLC d/b/a NBC News, The New York Times Company, Orlando Sentinel Media Group, publisher of the Orlando Sentinel, POLITICO LLC, Radio Television Digital News Association, Reuters News & Media Inc., Sun-Sentinel Company, LLC, publisher of the South Florida Sun Sentinel, TEGNA Inc., Telemundo Network Group LLC d/b/a Noticias Telemundo, Univision Networks & Studios, Inc., WP Company LLC d/b/a The Washington Post, and WPLG, Inc.

issues of an “unprecedented” and “intense public and historical interest.” *See In re Sealed Search Warrant*, 622 F. Supp. 3d 1257, 1260 (S.D. Fla. 2022). Magistrate Judge Reinhart further aptly noted that “[i]t is a foundational principle of American law that judicial proceedings should be open to the public.” *Id.* at 1265.

Considering the exceptional and historic nature of this case, the Press Coalition respectfully makes the following two requests:

First, the coalition requests that the Court permit a limited number of photographs and videorecordings in the courtroom and/or the outside corridor before the arraignment currently set for 3:00 p.m. on Tuesday, June 13, 2023. While this request seeks relief not permitted in ordinary cases, Local Rule 77.1 provides judicial discretion to permit limited photographs during “special proceedings, as approved by a Judge of this Court.” And the special and historic nature of this case warrants, at the very least, a limited, non-disruptive visual record before the hearing begins.

Second, the coalition asks that the Court, immediately following the arraignment tomorrow and in future proceedings in this case, release to the public the recordings that will be made with the Court’s own audio recording technology. The unprecedented and historic nature of these proceedings warrants same-day access to these recordings. Indeed, in a series of rulings in favor of the public’s and press’s First Amendment rights to attend criminal court proceedings, the Supreme Court explained that “a presumption of openness inheres in the very nature of a criminal trial under our system of justice.” *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 573 (1980). As the Court noted, an open trial “provid[es] an outlet for community concern, hostility, and emotion.” *Id.* at 571. “When the public is aware that the law is being enforced and the criminal justice system is functioning, an outlet is provided for the[] understandable reactions

and emotions [to alleged criminal acts].” *Press-Enterprise Co. v. Superior Court*, 464 U.S. 501, 509 (1984).

Tuesday’s first appearance by Mr. Trump warrants contemporaneous access to the record of that hearing. While written transcripts of criminal proceedings are made available to the public, they are not a timely substitute for a contemporaneous audio record. Federal courts in high-profile cases like this one frequently record and release same-day audio recordings. *C.f. Covering Criminal Trials – Journalist’s Guide*, United States Courts, <https://www.uscourts.gov/statistics-reports/covering-criminal-trials-journalists-guide#exhibits> (noting that “[i]n high-profile cases, courts may work with the parties to make extra copies of exhibits that the news media can review, or the court may decide to post exhibits on its website”). The District of Columbia Circuit Court, the Third Circuit Court of Appeals, the Seventh Circuit Court of Appeals, the Eighth Circuit Court of Appeals, and the Federal Circuit Court of Appeals (among others) place same-day audio of oral arguments and hearings online. In high-profile cases, the U.S. Supreme Court frequently releases same-day (or soon thereafter) audio recordings of proceedings.² And in the interest of speed and accuracy, some courts will even live-stream high-profile proceedings.³

² Following oral arguments in *Obergefell v. Hodges*, for example, the Supreme Court provided a public transcript within 90 minutes. *See* https://www.supremecourt.gov/publicinfo/press/pressreleases/pr_03-05-15. The Court did likewise in *Bush v. Palm Beach Cnty. Canvassing Bd.*, 531 U.S. 70 (2000), and *Bush v. Gore*, 531 U.S. 98 (2000), as well as *Citizens United v. Fed. Election Comm’n*, 130 S. Ct. 876 (2010).

³ *See* <https://www.uscourts.gov/statistics-reports/federal-court-media-basics-journalists-guide#recording> (noting that the Second and Ninth Circuits will livestream certain, high-profile events). Some Circuits, such as the Third Circuit, also use YouTube Channels to either live-stream or later post video or audio recordings of proceedings. *See, e.g.*, <https://www.youtube.com/channel/UCLSP4JMYiFc7BHD ln3d-w>.

This is a case of exceptional public interest to the entire country and beyond. The judiciary's dedication to open and transparent courts takes on added significance in historical proceedings such as this, where the public demands full and complete knowledge of what transpired to understand the government's decision to exercise its prosecutorial power over Mr. Trump.

The need for immediate audio recordings is further heightened by the tense political atmospherics of this case. Because Mr. Trump has alleged that this entire case is an illegitimate witch hunt, the actions of the judiciary, prosecution, and defense will receive exceptional scrutiny, and any informational vacuum will be filled with wild speculation and conjecture. Complete transparency—in the form of swift availability of audio recordings—will both ensure the integrity and legitimacy of the case and keep Americans informed about this critically important matter.

For the foregoing reasons, the Press Coalition asks the Court both to permit limited, pre-hearing photographs and videorecordings and to deploy its integrated audio equipment to record and release same-day official audio recordings of the proceedings in this case, beginning with the arraignment currently scheduled for June 13, 2023.

CERTIFICATION OF GOOD-FAITH CONFERENCE

Pursuant to Local Rules 7.1(b)(2) and 88.9(a), undersigned counsel certifies that on June 12, 2023, they made reasonable efforts to confer via email with counsel for the Government and counsel for Mr. Trump regarding the relief requested in this motion. Counsel for the Government responded that the Government takes no position and defers to the Court. Counsel for Mr. Trump did not respond with their position.

Dated: June 12, 2023

Respectfully submitted,

BALLARD SPAHR LLP

By: /s/ Charles D. Tobin

Charles D. Tobin (Florida Bar No. 816345)
Chad R. Bowman (*pro hac vice forthcoming*)
Maxwell S. Mishkin (*pro hac vice forthcoming*)
Lauren Russell (*pro hac vice forthcoming*)
1909 K Street NW, 12th Floor
Washington, DC 20006
Tel: 202.661.2218
Fax: 202.661.2299
tobinc@ballarspahr.com
bowmanchad@ballardspahr.com
mishkinm@ballardspahr.com
russelll@ballardspahr.com

Counsel for Movants Cable News Network, Inc., Advance Publications, Inc., American Broadcasting Companies, Inc. d/b/a ABC News, The Associated Press, Bloomberg L.P., CBS Broadcasting, Inc. o/b/o CBS News, Cox Enterprises, Inc. d/b/a The Atlanta Journal-Constitution, Dow Jones & Company, Inc., publisher of The Wall Street Journal, The E.W. Scripps Company, Gray Media Group, Inc., Los Angeles Times Communications LLC, publisher of The Los Angeles Times, National Public Radio, Inc., NBCUniversal Media, LLC d/b/a NBC News, The New York Times Company, POLITICO LLC, Radio Television Digital News Association, Reuters News & Media Inc., TEGNA Inc., Telemundo Network Group LLC d/b/a Noticias Telemundo, Univision Network & Studios, Inc., and WP Company LLC d/b/a The Washington Post.

SHULLMAN FUGATE PLLC

By: /s/ Rachel E. Fugate

Rachel E. Fugate (Florida Bar No. 144029)
rfugate@shullmanfugate.com
Allison S. Lovelady (Florida Bar No. 70662)
alovelady@shullmanfugate.com
2101 Vista Parkway Suite 4006
West Palm Beach, Florida 33411
(813) 935-5098

Counsel for Movants CMG Media Corporation and

Orlando Sentinel Media Group, publisher of the Orlando Sentinel.

THOMAS & LOCICERO, PL

By: /s/ Dana J. McElroy

Dana J. McElroy, Esq.
Florida Bar No.: 845906
dmcelroy@tlolawfirm.com
Karen Kammer, Esq.
Karen Williams Kammer, P.A.
Florida Bar No.: 771200
kkammer@tlolawfirm.com
Carol Jean LoCicero, Esq.
Florida Bar No.: 603030
clocicero@tlolawfirm.com
Daniela B. Abratt, Esq.
Florida Bar No. 118053
dabratt@tlolawfirm.com
915 Middle River Drive
Suite 309
Fort Lauderdale, FL 33304
Telephone: (954) 703-3416

Counsel for Movants the McClatchy Company, LLC, d/b/a Miami Herald; Sun-Sentinel Company, LLC d/b/a South Florida Sun Sentinel; WPLG, Inc.; and Fort Myers Broadcasting Company

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of June 2023, I caused true and correct copies of the foregoing to be served via ECF and by email and U.S. Mail First Class on the following:

Lindsey Halligan
511 SE 5th Avenue, Suite 1008
Fort Lauderdale, FL 33301
lindseyhalligan@outlook.com

Todd Blanche
Blanche Law
99 Wall Street, Suite 4460
New York, NY 10005
info@blanchelaw.com

Attorneys for Donald J. Trump

Markenzy Lapointe
United States Attorney for the
Southern District of Florida
99 NE 4th Street, 8th Floor
Miami, FL 33132
Markenzy.Lapointe@usdoj.gov

Attorneys for the United States of America

/s/ Charles D. Tobin

Charles D. Tobin