

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES,

v.

DZHOKHAR A. TSARNAEV,

Defendant.

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CRIMINAL ACTION
NO. 1:13-cr-10200-GAO

**JOINT MOTION OF BOSTON GLOBE MEDIA PARTNERS, LLP; TRUSTEES OF
BOSTON UNIVERSITY, D/B/A WBUR-FM; AND CABLE NEWS NETWORK, INC.
FOR EXPEDITED CONSIDERATION OF PENDING MOTIONS**

Boston Globe Media Partners, LLC; Trustees of Boston University, D/B/A WBUR-FM; and Cable News Network, Inc. respectfully move for expedited consideration of their pending motions (1) to permit public access to the portions of judicial proceedings in which the Court rules on challenges for cause or, in the alternative, public access to written orders reflecting the Court’s rulings on challenges for cause, including the juror numbers of those excused for cause (Docket #991); and (2) to permit members of the press to be present during jury selection to the extent Courtroom 9 provides adequate space for appropriate seating; or (b) in the alternative, expand the pool to permit 18 members of the press to be present in the courtroom (Docket #976). As grounds therefor, movants state as follows:

1. Under Local Rule 112.1, oppositions to Docket #976 were due on February 3, 2015. To date, neither the government nor the defendant has opposed the motion.
2. Oppositions to Docket #991 are due on February 11, 2015. No opposition has yet been filed.
3. Both of the motions concern public access to the jury selection process by asking to increase the number of people permitted to observe *voir dire* in Courtroom 9 and by asking for public access to the Court’s rulings on challenges for cause.

4. Movants respectfully submit that expedited consideration of their motions is warranted because of the First Amendment interests underlying the pending motions. Contemporaneous news reports about how a jury is fairly and openly selected in this death penalty case serve important First Amendment interests. As the Supreme Court stated in an analogous situation involving commentary on ongoing criminal cases:

It must be recognized that public interest is much more likely to be kindled by a controversial event of the day th[a]n by a generalization, however penetrating, of the historian or scientist. . . . An endless series of moratoria on public discussion, even if each were very short, could hardly be dismissed as an insignificant abridgment of freedom of expression.

Bridges v. California, 314 U.S. 252, 268-69 (1941). See also *Nebraska Press Ass'n v. Stuart*, 427 U.S. 539, 561 (1976) (“As a practical matter ... the element of time is not unimportant if press coverage is to fulfill its traditional function of bringing news to the public promptly.”). See generally *Press-Enterprise Co. v. Superior Court*, 464 U.S. 501, 509 (1984) (public *voir dire* “vindicate[s] the concerns of the victims and the community in knowing that offenders are being brought to account for their criminal conduct by jurors fairly and openly selected”).

5. Movants also seek expedited rulings to avoid the risk that the motions will become moot if not ruled on before jury selection is complete.

WHEREFORE, movants request that the Court grant expedited consideration to pending motions filed as Docket #976 and Docket #991.

Respectfully submitted,

**BOSTON GLOBE MEDIA PARTNERS, LLC;
TRUSTEES OF BOSTON UNIVERSITY, D/B/A
WBUR-FM; AND CABLE NEWS NETWORK, INC.**

By their attorneys,

/s/Jonathan M. Albano

Jonathan M. Albano BBO #013850

jonathan.albano@morganlewis.com

Emma D. Hall BBO #687947

emma.hall@morganlewis.com

MORGAN, LEWIS & BOCKIUS, LLP

One Federal Street

Boston, MA 02110-1726

Phone: 617-951-8000

Fax: 617-951-8736

Dated: February 6, 2015

CERTIFICATE OF SERVICE

I, Jonathan M. Albano, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on February 6, 2015.

/s/Jonathan M. Albano

Jonathan M. Albano