

**IN THE CIRCUIT COURT OF
DALE COUNTY, ALABAMA**

STATE OF ALABAMA,

vs.

COLEY LEWIS McCRAANEY,

DEFENDANT.

CC-19-187

CC-19-188

CC-19-189

CC-19-190

CC-19-191

**REPLY TO MOTION TO DISMISS, IGNORE OR DENY MOTION
TO INTERVENE TO OPPOSED MOTION TO CONTROL PRETRIAL
PUBLICITY**

Come now Gray Media Group, Inc. on behalf of WTVY-TV Dothan and WSFA-TV Montgomery; BH Media Group, Inc. on behalf of the *Dothan Eagle*; the Alabama Broadcasters Association and the Alabama Press Association (hereinafter “Media Movants”) and in response to the Motion to Dismiss filed by the Office of the District Attorney [Doc. 35], states as follows:

1. The Media Movants seek to intervene for the sole purpose of opposing a motion requesting this Court to deny access to pretrial hearings and documents. The relief sought is not criminal in nature. The relief sought involves the protection of First Amendment civil rights of the press and public to attend criminal proceedings, as well as, under the protections of Art. I, § 13 of the Alabama Constitution “[t]hat all courts shall be open....”

2. Even in the absence of a criminal procedural rule providing a direct mechanism for intervention in Alabama or federal courts, the cases cited below have invited and permitted intervention by the media to oppose efforts to close criminal proceedings and records in violation of the First Amendment.

3. As far as Alabama courts are concerned, the matter is settled. “The news media generally have standing to intervene in a criminal proceeding to object to a motion to ‘seal’ court records that would otherwise be a matter of public information.” Ex parte Birmingham News Co., Inc., 624 So. 2d 1117, 1121 (Ala. Crim. App. 1993) *citing* Ex parte Balogun, 516 So. 2d 606, 611 (Ala.1987) (emphasis added).

4. “In order to provide the requisite notice, pretrial motions for closure ‘must be docketed reasonably in advance of their disposition so as to give the public and press an opportunity to intervene and present their objections to the court.” Ex parte Birmingham News, *supra*, 624 So. 2d at 1134 *citing* In re Washington Post Co., 807 F.2d 383, 390 (4th Cir.1986) (emphasis added).

5. Although the Federal Rules of Criminal Procedure also do not provide a direct mechanism for motions to intervene, intervention has been permitted in several federal cases in the Eleventh Circuit involving closing criminal proceedings and records. *See, e.g.*, Comm’r Ala. Dept. of Corrections v. Advance Local Media, LLC, 918 F.3d 1161, 1170-71 (11th Cir. 2019); United States v.

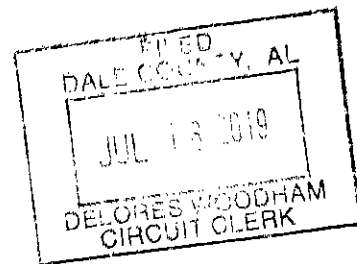
Valenti, 987 F.2d 708, 711-712 (11th Cir. 1993) and In re Petition of Tribune Co. v. U.S., 784 F.2d 1518, 1521 (11th Cir. 1986) (“The press has standing to intervene in actions to which it is otherwise not a party in order to petition for access to court proceedings and records.”).

6. The Media Movants clearly have standing to intervene and assert their civil rights to access to criminal proceedings under the First Amendment to the United States Constitution and Art. I, § 13 of the Alabama Constitution.

WHEREFORE, the Motion to Dismiss, Ignore or Deny the Media Movants’ efforts to assert civil First Amendment Rights should be denied.


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CERTIFICATE OF SERVICE

I hereby certify that on July 15, 2019, a copy of the foregoing was served upon the following via electronic mail and/or by placing a copy in the United States Mail, First Class Postage prepaid:

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