

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____	)	
UNITED STATES OF AMERICA,	)	
	)	
v.	)	Criminal No. 14-10363-RGS
	)	
BARRY J. CADDEN,	)	
	)	
Defendant.	)	
_____	)	

**MOTION TO RECONSIDER**

Intervenor Trustees of Boston University, through its public radio station, WBUR (“WBUR”) respectfully submits this motion to reconsider portions of the Court’s June 16, 2017 Order allowing WBUR’s motion to unseal the juror list. (Doc. No. 1125). In support of this motion, WBUR states as follows.

1. In the June 16 Order, the Court stated that it will release the names and “towns of residence” of the jurors after sentencing, which is currently scheduled for June 26, 2017. (Doc. No. 1125 at 1-2). In *Globe Newspaper Co.*, however, the First Circuit held that “addresses as well as names are presumptively available to the public under the District of Massachusetts jury plan. Addresses as well as names may be withheld by court order where the interests of justice so require, e.g., where security considerations or matters of similar import are involved.” *In re Globe Newspaper Co.*, 920 F.2d 88, 93 n. 6 (1st Cir. 1990) (emphasis supplied) (noting that “[i]n the case of many familiar names, an address as well as the name is necessary to identify the individual.”)

2. The June 16 Order articulates no “security considerations or matters of similar import” militating against release of the jurors’ addresses. Without that information, WBUR

may be frustrated in its ability to identify and contact the jurors—especially if one or more of them resides in Boston, a municipality of more than 650,000 people. Accordingly, WBUR requests that the Court reconsider the portion of its decision providing for the release only of jurors’ “towns of residence,” and that it disclose the addresses of each juror.

3. Additionally, WBUR respectfully requests that the Court reconsider its ruling regarding the timing of the release of the juror list. In *Globe Newspaper Co.*, the First Circuit held that “[t]o justify impoundment after the trial has ended, the court must find a significant threat to the judicial process itself,” and must make “particularized” findings of such a threat. *In re Globe Newspaper Co.*, 920 F.2d at 91, 98. The First Circuit’s use of the word “trial” contemplated proceedings before the rendering of a verdict, not after. *See, e.g., id.* at 91 (“[n]o doubt stronger reasons to withhold juror names and addresses will often exist *during* trial than *after* a verdict is rendered. After the verdict, release normally would seem less likely to harm the rights of the particular accuseds to a fair trial.”) (emphasis in original); *id.* at 96 (referencing “post-verdict access to juror identities.”) Here, however, the June 16 Order delayed release until after Cadden’s sentencing, despite the lack of any “threat to the judicial process” necessitating the delay.

4. “[E]ven a one or two day delay [in access to judicial records] impermissibly burdens the First Amendment.” *Globe Newspaper Co. v. Pokaski*, 868 F.2d 497, 507 (1st Cir. 1989). In light of the clear import of *In re Globe Newspaper Co.*, and in the absence of findings of a threat to the judicial process, WBUR respectfully requests that the Court reconsider its decision and provide immediate access to juror names and addresses to WBUR.

For the foregoing reasons, WBUR respectfully requests that its Motion to Reconsider be allowed.

TRUSTEES OF BOSTON UNIVERSITY,

By its attorney,

/s/ Jeffrey J. Pyle

Jeffrey J. Pyle (BBO #647438)

PRINCE LOBEL TYE LLP

One International Place, Suite 3700

Boston, MA 02110

(617) 456-8000

(617) 456-8100 (fax)

jpyle@princelobel.com

CERTIFICATION PURSUANT TO LOCAL RULE 7.1

I, Jeffrey J. Pyle, certify that on June 21, 2017, I conferred with counsel for the Government and the Defendant in a good faith to resolve or narrow the issue. Counsel for the Government stated that it does not oppose the relief requested in this motion, and Defendant's counsel stated that he takes no position on the matter.

/s/ Jeffrey J. Pyle

Jeffrey J. Pyle

CERTIFICATE OF SERVICE

I, Jeffrey J. Pyle, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-participants on June 21, 2017.

/s/ Jeffrey J. Pyle

Jeffrey J. Pyle