

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

United States of America,

Plaintiff,

v.

**Criminal Action No.: 2:18-cr-00134
(Honorable John Copenhaver,
Senior District Judge)**

Allen H. Loughry, II,

Defendant.

LIMITED MOTION TO INTERVENE

The West Virginia Broadcasters Association and its member radio and television stations (collectively, the “Broadcast Media Intervenors”), move to intervene for the limited purpose of requesting that the Court make available such audio and video recordings that have properly been introduced at the trial in this matter and fully published to the jury.

Pursuant to the First Amendment of the United States Constitution, the common law and practice in the Southern District of West Virginia, the Broadcast Media Intervenors respectfully request that all audio or video recordings which are introduced at the trial of this matter and fully published to the jury be made available at the close of each business day to the electronic broadcast media.

The Broadcast Media has standing to assert the public’s, and its own, rights of access to court records and proceedings. *See, e.g., Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 609 n.25 (1982) (“representatives of the press and general public must be given an opportunity to be heard on the question of their exclusion” from court proceedings) (internal citation omitted).

Non-parties like the Broadcast Media Intervenors are permitted to intervene in judicial proceedings “for the limited purpose of seeking access to materials that have been shielded from public view either by seal or by a protective order.” *See* Fed. R. Civ. P. 24 (governing intervention); *Mokhiber v. Davis*, 537 A.2d 1100, 1104 (D.C. 1988) (“The Filing of a motion to intervene is simply recognized as an appropriate means of raising assertions of public rights of access to information regarding matters in litigation.”); L. R. Civ. P. 26.4c (governing sealed documents).

The Broadcast Media Intervenors note that in the prior matter of *United States of America v. Donald L. Blankenship*, Criminal Action No.: 5:14-cr-00244, the Honorable Irene Berger made available to the “news media intervenors” certain audio recordings which were introduced and fully published to the jury.

The West Virginia Broadcasters Association and its member radio and television stations respectfully request that they be allowed to intervene for the limited matter of requesting that video and audio introduced and fully published to the jury be made available on a same-day basis. To that end, and if necessary, the West Virginia Broadcasters Association will make available a pool reporter to collect and disseminate such information on a daily basis.

**THE WEST VIRGINIA BROADCASTERS
ASSOCIATION AND ITS MEMBER RADIO
AND TELEVISION STATIONS**

By Counsel,

/s/ David Allen Barnette

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CERTIFICATE OF SERVICE

I, David Allen Barnette, counsel for The West Virginia Broadcasters Association and its Member Radio and Television Stations, do hereby certify that on October 2, 2018, the foregoing *Limited Motion to Intervene* was filed with the Clerk of Court using the CM/ECF system, which will provide service to the following counsel of record:

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/s/ David Allen Barnette
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