

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss.

SUPERIOR COURT
No. 2282-CR-00117

COMMONWEALTH
v.
KAREN READ

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APR 14 11:45
SUPERIOR COURT
NORFOLK COUNTY

**UNOPPOSED MOTION OF GRETCHEN VOSS
FOR EXCLUSION FROM SEQUESTRATION ORDER**

Third-party journalist Gretchen Voss (“Voss”) respectfully moves for an order excluding her from the provisions of the witness sequestration order in this case. Counsel for both the Commonwealth and the Defendant have indicated that they do not oppose this motion.

As grounds for her motion, Voss states that (1) the Commonwealth and Defendant have agreed that Voss will not be called as a witness at trial, and (2) enforcing the sequestration order against Voss would violate her First Amendment rights, *United States v. Connolly*, 204 F. Supp. 2d 138 (D. Mass. 2002) (excluding reporters from witness sequestration order for criminal trial).

Voss further states as follows:

1. Gretchen Voss, a contributing editor for *Boston* magazine, has been covering this case since its inception. She reported and wrote the story, “The Killing That Tore a Town Apart,” which was published in the October 2023 issue of *Boston* and posted online at www.bostonmagazine.com. (Second Affidavit of Gretchen Voss, dated January 6, 2025, ¶ 4.) She has continued her reporting on the court proceedings since then, for future coverage of the case, whether for *Boston* or another media outlet. (*Id.*)
2. Voss was not a party or witness to any criminal activity relating to this case. Rather, her connection to the case arises only from her accurate reporting of news to the public.

3. In response to the Commonwealth's Renewed Motion for Records (Dkt. 405) and as ordered by this Court on Jan. 31, 2025 (Dkt. 471), Voss turned over the audio recordings of two on-the-record interviews she conducted with defendant Read and her counsel. It is her understanding that the Commonwealth intends to use portions of those recordings at trial.
4. Although Voss's name originally appeared on the Commonwealth's prospective witness list (Dkt. 614), counsel for both the Commonwealth and the Defendant have informed undersigned counsel that Voss will *not* in fact be called as a witness at trial. Instead, the Commonwealth and the Defendant intend to stipulate as to the authenticity of the records produced by Voss, thereby rendering Voss's testimony unnecessary.
5. By virtue of the Court's random selection process, Voss has been approved to attend and report on the trial of this case. Prohibiting her from doing so by enforcing the sequestration order against her would threaten the public's understanding of events occurring at trial and unnecessarily interfere with the free flow of information.
6. There can be no question that Voss has a First Amendment right to attend the trial of this case, *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 102 S. Ct. 2613, 73 L. Ed. 2d 248 (1982), and to do so to the same degree as other members of the press. Only in the most extraordinary circumstances is the government permitted, consistent with the First Amendment, to discriminate among members of the press in granting access to trials and other governmental proceedings. *See Anderson v. Cryovac*, 805 F. 2d 1, 9 (1st Cir. 1986) (holding that a court "may not selectively exclude news media from access to information otherwise made available for public inspection. Such a practice is unquestionably at odds with the First Amendment.")
7. Exclusions from sequestration orders are commonly granted, particularly for non-adversarial witnesses. *Connolly*, 204 F. Supp. 2d 138 (noting "abundant precedent for

exclusion with respect to certain categories of witnesses, such as government case agents in criminal cases and expert witnesses in both civil and criminal cases”).

8. Given the stipulation to which the Commonwealth and Defendant have agreed, and in view of the exceedingly narrow scope of any relevant testimony Voss might offer, the public interest in her being able to cover this proceeding far outweighs any conceivable interest in excluding her from the trial. *See generally United States v. Sepulveda*, 15 F.3d 1161, 1176 (1st Cir. 1993) (district courts have considerable discretion in fashioning sequestration orders).
9. As was also true in *Connolly*, “allowance of this motion has the salutary effect of permitting [Voss] to meet [her] important First Amendment responsibility of keeping the public informed as to the events taking place in open court.” 204 F. Supp. 2d 138.

For all of the above reasons, Voss requests that the Court enter an order excluding her from the witness sequestration order in this case.

Respectfully submitted,

GRETCHEN VOSS

By her attorney,

April 14, 2025

/s/ Robert A. Bertsche
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CERTIFICATE OF SERVICE BY EMAIL

I, Robert A. Bertsche, hereby certify that true and accurate copies of this motion were served on April 14, 2025, by email, on special prosecutor Hank Brennan and defendant’s counsel Alan Jackson.

/s/ Robert A. Bertsche
Robert A. Bertsche

NORFOLK, SS.

SUPERIOR COURT DEPARTMENT
NORFOLK SUPERIOR COURT
DOCKET NO. 2282CR0117

APR 14 11:45 AM
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CLERK OF COURT

COMMONWEALTH

v.

KAREN READ

COMMONWEALTH'S NOTICE OF INTENTION TO INTRODUCE EXTRAJUDICIAL STATEMENTS OF THE DEFENDANT

Now comes the Commonwealth in the above-captioned matter and indicates its intention to introduce relevant statements of the defendant either without a witness or through a non-percipient witness reader. Under Massachusetts law statements of a party-opponent are admissible in evidence to prove the truth of the matters admitted in them. See Mass. R. Evid. 801(d)(2); Commonwealth v. Leste, 70 Mass. App. Ct. 55, 61 (2007) (any extrajudicial statement by party may be admitted in evidence against him by opponent and will not be excluded on ground that it constitutes hearsay); Commonwealth v. Kozubal, 488 Mass. 575, 585 (2021) (“the hearsay exemption of the party opponent encompasses any extrajudicial statement made by a party opponent, not just statements that are inculpatory or against the party's interest.”).

To admit a statement of a party-opponent, there is no requirement that a foundation be laid nor a witness that has personal knowledge of the subject. See generally 14B Mass. Prac., Summary of Basic Law § 9:163 (5th ed.); see also Kozubal, 488 Mass. at 584 (text messages sent from the defendant to the victim were admissible under the hearsay exemption for a party opponent's statements and properly admitted to provide important context for the defendant's text

message); Commonwealth v. Barnett, 482 Mass. 632, 638 2019) (text message to defendant properly admitted to provide necessary context to defendant's admissible statements).

The defendant has made numerous statements to witnesses, first responders, medical providers, family members, and journalists, as well as recorded statements on John O'Keefe's cellphone. These statements range from the defendant's immediate impressions and state of mind in the minutes and hours surrounding John O'Keefe's death to crafted narrations, sometimes in the presence of counsel that recount for the defendant's version or impressions of events months and years after the murder. All of these statements are ones of the opposing party, made by the defendant and therefore admissible. The Commonwealth thereby provides this Honorable Court notice of its intention to introduce statements of the defendant and can provide the Court copies in advance for any preliminary findings of fact that it was the defendant who made the statements. The Commonwealth also moves to provide notice that it intends to introduce the defendant's own statements, without a witness or in some circumstances through a non-percipient witness reader.

Respectfully Submitted,
For the Commonwealth

Michael W. Morrissey
District Attorney

s/ Hank Brennan
Hank Brennan
Specially Appointed Assistant District Attorney

/s/ Adam C. Lally
Adam C. Lally
Assistant District Attorney

/s/ Laura A. McLaughlin
Laura A. McLaughlin
Assistant District Attorney

Date: April 14, 2025

NORFOLK, SS.

NORFOLK SUPERIOR COURT
DOCKET NO. 2282CR0117

FILED
APR 14 PM 3:09
CLERK OF THE COURT
NORFOLK COUNTY

COMMONWEALTH

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COMMONWEALTH'S NOTICE OF DISCOVERY 64

Now comes the Commonwealth in the above-captioned matter and indicates that of this date the following discovery and materials have been provided to the defendant through defense counsel:

1. Copy of Canton Audit Report (206 pgs.), dated April 2025, which was previously provided by email on April 6, 2024, bates stamp NDAO 4,4882-5,087;
2. Copy of Updated CV of Shannon Burgess (7 pgs.), which was previously provided by email on April 6, 2024, bates stamp NDAO 5,088-5,094;
3. Copy of Transcript of Janet & William Read Interview, Body in the Snow (88 pgs., including word index), dated 6/6/24, bates stamp NDAO 5,095-5,182;
4. Copy of Transcript of Defendant's Interview, Body in the Snow, (147 pgs., including word index), dated 6/22/24, bates stamp NDAO 5,183-5,329;
5. Copy of Keeper of Records for NBC Universal, Dateline Episode, The Night of the Nor'easter (2 pg.), bates stamp NDAO 5,330-5,331;
6. Copy of Keeper of Records Unsolved Productions, Inc Episodes, A Body in the Snow (3 pgs.), bates stamp NDAO 5,332-5,334;
7. Copy of Keeper of Records ABC, 20/20 Episode, The Perfect Storm, (1 pg.), bates stamp NDAO 5,335;
8. Copy of Updated Expert Contract & Payments, (6 pgs.), bates stamp NDAO 5,336-5,341
9. Copy of CV of Karl Miyasako, (4pgs), bates stamp NDAO 5,342-5,345;

10. Copy of MSP Report #115, including notes, (2 pgs), dated 4/6/25, bates stamp NDAO 5,346-5,347;
11. Copy of Ian Whiffin's PowerPoint (53 pgs), bates stamp NDAO 5,348;
12. Copy of Ian Whiffin's Video, (1 file), bates stamp NDAO 5,349;
13. Copy of Ian Whiffin's Report (3 pgs.), bates stamp NDAO 5,350-5,352;
14. Copy of Video/Audio Clips of Interview Statements (41 files), bates stamp NDAO 5,353.

Respectfully Submitted
For the Commonwealth,

By: /s/ Hank Brennan

Date: April 12, 2025

Hank Brennan
Specially Appointed Assistant District Attorney