

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

IN THE COURT OF GENERAL SESSIONS  
NINTH JUDICIAL CIRCUIT  
CASE NUMBERS.:

2015-GS-10-4115-~~4123~~ 4124  
2015-GS-10-4186-4188

EX PARTE: EVENING POST )  
INDUSTRIES, INC., SOUTH CAROLINA )  
PRESS ASSOCIATION, SINCLAIR )  
PROPERTIES, L.L.C., )  
D/B/A/ WCIV-TV, THE ASSOCIATED )  
PRESS, AND ABC, INC. )

Movants )

MOTION  
FOR  
PROTECTIVE ORDER

FILED  
2015 JUL 22 AM 11:47  
JULIE J. ARMSTRONG  
CLERK OF COURT  
By *aw*

\_\_\_\_\_  
In Re: )  
 )  
STATE OF SOUTH CAROLINA )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
DYLANN S. ROOF, )  
 )  
Defendant )  
\_\_\_\_\_ )

In accordance with this Honorable Courts Order Dated July 17, 2015, The Undersigned Counsel, on Behalf of the Victim Jennifer Pinckney And the Estate of Clementa Pinckney, Hereby moves this court for an Order preventing the release of certain materials, including but not limited to, any videos, photographs, or tape recordings of the victims.

The basis of this request is the Victims Bill of Rights requires that victims of a crime have the right to be treated with "Fairness, Respect and Dignity"

throughout the Criminal Justice Process in South Carolina. In addition, the disclosure of those items should be exempt Pursuant to the Privacy Exemption of Section 30-4-40(a)(2).

The victims would respectfully request that this court issue an Order preventing the disclosure of all videos, photographs, tape recordings of the victims, and any other document that would invade the victims right to privacy.

### ARGUMENT

**The South Carolina Constitution, Section 24 known as the Victims Bill of Rights provides: “To preserve and to protect Victims rights to justice and due process...victims of crime have the right to: ...be treated with Fairness, Respect, and Dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal and juvenile justice process, and informed of the victims constitutional rights, provided by statute.**

The release of graphic images and audio of the victims and their relatives would clearly violate their right to be treated with respect and dignity while serving no legitimate public interest.

For this reason, the victims would respectfully request that this court issue an order prohibiting the release of all graphic images, photos, or audio tapes of the victims and their relatives. There is no identifiable public purpose in the release of graphic photos, videos, or audio tapes. Any arguable public purpose can be accomplished through the release of other public documents and this court should

not release items broader than are necessary to meet any public purpose in protecting the victim's right to be free from "intimidation, harassment, or abuse". The release of graphic images, photos, video tapes, or audio tapes could clearly be used to intimidate, harass, and abuse the victims. The release of the graphic photographs and videos would result in trauma and emotional injury to the immediate family of the deceased if these records were disclosed and disseminated to the public. The potential for exacerbation of such injury in light of the ever increasing use of the internet and the proliferation on personal computers would be contrary to the purpose and intent of the Victims Bill of Rights. While the public obviously has an interest in making certain its government carries out its duties in a responsible fashion, that interest can not be served by viewing graphic photos of the deceased. There is nothing that can be discerned from the photographs that would not be contained in other materials. The publication of gruesome photographs would cause deep serious emotional pain and potential intimidation, harassment, and abuse of the victims.

**The South Carolina Freedom of Information Statute exempts the disclosure of information where the disclosure would constitute an unreasonable invasion of personal privacy.**

In addition to the reason set forth above, the victims believe that these materials are exempt from disclosure pursuant to Section 30-4-40(a)(2), which

provides that “a public body may but is not required to exempt from disclosure the following information: “Information of a personal nature where the public disclosure thereof would constitute unreasonable invasion of personal privacy”. The victims believe that disclosing the information referred to above would be an unreasonable invasion of their personal privacy and would serve no legitimate public interest or purpose.

In the US Supreme Court Case, National Archives and Records Administration v. Favish, et al., 541 U.S. 157(2004) the Supreme Court considered a similar issue involving photographs of the deceased, Vincent Foster, Jr. Deputy Counsel to President Clinton. Balancing the competing interest, the court concluded that “the privacy interest of the Foster Family members outweigh the public interest in disclosure”. In the case at hand, there is no public interest in the disclosure of graphic photos and videos of the victims. In the case at hand, releasing the graphic photos and videos would clearly invade the privacy interest of the deceased and his family members. The privacy interest of the Clementa Pinckney family members outweigh any public interest in disclosure.

Our Supreme Court has defined the “right to privacy” as the right of an individual to be let alone and to live a life free from unwarranted publicity. Sloan v. South Carolina Dept. of Public Safety, 355 S.C. 321, 586 SE2D 108 (2003). Under the Privacy Exemption, the examination involves a balancing of conflicting

interests...the interests of the individual and privacy on the one hand against the interest of the public's need to know on the other. Clearly, the public is clearly aware of what occurred in this tragic case. The release of graphic photographs, videos, and audiotapes would clearly violate the victim's right to privacy and serve no public interest. The US Supreme Court concluded in, National Archives and Records Administration v. Favish, et al., 541 U.S. 157(2004) that the privacy interest of the family members outweighs the public interest in disclosure of photographs of their deceased family members. The victims in this case would urge this court to issue an order prohibiting the release of any photograph, video, or audio tape of the victims.

For the foregoing reasons, as well as any that may be advanced at any hearing, it is respectfully submitted that this motion be granted.

**FILED**  
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JULIE J. ARHSTRONG  
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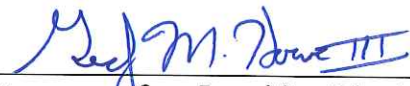
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BY:   
Attorneys for Jennifer Pinckney and  
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July 22, 2015