



February 9, 2012

VIA HAND DELIVERY

Hon. Lizabeth Agustin Duggar, Clerk
Charlottesville Circuit Court
315 E. High Street
Charlottesville, VA 22902

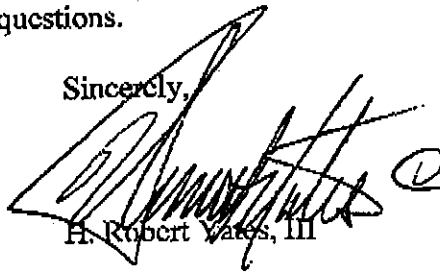
Re: Commonwealth of Virginia v. George Wesley Huguecy, V

Dear Ms. Duggar:

Enclosed please find Intervender Gannett Co., Inc.'s Motion for Second Courtroom Monitor for Public Viewing of Evidence Presented via Courtroom Monitor and a Brief in Support of Motion for Second Courtroom Monitor for Public Viewing of Evidence Presented via Courtroom Monitor with regard to the above styled matter.

Please let me know if you have any questions.

Sincerely,



H. Robert Yates, III

HRY/bc

Enclosures

cc: Warner D. Chapman (via hand delivery)
Fran Lawrence, Esquire (via hand delivery)
Rhonda Quagliana, Esquire (via hand delivery)
Richard Barrick (via hand delivery)
Hon. Edward I. Hogshire, Judge (via hand delivery)

E-mail: ryates@leclairryan.com
Direct Phone: 434.245.3425
Direct Fax: 434.296.0905

123 East Main Street, Eighth Floor
Charlottesville, Virginia 22902
Phone: 434.245.3444 \ Fax: 434.296.0905

CALIFORNIA \ CONNECTICUT \ MASSACHUSETTS \ MICHIGAN \ NEW JERSEY \ NEW YORK \ PENNSYLVANIA \ VIRGINIA \ WASHINGTON, D.C.

ATTORNEYS AT LAW \ WWW.LECLAIRRYAN.COM

Paul 2/12

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF CHARLOTTESVILLE

COMMONWEALTH OF VIRGINIA,
Plaintiff,

v.

GEORGE WESLEY HUGUELY, V,
Defendant.

**INTERVENDER GANNETT CO., INC.'S MOTION FOR SECOND COURTROOM
MONITOR FOR PUBLIC VIEWING OF EVIDENCE PRESENTED VIA COURTROOM
MONITOR**

Comes now, Gannett Co., Inc., by counsel, and for its Motion for Access to Courtroom Monitor for Public Viewing of Evidence Presented on Courtroom Monitor, sayeth as follows:


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2012 FEB -9 PM 3:31
CIRCUIT COURT CLERK OFFICE
CHARLOTTE, VIRGINIA
LEZELLE A. DIGGINS
BY [Signature]

1. Gannett Co., Inc. ("Gannett") is a Media organization with its primary place of business in McLean, Virginia.
2. Detroit Free Press, Inc. is a wholly owned subsidiary of Gannett.
3. WUSA Channel 9 is a division of the Detroit Free Press, Inc.
4. As part of the above styled case, WUSA¹ has reporters attending the trial for the purpose of providing coverage of the trial to the public.
5. Moreover, members of the public are also attending the trial.
6. As the courtroom is currently set up, when evidence is presented via the television monitor, neither the public nor the media are able to observe the evidence.
7. The restriction on evidentiary visibility could be eliminated if the Court added another monitor facing toward the public end of the courtroom.
8. The restriction, while no doubt an unintended consequence of technology in the courtroom, violates society's First Amendment protections for open jury trials.

¹ While not parties to this intervention due to the interests of time, WTTG (Fox), WJLA (ABC), WRC (NBC) all of Washington, DC and WJZ of Baltimore all support this Motion.

WHEREFORE, Gannett Co., Inc., by counsel, moves this Court to eliminate the evidentiary restriction by adding a second monitor visible by the public side of the courtroom.

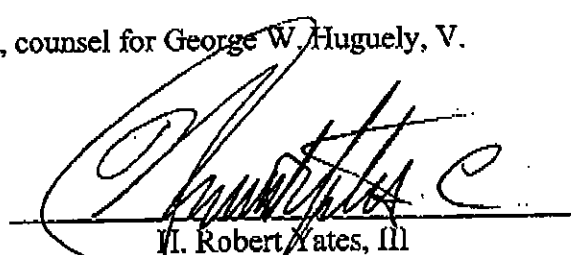
GANNETT CO., INC.
By Counsel



H. Robert Yates, III, Esquire (VSB #35617)
LeClairRyan, A Professional Corporation
123 East Main Street, 8th Floor
Charlottesville, VA 22902
Phone: 434-245-3425
Fax: 434-296-0905

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of February, 2012, I hand-delivered the foregoing document to the Clerk of the Court, Warner D. Chapman, Commonwealth Attorney, and Fran Lawrence, Esquire, and Rhonda Quagliana, Esquire, counsel for George W. Huguely, V.



H. Robert Yates, III

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF CHARLOTTESVILLE

COMMONWEALTH OF VIRGINIA,
Plaintiff,

v.

GEORGE WESLEY HUGUELY, V,
Defendant.

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CIRCUIT CLERK'S OFFICE
CHARLOTTE, VA
RECEIVED
BY *[Signature]*

BRIEF IN SUPPORT OF MOTION FOR SECOND COURTROOM MONITOR FOR PUBLIC VIEWING OF EVIDENCE PRESENTED VIA COURTROOM MONITOR

Comes now, Gannett Co., Inc., by counsel, and for its Brief in Support of Motion for Second Courtroom Monitor for Public Viewing of Evidence Presented via Courtroom Monitor, sayeth as follows:

Question Presented

WHERE A TRIAL IS OPEN TO THE PUBLIC, BUT THE CURRENT COURTROOM SETUP DOES NOT ALLOW MEMBERS OF THE PUBLIC AND THE MEDIA TO VIEW EVIDENCE VISIBLE ONLY ON A TV MONITOR, SHOULD THE COURT PROVIDE A SECOND MONITOR TO ALLOW THE PUBLIC AND THE MEDIA TO OBSERVE THE EVIDENCE?

Answer

Absent a compelling interest to restrict the access to certain evidence, society's First Amendment right to observe a criminal trial and the evidence requires the Court to eliminate the restriction as to certain evidence by adding a second courtroom TV monitor facing the public.

Analysis

The Huguely murder trial has drawn the attention of not only the local media and public, but also that of the nation. The circumstances of the alleged incident have captured the nation's attention and sparked great public debate, curiosity and awareness. The ability to observe our judicial system at work, in a trial such as this, is protected by the First Amendment of the United States Constitution.

As previously held by the Supreme Court of the United States “[O]pen trials are indispensable to First Amendment political and religious freedoms. “Richmond Newspapers et al. v. Commonwealth of Virginia et al., 100 S.Ct. 2814, 2835, 448 U.S. 555, 592 (1980) citing In re: Oliver, 333 U.S. 257, 770, 68 S.Ct., 499, 506 (1948). Indeed, the “requirement of a public trial is satisfied by the opportunity of members of the public and the press to attend the trial and to report what they have *observed*.” Nixon v. Warner Communications, Inc., et al., 435 U.S. 589, 611, 98 S.Ct. 1306, 1319 (1978)(citations omitted)(emphasis added).

In the instant case, the trial is open as required by the First Amendment. However, given the move to increased technology in the courtroom, some of the evidence is not. Any evidence introduced via the television monitor cannot be observed by the public or the media due to the placement of the video monitor and the setup of the courtroom. The current set up has the back of the monitor facing the public. The public cannot see the screen and thus, cannot see the evidence as presented via the monitor. In prior times, the evidence presented may take the form of enlarged photographs or charts visible to all in attendance. This trial has much of the evidence hidden from the public and the media.

While the set up was not intended or necessary as a restriction on an open trial, it has the unintended consequence and thus is violative of the protections afforded society under the First Amendment. As a simple solution, the court should order connection of a second monitor facing the public side of the courtroom so that the evidence would be visible and both the public and the media could make their observations.

Conclusion

Although unintended, the restriction on the ability to observe certain evidence is a violation of the First Amendment. The simple solution is to add a second video monitor to allow the public and media the ability to observe the evidence presented.

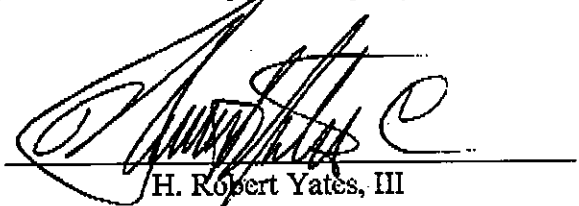
GANNETT CO., INC.
By Counsel



H. Robert Yates, III, Esquire (VSB #35617)
LeClairRyan, A Professional Corporation
123 East Main Street, 8th Floor
Charlottesville, VA 22902
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I hereby certify that on this 9th day of February, 2012, I hand-delivered the foregoing document to the Clerk of the Court, Warner D. Chapman, Commonwealth Attorney, and Fran Lawrence, Esquire, and Rhonda Quagliana, Esquire, counsel for George W. Huguey, V.



H. Robert Yates, III



February 10, 2012

VIA HAND DELIVERY

Hon. Llezelle Agustin Dugger, Clerk
Charlottesville Circuit Court
315 E. High Street
Charlottesville, VA 22902

Rc: Commonwealth of Virginia v. George Wesley Huguely, V

Dear Ms. Dugger:

Enclosed please find a Notice of Additional Intervenors and Notice of Hearing for Monday, February 13, 2012 with regard to the above styled matter.

Please let me know if you have any questions.

Sincerely,

H. Robert Yates, III

HRY/bc
Enclosure

cc: Warner D. Chapman (via hand delivery)
Fran Lawrence, Esquire (via hand delivery)
Rhonda Quagliana, Esquire (via hand delivery)
Hon. Edward L. Hogshire, Judge (via hand delivery)

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ATTORNEYS AT LAW \ WWW.LECLAIRRYAN.COM

Rec'd 2/10/12

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF CHARLOTTESVILLE

COMMONWEALTH OF VIRGINIA,
Plaintiff,

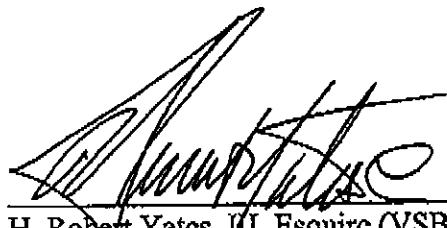
v.

GEORGE WESLEY HUGUELY, V.,
Defendant.

NOTICE OF HEARING

PLEASE TAKE NOTICE that on the 13th day of February, 2012, at 8:30 a.m., or as soon thereafter as counsel may be heard, I will appear before the Circuit Court of the City of Charlottesville for a hearing on the Motion for Access to Courtroom Monitor for Public Viewing of Evidence Presented on Courtroom Monitor previously filed herein.

GANNETT CO., INC.
THE WASHINGTON POST
WSET
WRC
WJLA
WTTG (Fox)
By Counsel



H. Robert Yates, III, Esquire (VSB #35617)
LeClairRyan, A Professional Corporation
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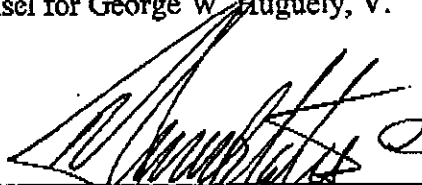
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2012 FEB 10 A 11: 52

CIRCUIT COURT CLERK'S OFFICE
CHARLOTTESVILLE, VA
LLEZELLE A. DUBGETT, CLERK
BY *Christy J. Sanderson*
DEPUTY CLERK

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of February, 2012, I hand-delivered the foregoing document to the Clerk of the Court, Warner D. Chapman, Commonwealth Attorney, and Fran Lawrence, Esquire and Rhonda Quagliana, Esquire, counsel for George W. Hugueley, V.



H. Robert Yates, III

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF CHARLOTTESVILLE

COMMONWEALTH OF VIRGINIA,
Plaintiff,

v.

GEORGE WESLEY HUGUELY, V,
Defendant.

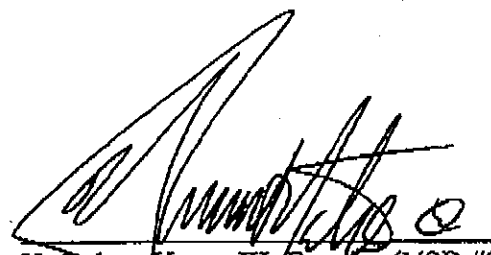
NOTICE OF ADDITIONAL INTERVENORS

Comes now, The Washington Post, WSET, WRC, WJLA and WTTG (Fox) and hereby provide

NOTICE

that they join in the intervention in the case and join in the Motion for Access to Courtroom Monitor for Public Viewing of Evidence Presented on Courtroom Monitor.

THE WASHINGTON POST
WSET
WRC
WJLA
WTTG (Fox)
By Counsel



H. Robert Yates, III, Esquire (VSB #35617)
LeClairRyan, A Professional Corporation
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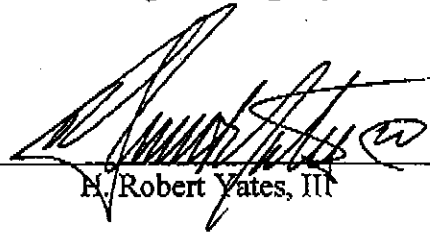
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CIRCUIT COURT CLERK'S OFFICE
CHARLOTTESVILLE, VA
LLEZELLE A. DUGGER, CLERK
BY: *[Signature]* *Rauson man*
DEPUTY CLERK

CERTIFICATE OF SERVICE

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H. Robert Yates, III

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF CHARLOTTESVILLE
COMMONWEALTH OF VIRGINIA,
Plaintiff,

v.

GEORGE WESLEY HUGUELY, V,
Defendant.

**ORDER DENYING MOTION FOR SECOND COURTROOM MONITOR FOR PUBLIC
VIEWING OF EVIDENCE PRESENTED VIA COURTROOM MONITOR**

Came this day, the Intervenors Gannett Co., Inc., The Washington Post, WSET, WRC,
WJLA, and WTTG (Fox), George Huguely and the Commonwealth of Virginia, by counsel, and
after consideration of the Motion, the applicable law and argument of counsel, it is hereby

ORDERED

that the Motion for Second Courtroom Monitor for Public Viewing of Evidence Presented via

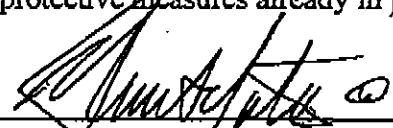
Courtroom Monitor is DENIED. *for reasons set forth in the transcript*

Entered this 13th day of February, 2012.



Judge

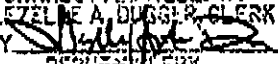
SEEN and OBJECTED TO on the basis that the First Amendment guarantees an open trial, that
the evidence at issue is of the type that is admitted in an open fashion, that there is no compelling
governmental interest in denying full access to the evidence, that the denial is not narrowly
tailored to serve any governmental interest, there is no issue regarding a fair trial, and the same
protective measures already in place protect any evidence visible on the video monitor.



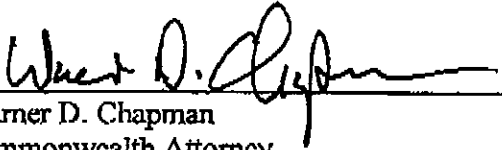
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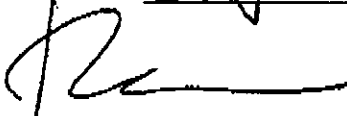
CIRCUIT COURT CLERK'S OFFICE
CHARLOTTESVILLE, VA
LLEZELNE A. DUNGER, CLERK
BY 
CLERK

SEEN and object :



Warner D. Chapman
Commonwealth Attorney
City Hall, Room 331
Charlottesville, VA 22902

SEEN and Objections *note & especially as to*
Timeliness



Francis McQ. Lawrence, Esquire
Rhonda Quagliana, Esquire
St. John, Bowling, Lawrence & Quagliana, LLP
416 Park Street
Charlottesville, VA 22902
Counsel for Defendant