

IN THE DISTRICT COURT OF APPEAL OF FLORIDA
FIFTH DISTRICT

MULTIMEDIA HOLDINGS)
CORPORATION, d/b/a WTLV/WJXX)
FIRST COAST NEWS,)
) Case No. 5D04-2650
Petitioner,)
vs.)
)
STATE OF FLORIDA)
and JUSTIN MERTIS BARBER,)
)
Respondents.)
_____)

On An Emergency Petition for a Writ of Certiorari
to the Circuit Court of the Seventh Judicial Circuit

BRIEF *AMICI CURIAE*,
FILED WITH CONSENT OF ALL PARTIES
IN SUPPORT OF PETITIONER

ON BEHALF OF THE REPORTERS COMMITTEE FOR FREEDOM
OF THE PRESS, ABC, INC., THE AMERICAN SOCIETY OF NEWSPAPER
EDITORS, THE ASSOCIATED PRESS, CABLE NEWS NETWORK LP, LLP,
CBS BROADCASTING INC., THE HEARST CORPORATION, NBC
UNIVERSAL, INC., THE NEW YORK TIMES COMPANY, POST-
NEWSWEEK STATIONS, INC., THE RADIO-TELEVISION NEWS
DIRECTORS ASSOCIATION, THE SOCIETY OF PROFESSIONAL
JOURNALISTS, TRIBUNE COMPANY, INC., THE WASHINGTON POST
COMPANY, WCJB TV-20, WFLA-TV, WPEC TV-12, AND WPTV

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INTEREST OF AMICI CURIAE

Amici, identified in Appendix A, are broadcasters, newspapers and media-related companies, organizations and professional associations that are actively engaged in disseminating information in the United States and abroad. Many *amici* have substantial operations in Florida and cover matters arising from courts within the Fifth District Court of Appeal. Florida newspapers and television stations participating in this brief, directly or through parent companies, include the *South Florida Sun-Sentinel*, *Orlando Sentinel*, *Sarasota Herald-Tribune*, *Gainesville Sun*, *Ocala Star-Banner*, *Lakeland Ledger*, WCJB TV-20 (Gainesville), WESH-TV (Orlando), WJXT (Jacksonville), WKMG (Orlando), WOR-TV (Tampa-St. Petersburg), WPEC TV-12 (West Palm Beach), and others. All *amici* share Petitioner's interest in enforcing the First Amendment's prohibition against governmental interference with a free press, and are likely to be adversely affected by the trial court's order in this case. Because the order is an unconstitutional prior restraint and stands in direct contravention of U.S. Supreme Court precedent, *amici* respectfully submit this brief in support of Petitioner's Emergency Petition for a Writ of Certiorari.

SUMMARY OF THE ARGUMENT

The public's ability to monitor the administration of justice lies at the heart of an open and enlightened society. For this reason, courts in Florida and across

the nation have repeatedly made clear that imposing a prior restraint on news publication violates the First Amendment in virtually all circumstances. Indeed, the U.S. Supreme Court has *never* upheld a prior restraint against the news media, and has stated that a prior restraint could be justified — if ever — only in truly extreme circumstances, such as to protect troop movements in wartime.

This case is not even remotely comparable. It does not involve war or national security, but a grand jury transcript knowingly released by the State Attorney's Office pursuant to public records law. Far from warranting a prior restraint, the transcript is *required* to be made public under a Florida statute. Nevertheless, the trial court, without making findings of fact or considering alternatives, has threatened a news organization with criminal contempt of court if it publishes information from the transcript.

The trial court's action is a departure from the essential requirements of the law. With each passing day that the prior restraint remains in effect, the press's ability to report news to the public is unlawfully restrained. Accordingly, this Court should act promptly to overturn the trial court's orders.

ARGUMENT

I. Public Confidence in the Administration of Justice Is Fostered by Unfettered Media Coverage of the Judicial Process.

First Amendment jurisprudence has long recognized that prior restraints are basically incompatible with the notion of a free press. That antipathy stems from the news media's critical role in ensuring that the public has sufficient information to monitor the performance of the judicial system:

A responsible press has always been regarded as the handmaiden of effective judicial administration, particularly in the criminal field. Its function in this regard is documented by an impressive record of service over several centuries. The press does not simply publish information about trials but guards against the miscarriage of justice by subjecting the police, prosecutors, and judicial process to extensive public scrutiny and criticism.

Sheppard v. Maxwell, 384 U.S. 333, 350 (1966). While all prior restraints are constitutionally suspect, those that interfere with the media's ability to cover the criminal justice system are particularly offensive. *See Nebraska Press Ass'n v. Stuart*, 427 U.S. 539, 559 (1976) (“[T]he protection against prior restraint should have particular force as applied to reporting of criminal proceedings.”).

Thus, the Constitution affords “special protection” to “truthful reports of public judicial proceedings.” *Id.*; *see also Oklahoma Publishing Co. v. District Court*, 430 U.S. 308, 309-312 (1977) (invalidating order barring media from

identifying 11-year-old defendant in murder case); *Smith v. Daily Mail Publishing Co.*, 443 U.S. 97, 104 (1979) (invalidating West Virginia law prohibiting media from publishing identity of juvenile defendant without court permission); *Cox Broadcasting Corp., v. Cohn*, 420 U.S. 469, 496 (1975) (invalidating Georgia law restricting publication of rape victim's name). The enhanced protection for truthful coverage of judicial proceedings applies both to individual cases and to reporting on the justice system as a whole. *See Nebraska Press*, 427 U.S. at 559.

Literally every day, the news media reports stories of significant public interest about the administration of justice in our courts. The following are but a few recent examples, taken from Florida, that illustrate the importance of unfettered media access to the justice system:

- In 2002, *The Miami Herald* reported that nearly 40 murder confessions had been thrown out of Broward County courts by judges, rejected by juries, or abandoned by prosecutors due to overzealous police interrogation. The *Herald* presented evidence that suspects in many cases were improperly jailed, that police ignored requests for attorneys, and that confessions were coerced.
- A July 2002 series in the *Tallahassee Democrat* exposed a huge backlog in cases in Leon County, Florida. The series examined why more than a quarter of the felony docket languished unresolved, often long past the state's recommended 180-day deadline for completion.
- In 1992, the *Tropic* (Sunday magazine of *The Miami Herald*) reported on problems in Florida's juvenile justice system through a detailed profile a 13-year old African-American boy and the efforts of a

juvenile court judge to help him.

In the specific context of grand jury proceedings, the news media has uncovered and reported major stories through its investigative efforts. Although grand juries tend to be shrouded in secrecy, journalists in Florida and elsewhere have used lawful investigative techniques to bring to light stories of alleged public corruption and official misconduct. Again, a few examples are illustrative:

- In early 2001, a series in *The Miami Herald* detailed a secret grand jury investigation into questionable real estate transactions involving the Miami-Dade School Districts. The *Herald* reported the grand jury's probe into a variety of allegations of abuse, as well as its findings that the school board failed to account for overspending on the purchases, correct fire and safety violations, or control budgetary excesses for new school construction.
- In 1993, the *Daily Oklahoman* (Oklahoma City) reported that the state's governor was under investigation by a secret grand jury. The paper was also the first to report that the governor had pleaded guilty in a closed hearing.
- In June 1993, the *San Francisco Bay Guardian* reported that the city's Civil Grand Jury was unrepresentative of the population and had numerous conflicts of interests. Among other findings, the paper reported that several members of the grand jury were shareholders in a utility that the grand jury decided not to investigate.

As these examples illustrate, the public and the press share an interest in the media's ability to gather and report information about the judicial system. If judges could freely issue prior restraint orders whenever they believed information

should not be reported, these benefits would be severely reduced. The media's utility as an independent watchdog depends on the fact that it does not answer to judges, prosecutors, and other participants in the judicial process.

Largely for these reasons, federal and state courts alike have repeatedly held that any degree of intrusion by the government into the process of gathering and reporting the news should be viewed skeptically. "We have learned, and continue to learn, from what we view as the unhappy experiences of other nations where government has been allowed to meddle in the internal editorial affairs of newspapers." *Miami Herald Publishing Co. v. Tornillo*, 418 U.S. 241, 259 (1974) (White, J., concurring). When a judge or other governmental authority takes the drastic step of ordering the news media not to publish particular information, it is viewed with extreme disfavor and is nearly always struck down. *See, e.g., Times Publishing Co. v. State*, 632 So. 2d 1072, 1074 (Fla. 4th DCA 1994) ("Orders of prior restraint on publication come to the reviewing court with a heavy presumption against their constitutionality.").

In this case, First Coast News was engaged in the business of gathering and reporting news about a prominent murder case in which the public has a legitimate interest. Truthful reporting about a pending criminal investigation "lies near the core of the First Amendment." *Landmark Communications, Inc. v. Virginia*, 435

U.S. 829 (1978) (reversing criminal conviction of news organization for publishing information about a confidential judicial review proceeding). First Coast News must be allowed to report on such matters free of governmental censorship.

II. This Court Should Intervene Immediately to Prevent the Continued Enforcement of an Unconstitutional Prior Restraint.

Prior restraints are fundamentally at odds with the concept of a free press. While the government has the prerogative, under limited circumstances, to restrict public access to information in the first place, it is almost never justified in ordering the news media not to print information that it has already obtained. *See Tornillo*, 418 U.S. at 259 (White, J., concurring) (“[T]he First Amendment erects a virtually insurmountable barrier between government and the print media so far as government tampering, in advance of publication, with news and editorial content is concerned.”). Once information has been provided to the news media, it is in the public domain and cannot be taken back. *See, e.g., In re Charlotte Observer*, 921 F.2d 47, 50 (4th Cir. 1990) (“Once announced to the world, the information lost its secret characteristic, an aspect that could not be restored by the issuance of an injunction to two reporters.”).

Consequently, it is imperative that this Court act promptly to lift the

unlawful prior restraint imposed by the trial court's Orders of July 30, 2004 and August 9, 2004. With each passing day that the prior restraint remains in effect, the news media suffers a distinct violation of its First Amendment rights. *See Nebraska Press*, 423 U.S. at 1329 (“Where . . . a direct prior restraint is imposed upon the reporting of news by the media, each passing day may constitute a separate and cognizable infringement of the First Amendment.”).

A. The Trial Court's Orders Constitute a Prior Restraint.

In its August 9 Order, the trial court suggests that its July 30 Order did not actually impose a prior restraint at all. The August 9 Order states, “At no point in the Court's order [of July 30] is First Coast News or Multimedia Holdings Corporation precluded or restrained from publishing matters which are public record.” August 9 Order, at 1.¹ But in the very next paragraph, the Court adds, “These transcripts were not properly disclosable as discovery and therefore are not subject to the public records act.” *Id.* at 2. The Court's declaration that the transcript is not a public record renders the first statement meaningless.

Likewise, with all due respect to the trial court, its characterization of the

¹ This is highly debatable, given that the July 30 Order provides that “any broadcast, publication, or communication of the contents of this transcript is a violation of F.S. 905.27, punishable as a misdemeanor in addition to constituting grounds for Criminal Contempt of Court.” (July 30 Order ¶ 3.)

orders as merely constituting “notice” of potential criminal penalties is an unconvincing exercise in semantics. The August 9 Order states explicitly that if First Coast News – identified by name in the Order – chooses to publish information from the transcript, that act “*is a crime and may be punished as contempt of court.*” *Id.* (emphasis added). The trial court has expressly threatened a news organization with criminal contempt of court for publishing information that is already in the news organization’s possession.

Any rational journalist would view the August 9 Order as continuing the prior restraint imposed in the July 30 Order. The trial court has flatly stated publication of information from the transcript would be a crime – a classic prior restraint. *See, e.g., Alexander v. United States*, 509 U.S. 544, 549 (1993) (judicial orders that forbid speech activities “are classic examples of prior restraints”). And if one accepts the trial court’s explanation that the orders merely constitute advisory opinions of existing law under Fla. Stat. § 905.27 – or “notice,” as the court put it in the August 9 Order – rather than a judicially imposed prior restraint, then it raises serious questions about the constitutionality of the statute. *See Butterworth v. Smith*, 494 U.S. 624 (1990) (holding that Fla. Stat. 905.27 violated the First Amendment insofar as it prohibited a grand jury witness from publicly disclosing his testimony even after the grand jury’s term was over).

Regardless of the source of the legal compulsion under which it is operating, First Coast News has been told by a court of law that it will face criminal sanctions for publishing specific information that it already possesses. That clearly constitutes a prior restraint on publication.

B. This Case Does Not Present the “Extraordinary” Circumstances Necessary to Justify “The Most Serious and the Least Tolerable Infringement on First Amendment Rights.”

Despite dozens of cases emphasizing that prior restraints should be an absolute last resort, imposed only on the basis of specific findings that no other alternative exists to prevent a great harm, the trial court here did not even attempt to identify *any* state interest that allegedly justifies the prior restraint in this case. And even if one assumes *arguendo* that the purported justification is to protect grand jury secrecy, that interest falls well short of the required “state interest of the highest order” in this case.

1. Prior restraints are unconstitutional in all but the most extraordinary circumstances.

As this Court is aware, there is a “heavy presumption” against the constitutionality of any prior restraint. *Times Publishing Co.*, 632 So. 2d at 1074; *Accord, Florida Publishing Co. v. Brooke*, 576 So. 2d 842, 846 (Fla. 1st DCA 1991). That presumption is based on the recognition that restraining the

citizenry's free speech rights in advance is the most dangerous form of government censorship. As the U.S. Supreme Court has held,

[A] free society prefers to punish the few who abuse rights of speech after they break the law than to throttle them and all others beforehand. It is always difficult to know in advance what an individual will say, and the line between legitimate and illegitimate speech is often so finely drawn that the risks of freewheeling censorship are formidable.

Southeastern Promotions, Ltd. v. Conrad, 420 U.S. 546, 559 (1975). Accordingly, prior restraints must undergo "the most exacting scrutiny." *Smith*, 443 U.S. at 102; *see also Nebraska Press*, 427 U.S. at 561; *Near*, 283 U.S. at 716; *Southeastern Promotions*, 420 U.S. at 559. The proponent of a prior restraint on news publication must demonstrate that suppressing the speech is strictly necessary to further "a state interest of the highest order." *Smith*, 443 U.S. at 102. As this Court has put it, the need for the restraint must be "manifestly overwhelming." *Brooke*, 576 So. 2d at 846.

History teaches that this standard is almost impossible to satisfy. The U.S. Supreme Court has never approved a prior restraint against the news media. It has suggested that it would consider doing so only in circumstances akin to those when the nation "is at war," *Schenck v. United States*, 249 U.S. 47, 52 (1919), such as if the government sought to prevent "publication of the sailing dates of

transports or the number and location of troops.” *Near*, 283 U.S. at 716.

In a statement that dramatizes how rarely prior restraints could ever be justified, Justice Brennan suggested in the Pentagon Papers case that a prior restraint could be justified to “suppress information that would set off a nuclear holocaust.” *New York Times*, 403 U.S. at 726 (Brennan, J., concurring). More recently, the U.S. Court of Appeals for the Sixth Circuit held that publication “must threaten an interest more fundamental than the First Amendment itself” before a prior restraint can be imposed.” *Procter & Gamble Co. v. Bankers Trust Co.*, 78 F.3d 219, 227 (6th Cir. 1996).

2. The trial court failed to identify any state interest to support its prior restraint orders, let alone a “state interest of the highest order.”

This case does not involve war, or national security, or any other interest that could conceivably be viewed as “more fundamental than the First Amendment itself.” *Id.* Instead, it is a routine murder case in which the defendant, Justin Barber, gave grand jury testimony that, according to the Petitioner, is largely duplicative of publicly available testimony that he had already given in a civil suit. The transcript of Mr. Barber’s grand jury testimony was not leaked or stolen, but was openly provided to a news organization by the State Attorney’s Office as a public record. There is simply nothing in these facts to justify the exceptionally

rare sanction of a prior restraint.

As noted, the First Amendment requires a “state interest of the highest order” to justify suppression in advance of truthful news publication. *Smith*, 443 U.S. at 102. The trial court not only failed to identify such an interest; it failed to make any findings at all in support of its July 30 and August 9 orders. The prior restraint must be immediately quashed for that reason alone. *See Brooke*, 576 So. 2d at 846 (prior restraint invalid because it was not supported by specific factual findings); *Nebraska Press*, 427 U.S. at 565; *Fort Wayne Journal-Gazette v. Baker*, 788 F. Supp. 379, 385 (N.D. Ind. 1992).

The trial court also apparently failed to consider any alternatives to issuing a prior restraint. That omission, too, violated established law. *See, e.g., Times Publishing Co.*, 632 So. 2d at 1076 (“Rather than exploring alternatives, the trial court simply used the draconian measure of prior restraint as a first resort instead of an absolute last resort.”).

Despite these failures, we will assume for the sake of argument that the trial court’s rationale in issuing the prior restraint was to protect the secrecy of grand jury proceedings. But while the state undeniably has a legitimate interest in the confidentiality of grand jury proceedings, that interest does not justify the imposition of a prior restraint on news publication.

In a case involving the Florida statute at issue here, the U.S. Supreme Court decided that Section 905.27 violated the First Amendment insofar as it prohibited a journalist who had testified to a grand jury from writing about his experiences even after the grand jury's term had ended. *Butterworth*, 494 U.S. at 630. Because the “invocation of grand jury interests is not some talisman that dissolves all constitutional protections,” the Court held that “grand juries are expected to operate within the limits of the First Amendment, as well as the other provisions of the Constitution.” *Id.* (internal quotation marks and citations omitted).

Similarly, in *Landmark Communications, Inc.*, 435 U.S. at 829, the Court held that it violated the First Amendment for Virginia to impose criminal liability upon a newspaper that accurately reported on confidential proceedings before the state judicial review commission – a secret investigative body similar to a grand jury. The Court ruled that the “publication Virginia seeks to punish under its statute lies near the core of the First Amendment, and the Commonwealth’s interests advanced by the imposition of criminal sanctions are insufficient to justify the actual and potential encroachments on freedom of speech and of the press which follow therefrom.” *Id.* at 838.

The secrecy of grand jury proceedings was also rejected as a basis for a prior restraint in *In re Charlotte Observer*, 921 F.2d at 50. There, the Fourth

Circuit held that the trial court could not constitutionally order a newspaper not to publish the name of an attorney who was a target of a grand jury investigation, after the trial judge had inadvertently revealed in open court that the attorney was being investigated. *See id.* at 48-49. “Once announced to the world, the information lost its secret characteristic, an aspect that could not be restored by the issuance of an injunction to two reporters.” *Id.* at 50.

These cases demonstrate that invoking the concept of grand jury secrecy is grossly insufficient to justify prior restraints upon the media. Rather, even if the government seeks only to impose a post-publication sanction, the goals allegedly advanced by the confidentiality of the proceeding must be specifically weighed against the news media’s First Amendment rights. *See Butterworth*, 494 U.S. at 630 (“We must balance respondent’s asserted First Amendment rights against Florida’s interests in preserving the confidentiality of its grand jury proceedings.”); *Landmark*, 435 U.S. at 838 (same, in context of confidential judicial review proceedings).

Here, even a cursory examination of the facts of this case reveals that the State’s interest in grand jury secrecy is quite weak as a justification for the prior restraint order. The purposes of grand jury secrecy are to maintain the integrity of an ongoing investigation and to protect the reputations of potentially innocent

persons accused but exonerated by the grand jury. *See Douglas Oil Co. v. Petrol Stops Northwest*, 441 U.S. 211, 219 (1979). But in this case, the defendant has already been indicted and charged. As a result, there is no risk at all that publication of information from his grand jury testimony would jeopardize the integrity of an ongoing investigation. Nor would disclosure of the fact that Barber was investigated by the grand jury investigation tarnish his reputation, given that (1) that fact is already publicly known; and (2) he has already been publicly charged with the murder.

It is also notable that Barber has already provided civil testimony which, according to the Petition (at 26), “covers the same series of events and topics” as his grand jury testimony. The transcript of the civil deposition is already part of the public record. This fact further undermines any claim that a prior restraint is necessary to maintain the secrecy of his grand jury testimony.

Ultimately, there is no justification whatsoever for the trial court’s prior restraint orders. Prior restraints are options of the last resort, to be issued (if ever) only when absolutely required by state interests of the highest order. *See Smith*, 443 U.S. at 102; *Times Publishing Co.*, 632 So. 2d at 1076. Here, without considering alternatives or making findings, the trial court issued two orders that restrain the publication of truthful information by a news organization. That

action violated the First Amendment and should not be allowed to stand.

C. The Transcript Was Lawfully Obtained by the News Media.

The right of a news organization to print information generally does not depend on how the information was obtained. *See, e.g., New York Times*, 403 U.S. at 713 (upholding media’s First Amendment right to publish information from the Pentagon Papers, despite Court’s conclusion that the documents had been “stolen” by third party). Nor are courts in the business of second-guessing the editorial decisions of the press. *See Tornillo*, 418 U.S. at 259 (White, J., concurring) (“[T]he liberty of the press is in peril as soon as the government tries to compel what is to go into a newspaper.”) (internal quotation marks omitted).

Nevertheless, because the August 9 Order erroneously suggests that the news media did not “lawfully” obtain the transcript of Barber’s grand jury testimony,² that inaccuracy must be corrected. With due respect to the trial court, it is simply mistaken on this point.

Daryl Tardy, a reporter for First Coast News, obtained the transcript of Barber’s grand jury testimony from the Office of the State Attorney for St. John’s

² *See* August 9 Order, at 2 (“The Court has also considered First Coast News’ position that they obtained these transcripts lawfully and that the transcript in question is a matter of public record as being part of discovery in a case. This position is incorrect.”).

County, Florida. (Tardy Aff. ¶ 7.) Tardy says he was notified by a prosecutor at the State Attorney's Office, Maureen Sullivan Christine, that Barber's grand jury transcript had been made available to the defendant and therefore was now a public record under Florida law. *See* § 119.011(3)(c)(5), Fla. Stat. (2004) (investigative exemption from Florida's Public Records Act does not apply to records disclosed to a criminal defendant). Tardy went to the Office of the State Attorney, where he picked up a copy of the transcript from a receptionist and signed a receipt. (Tardy Aff. ¶ 7.)

The prosecutor, Ms. Christine, released the transcript because she believed that it was a public record under applicable Florida law. Regardless of whether that interpretation was correct, Mr. Tardy did not act unlawfully in obtaining the record. Mr. Tardy believed, quite reasonably, he was simply picking up a public document from a government office. (*Id.* ¶ 8.)

Further, even if Ms. Christine was mistaken in believing the transcript had become public, she did not act "unlawfully" by releasing it under what she viewed, in good faith, as her obligation under the statute; and it does not follow that the First Amendment rights of First Coast News may now be abridged. A news

organization cannot be restricted from broadcasting information simply because the information was unlawfully obtained by the source: “[I]t would be quite remarkable to hold that speech by a law-abiding possessor of information can be suppressed in order to deter conduct by a non-law-abiding third party.” *Bartnicki v. Vopper*, 532 U.S. 514, 529-30 (2001). Rather, “[t]he normal method of deterring unlawful conduct is to impose an appropriate punishment on the person who engages it.” *Id.* at 529; *see also New York Times*, 403 U.S. 713 (rejecting prior restraint on publication of the Pentagon Papers, even though material was unlawfully obtained by the newspaper’s source).

The trial court’s August 9 Order mistakenly conflates two questions: whether the State Attorney’s Office erred in releasing the transcript, and whether the news media lawfully obtained it. Even if the State Attorney’s Office did release the transcript in error – which we dispute – it is obvious that First Coast News violated no law in obtaining the transcript.

CONCLUSION

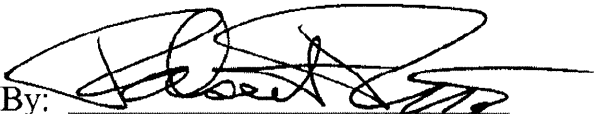
For the foregoing reasons, we urge this Court to grant the Emergency

Petition for a Writ of Certiorari and vacate the July 30 and August 9 Orders.

Respectfully submitted,

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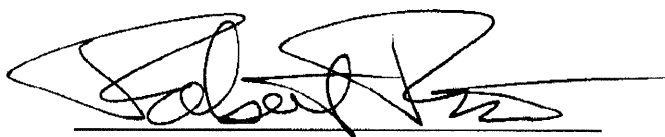
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Certificate of Service

I HEREBY CERTIFY that on August 12, 2004, a copy of this *amicus* brief was provided by fax, e-mail transmission, and U.S. Mail to the Honorable Robert K. Mathis, Circuit Judge, St. Johns County Courthouse, 4010 Lewis Speedway, Suite 365, St. Augustine, FL 32084; counsel for the State, Jonathan D. Kaney, Jr., Assistant State Attorney, P.O. Box 2491, Daytona Beach, FL 32115-2491; counsel for the defendant, Robert S. Willis, 503 E. Monroe St., Jacksonville, FL 32202; and counsel for the Petitioner, George D. Gabel, Jr., Holland & Knight, 50 N. Laura St., Suite 3900, Jacksonville, FL 32202.



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CERTIFICATE OF TYPEFACE COMPLIANCE

Counsel for *amici* certify that this brief is typed in 14 point (proportionately spaced) Times New Roman, in compliance with Rule 9.210 of the Florida Rules of Appellate Procedure.



Robert Rivas

APPENDIX A

The Reporters Committee for Freedom of the Press is a voluntary, unincorporated association of reporters and editors that works to defend the First Amendment rights and freedom of information interests of the news media. The Reporters Committee has provided representation, guidance and research in First Amendment and Freedom of Information Act litigation since 1970.

ABC, Inc. is a broad-based communications company with significant holdings in the United States and abroad. Alone or through its subsidiaries, it owns ABC News, the ABC Radio Network, 62 radio stations and 10 television stations that regularly gather and report news to the public. ABC News produces the television programs World News Tonight with Peter Jennings, 20/20, and Nightline, among others.

The American Society of Newspaper Editors is a nonprofit organization founded in 1922. It has a nationwide membership of over 800 persons who hold positions as directing editors of daily newspapers throughout the United States, with members recently being added in Canada and other countries in the Americas. The purposes of the Society include assisting journalists and providing an unfettered and effective press in the service of the American people.

The Associated Press is a not-for-profit mutual news cooperative. The members of AP are more than 1,500 newspapers and more than 5,000 television and radio stations throughout the United States. AP also serves thousands of subscribing newspapers, news networks and other publishers and distributors of news worldwide. AP was founded in 1848 and is now the largest newsgathering organization in the world. AP has no parent corporation, and no publicly held corporation holds more than 10 percent of its stock.

Cable News Network LP, LLLP (“CNN”) is a subsidiary of Turner Broadcasting System, Inc, a Time Warner company. CNN is the world's largest news organization with over a dozen television and radio news networks and websites available worldwide, as well as several news programming services, which are provided to affiliates domestically and worldwide. CNN employs more than 3,000 news professionals, who gather news throughout the world.

CBS Broadcasting Inc. and its various divisions, including the CBS News Division, produce and distribute various news and public affairs programs, including 60 MINUTES and 48 HOURS. CBS also owns and operates a number of television stations around the country, including WFOR-TV, WTOG-TV, WBFS-TV and WTVX-TV, which are based in Florida. An affiliated company, Infinity Broadcasting Corporation, also owns and operates various radio stations throughout Florida.

The Hearst Corporation is The Hearst Corporation is a diversified, privately held media company that publishes newspapers, consumer magazines and business publications. Hearst also owns a leading features syndicate, has interests in several cable television networks, produces programming for television and is the majority owner of Hearst-Argyle Television, Inc., a publicly held company that owns and operates numerous broadcast stations, including WESH-TV in Orlando, WOR-TV in Tampa-St. Petersburg, and WPBF-TV in West Palm Beach.

NBC Universal, Inc., and its NBC News division, produce and distribute news programming through, among others, the NBC and Telemundo television networks, NBC Universal's owned and operated television stations, MSNBC and CNBC. NBC Universal gathers and reports news daily through broadcast and cable television and the Internet.

The New York Times Company is the owner of the *Sarasota Herald-Tribune*, the *Gainesville Sun*, the *Ocala Star-Banner*, and the *Lakeland Ledger*, in addition to publishing *The New York Times*. The company also owns *The Boston Globe* and *The International Herald Tribune*, as well as 13 other newspapers and eight television stations around the United States.

Post-Newsweek Stations, Inc. is a wholly-owned subsidiary of The Washington Post Company. It operates numerous television stations, including WPLG in Miami, WKMG in Orlando, and WJXT in Jacksonville.

The Radio-Television News Directors Association ("RTNDA"), based in Washington, D.C., is the world's largest professional organization devoted exclusively to electronic journalism. RTNDA represents local and network news directors and executives, news associates, educators and students in broadcasting, cable and other electronic media in over 30 countries. RTNDA is committed to

encouraging excellence in electronic journalism, and upholding First Amendment freedoms.

The Society of Professional Journalists (“SPJ”) is dedicated to improving and protecting journalism. It is the nation's largest and most broad-based journalism organization, dedicated to encouraging the free practice of journalism and stimulating high standards of ethical behavior. Founded in 1909 as Sigma Delta Chi, SPJ promotes the free flow of information vital to a well-informed citizenry; works to inspire and educate the next generation of journalists; and protects First Amendment guarantees of freedom of speech and press.

Tribune Company, Inc., operates businesses in publishing, broadcasting and on the Internet. It reaches more than 80 percent of U.S. households, and is the only media company with newspapers, television stations and web sites in the nation’s top three markets. In publishing, Tribune operates 12 market-leading daily newspapers, including the *South Florida Sun-Sentinel* and *Orlando Sentinel* in Florida. Tribune also operates the *Los Angeles Times*, *Chicago Tribune*, *Newsday*, *Baltimore Sun*, and a wide range of targeted publications, including Spanish-language newspapers. In broadcasting, Tribune properties include 26 television stations and Superstation WGN on national cable. These publishing and broadcasting interests are complemented by high-traffic news and information web sites in 18 of the nation’s top 30 markets.

The Washington Post Company publishes the newspaper *The Washington Post*, a leading newspaper with a nationwide daily circulation of more than 750,000 and a Sunday circulation of more than 1 million.

WCJB TV-20, the Gainesville, Florida-based affiliate of ABC News, covers the local court system extensively. Because WCJB regularly broadcasts news stories based on the contents of documents freely provided by State Attorneys and other officers of the court, WCJB stands to be directly and immediately affected by the Court’s decision in this case. WCJB is owned by Diversified Communications, Inc., a family-owned company based Portland, Maine, that also owns television stations in Maine and South Carolina.

WFLA-TV (Media General Operations, Inc.), the number one station in Florida, produces daily newscasts and other programming from studios in Tampa, Florida.

It is owned by Media General Operations, Inc. (“Media General”), a leading provider of news and information through its interests in newspapers, television stations, interactive media and diversified information services. Media General's assets include twenty-five daily newspapers throughout the Southeast, as well as twenty-six network-affiliated stations that reach more than thirty percent of the television households in the Southeast and nearly eight percent of those in the United States.

WPEC-TV News Channel 12, the West Palm Beach, Florida-based affiliate of CBS News, covers the local court system extensively. Because WPEC regularly broadcasts news stories based on the contents of documents freely provided by State Attorneys and other officers of the court, WPEC stands to be directly and immediately affected by the Court’s decision in this case. WPEC is owned by Freedom Communications, Inc., an Irvine, California-based media company of 28 daily newspapers, 37 weekly publications, eight television stations, and related Internet-based services.

WPTV, whose daily newscasts and other programming originate from studios in West Palm Beach, Florida; **WFTS**, whose daily newscasts and other programming originate from studios in Tampa, Florida; **Naples Daily News**; **The Stuart News**; **The Tribune of Ft. Pierce**, Florida; and **Vero Beach Press Journal**, all are subsidiaries or affiliates of The E.W. Scripps Company. The E.W. Scripps Company is a diverse media concern with interests in newspaper publishing, broadcast television, national television networks, interactive media and television retailing. Nationwide, it operates 21 daily newspapers, 15 broadcast TV stations, four cable and satellite television programming networks and a television retailing network.