

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 TO INTERVENE AND BE HEARD ON CLOSURE
OF THE COURTROOM DURING THE OCTOBER 12, 2023 GARCIA HEARINGS**

Pursuant to Local Rules 7.1 and 88.9, a coalition of local and national news media organizations (the “Press Coalition”)¹ that continue to cover the proceedings in this prosecution of former President Donald J. Trump and his co-defendants respectfully submit this motion regarding the *Garcia* hearings scheduled to be held in this matter on October 12, 2023. In setting those hearings, the Court stated that, “[a]t its discretion, the Court may elect to hold a portion of each hearing sealed and ex parte to protect privileged communications.” *See* Sept. 25, 2023 Order (ECF 161); *see also* <https://www.flsd.uscourts.gov/united-states-v-trump-et-al-23-cr-80101-amc> (announcing same to the public). The Press Coalition therefore moves to intervene

¹ The coalition includes: Advance Publications, Inc., American Broadcasting Companies, Inc. d/b/a ABC News, The Associated Press, Bloomberg L.P., Cable News Network, Inc., 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, Fox News Network, LLC, The Palm Beach Post and USA TODAY, publications operated by subsidiaries of Gannett Co., Inc., Gray Media Group, Inc., Guardian News & Media Limited, Insider Inc., Los Angeles Times Communications LLC, publisher of The Los Angeles Times, the McClatchy Company, LLC d/b/a the Miami Herald, National Cable Satellite Corporation d/b/a C-SPAN, 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.

in this matter for the limited purpose of ensuring that, as “representatives of the press and general public,” they receive “an opportunity to be heard on the question of their exclusion” prior to any closure of the courtroom. *Globe Newspaper Co. v. Super. Ct.*, 457 U.S. 596, 609 n.25 (1982).

Counsel for the Press Coalition will be in the courthouse during these hearings on October 12. She will be prepared to address the issue at the hearings should the Court entertain sealing the courtroom or conducting *ex parte* argument. Counsel will identify herself to courthouse personnel when she arrives to facilitate her appearance should it become necessary.

In support of this Motion, the Press Coalition offers the following two points.

First, the Court should permit the Press Coalition to intervene in this matter for the limited purpose of exercising the opportunity to be heard prior to any closure of the courtroom on October 12, 2023. *See Comm’r, Ala. Dep’t of Corr. v. Advance Local Media, LLC*, 918 F.3d 1161, 1170 (11th Cir. 2019) (“The press has standing to intervene in actions to which it is otherwise not a party in order to petition for access to court proceedings and records.”). Indeed, intervention is especially appropriate here because members of the Press Coalition have been reporting on this matter for more than a year, ever since many of them successfully moved to intervene to unseal the Mar-a-Lago search warrant materials. *See In re Sealed Search Warrant*, 622 F. Supp. 3d 1257, 1259 (S.D. Fla. 2022).

Second, *Garcia* hearings are presumptively public proceedings. *See In re Paradyne Corp.*, 803 F.2d 604, 608 (11th Cir. 1986) (noting that *Garcia* hearings follow the “framework” of Criminal Rule 11, which results in a “clearly delineated and well established procedure to enable defendants to waive in open court their sixth amendment right to counsel free of conflict,” and concluding that the district court erred in conducting “*in camera, ex parte* hearings” that were “clearly at odds with the principles of the open, adversarial system of justice guaranteed by

our Constitution”). Given this presumption of openness, the “court may restrict the right of the public and the press” to *Garcia* hearings “only after . . . notice and an opportunity to be heard on a proposed closure.” See *United States v. Valenti*, 987 F.2d 708, 713 (11th Cir. 1993). Such an opportunity to be heard is precisely what the Press Coalition requests here.

CONCLUSION

For the foregoing reasons, the Press Coalition respectfully requests that the Court grant its motion to intervene in these proceedings and provide its counsel the opportunity to be heard prior to any closure of the courtroom during the October 12, 2023 *Garcia* hearings in this matter.

CERTIFICATION OF GOOD-FAITH CONFERENCE

Pursuant to Local Rules 7.1(b)(3) and 88.9(a), undersigned counsel certifies that on October 9, 2023, they made reasonable efforts to confer via email with counsel for the Government and counsel for Defendants regarding the relief requested in this motion. Counsel for the Government stated that they do not consent to this motion and will defer to the Court. Counsel for Defendants Trump and De Oliveira stated that they defer to the Court. Counsel for Defendant Nauta did not respond.

Dated: October 10, 2023

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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of October 2023, I caused true and correct copies of the foregoing to be served via ECF on all counsel of record.

/s/ Charles D. Tobin
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