

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

IN THE COURT OF GENERAL SESSIONS  
FOR THE NINTH JUDICIAL CIRCUIT  
INDICTMENT NUMBERS.: 2015A1010202665,  
2015A1010202664 - 2015A1010202670,  
2015A1010202672, and  
2015GS1004186 - 2015GS1004188

STATE OF SOUTH CAROLINA, )  
 )  
Plaintiff, )

-versus-

DYLANN STORM ROOF, )  
 )  
Defendant. )

**VICTIMS' PETITION REGARDING  
TEMPORARY GAG ORDER**

BY JILLIE J. ARMSTRONG  
CLERK OF COURT  
2015 JUL 22 PM 4:15  
FILED

In accordance with the Court’s invitation to the victims of the June 17, 2015, criminal events which occurred at Emanuel AME Church, 110 Calhoun Street, Charleston, South Carolina seeking their position on the Court’s existing “Gag” Order, the identified victims submit the following.

Felicia Sanders, witness, victim, and mother of Tywanza Sanders (deceased); Juvenile K. W., witness and victim; Polly Sheppard, witness and victim; and Walter Jenkins, Jr., son of Susie Jackson (deceased), join together in seeking an extension of a limited portion of this Court’s Order restricting all parties from public discussion or the dissemination of documents and/or electronic evidence pertinent to the matter of *State v. Roof*. This Court has previously acknowledged that the victims and witnesses of the defendant’s criminal conduct have numerous protections and privileges afforded to them by both our State and Federal Constitutions (U.S. CONST. amend. I; U.S. CONST. amend. V; S.C. CONST. art. I, § 10; S.C. CONST., art. I, § 24(A)).

In accordance with these Constitutional privileges, these victims petition the Court to prohibit, for an indefinite period, the following:

1. The release of audio recordings of emergency (911) telephone calls initiated by witnesses present at or nearby 110 Calhoun Street, Charleston, South Carolina at the time of, or in the immediate aftermath of, Roof's criminal conduct.
2. Photographs taken by or in the possession of law enforcement members documenting the defendant's criminal conduct at 110 Calhoun Street, Charleston, South Carolina.
3. Information pertaining to the victims which contains identifying characteristics and contact information which might enable third parties to interfere with the victim's Constitutionally protected right to privacy and to be free from harassment.

The petitioning parties acknowledge that this Court is presented with a difficult judicial task. This Court must balance a variety of competing Constitutional rights in determining the scope and duration of such an Order. These victims and/or witnesses recognize that this Court must balance a variety of competing Constitutional rights in determining the scope, duration, and legality of any such order. The relatively recent amendment to our State's Constitution found in Article I, Section 24(A), often referred to as the Victim's Bill of Rights, guarantees *inter alia* the victim's right to be "treated with fairness, respect, and dignity and to be free from intimidation, harassment or abuse."

A more established principle found in our State Constitution in Article 10, Section 1, is their express right to privacy. South Carolina's Constitutional right to privacy protects all citizens from "unreasonable invasions of privacy", a right which our Supreme Court has repeatedly found grants "a higher level of protection" than those provided by our Federal Constitution. *State v. Weaver*, 374 S.C. 313, 317, 649 S.E.2d 480 (2007); *State v. Forrester*, 343 S.C. 637, 645, 541 S.E.2d 837, 841 (2001). Earlier this month our Supreme Court provided a more expansive interpretation of our privacy rights. *State v. Counts*, S.C. Supreme Court Op. No. 27546 (S.C. Sup. Ct. filed July 8, 2015).

To the extent that our Victim's Bill of Rights and our long standing privacy rights conflict with the rights of the press or the accused, our Constitution is silent as to which rights take precedence leaving our judiciary to determine the merits of conflicting positions in individual cases. Accordingly, this Court must balance the rights of victims against the rights of the press and of the accused in this matter.

Here the victims' requested restraints are specifically tailored to protect victim's rights while infringing only in a *de minimus* way on the rights of any other constituency. Each restraint detailed below serves the purpose of protecting the dignity and security of the Defendant's victims without interfering with the media's Constitutionally protected responsibility to inform the public of Governmental action.

#### **I. Audio Recordings**

Local law enforcement agencies learned of the incident at 110 Calhoun Street by way of 911 calls made by witnesses to the incident. These calls conveyed information about the Defendant's

horrific conduct at the height of the terror and emotion felt by the callers. And as the investigation began, and surviving victims began to be interviewed, they, too, recounted what they had seen and experienced while still in states of emotional shock; the above-identified victims are informed and believe that some or all of these interviews were audio recorded.

Due to the ubiquity of digital media, dissemination of these audio recordings would expose the victims to undue emotional trauma directly at odds with their rights of privacy and dignity. The public information value of these recordings, which, in light of the extensive media coverage of the incident, is negligible, while the harm they threaten to the victims is incalculable.

To the extent that the press claims a duty to report on the efficacy of the emergency response system, numerous other sources of information may be disseminated that can shed a more dispassionate light on that inquiry: Computer Aided Dispatch (CAD) recordings provide detailed information as to when calls are received, which law enforcement and emergency personnel respond, and the speed with which these responses are made. To the extent that the effectiveness of the individual emergency dispatcher is in question, the represented parties will not object to the Court allowing the press to review and disseminate transcripts of the 911 audio calls to allow the public to examine that issue.

## **II. Photographs**

To the extent that photographs of the crime scene in this case serve any legitimate news purpose, any such legitimate purpose is overwhelmingly outweighed by their assault on the dignity and privacy of the victims. Again, in light of the variety and ubiquity of media available in our homes and public places through traditional sources and digital devices, even victims who turn off

their televisions and end their newspaper and magazine subscriptions would be forced to become complete recluses to ensure they can avoid graphic reminders of the circumstances surrounding the deaths of their friends and loved ones.

The salacious quality of such dissemination does not further any legitimate journalistic aim. Moreover, to the extent that this case has roots in the hateful rhetoric of white extremists on the Internet, dissemination of these photographs to legitimate news organizations necessary will result in these photographs making their way into the hands of individuals and groups who sympathize with the racist hate that motivated this incident, injuring not only the dignity of these victims, but also their safety.

To expose victims to these harms in the name of press freedoms would substitute an inchoate right of expression for the actual and fundamental rights of emotional and bodily dignity granted victims of criminal behavior by our State's Constitution.

### **III. Personal Information**

The victims in this case are walking the first steps of what will be a lifelong journey through the trauma and grief of what they experienced. If the South Carolina Victim's Bill of Rights and its insistence on dignity and freedom from harassment for victims stands for anything, it stands for the proposition that these victims are entitled to be grieve free from the intrusion of curious onlookers, free from being accosted by overzealous information seekers, free from the constant interruption of telephone calls and all manner of electronic communication seeking their comment on every court appearance, judicial ruling and newly released evidence. There is no legitimate journalistic value in dissemination of these pieces of personal information. Further, as noted *supra*,

dissemination of this information threatens not only the privacy and dignity of these victims, but their very safety.

Accordingly, the undersigned petitions the Court to fashion an order enjoining all parties from the dissemination of copies of audio recordings or written documents which detail the observations of the Defendant's admitted criminal conduct as follows:

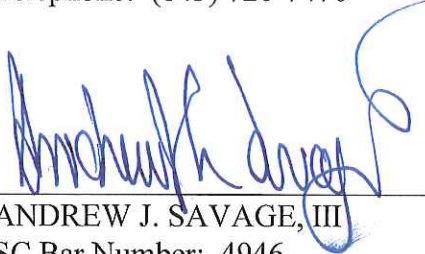
1. Audio recordings of 911 emergency calls initiated by witnesses who were present at 110 Calhoun Street at the time the crimes were committed or which were made in the immediate aftermath of the incident;
2. Crime scene photographs taken prior to 9:30 a.m. Sunday, June 21, 2015; and
3. Personal identification and contact information of all victims and non-law enforcement witnesses.

These restrictions fulfill the promise to victims contained in the South Carolina Victim's Bill of Rights (S.C. CONST. art. I, § 10) and their right to privacy contained in South Carolina Constitution Article I, Section 10 while providing journalists with ample access to the factual records whose dissemination is in accord with their Constitutional privileges.

Respectfully submitted,

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15 Prioleau Street  
Charleston, SC 29401  
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BY:

  
\_\_\_\_\_  
ANDREW J. SAVAGE, III  
SC Bar Number: 4946

ATTORNEY FOR FELICIA SANDERS,  
JUVENILE K.W., POLLY SHEPPARD,  
AND WALTER JENKINS, JR.

Charleston, South Carolina

July 22, 2015.

BY \_\_\_\_\_  
JULIE J. ARMSTRONG  
CLERK OF COURT

2015 JUL 22 PM 4: 15

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 Defendant. )  
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CERTIFICATE OF SERVICE BY HAND

The undersigned hereby certifies that a copy of a Victims' Petition Regarding Temporary Gag Order has been served upon Scarlett A. Wilson, by hand delivering a filed copy of same this 22nd day of July, 2015 at her current address listed below:

The Honorable Scarlett A. Wilson  
 Solicitor for the Ninth Judicial Circuit  
 101 Meeting Street, Fourth Floor  
 Charleston, SC 29401

BY MLA  
 JULIA J. ARMSTRONG  
 CLERK OF COURT  
 2015 JUL 22 PM 4:15

FILED

  
 CHERYL L. SAVAGE

SWORN TO and SUBSCRIBED BEFORE me this

22nd day of July, 2015.

Heather Way Hill (L.S.)  
 NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: 11/3/2024