

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

UNITED STATES OF AMERICA

Case No.: 9:22-MJ-08332-BER-1

v.

SEALED SEARCH WARRANT

MIAMI HERALD AND TAMPA BAY TIMES' MOTION TO INTERVENE FOR THE LIMITED PURPOSE OF OBTAINING ACCESS TO SEARCH WARRANT COURT RECORDS, ADOPTION OF MOTION FOR ACCESS AND MEMORANDUM OF LAW

The McClatchy Company, LLC d/b/a *Miami Herald* (the “Miami Herald”) and Times Publishing Company d/b/a *Tampa Bay Times* (the “Tampa Bay Times”) hereby move to intervene in this matter for the limited purpose of joining Intervenor The New York Times Company¹ in seeking to unseal and obtain access to all documents filed with this Court related to the search warrant executed on Monday, August 8, 2022, at former President Donald J. Trump’s Mar-a-Lago Palm Beach, Florida, club and residence. *See* ECF 8, 9 (“The Times’ Motion”). The Miami Herald and the Tampa Bay Times also hereby adopt this substantive motion for access to court records.

On August 11, 2022, this Court recognized the right of the news media to intervene in this matter, granting The New York Times Company leave to intervene. *See* ECF 11.² It further ordered the United States to respond to all pending motions to unseal in one omnibus response by 5:00 p.m. on August 15, 2022. *See* ECF 12. Thus, granting the instant motion, which raises no additional substantive legal arguments beyond those raised in The Times’ Motion, will not

¹ Along with CBS Broadcasting Inc. (“CBS News”) (*see* ECF 20).

² On August 12, 2022, the Court granted CBS News’ motion to intervene, along with several other news organizations. *See* ECF 26.

prejudice any government response deadlines. Additionally, the Government has now filed a motion to unseal limited warrant materials. *See* ECF 18.

Additional grounds for this motion are set forth in the below memorandum of law.

MEMORANDUM OF LAW

I. The Miami Herald and Tampa Bay Times Have Standing to Intervene.

The McClatchy Company, LLC d/b/a *Miami Herald* is a California limited liability company which publishes the *Miami Herald*, a daily newspaper of general circulation. The Miami Herald also maintains a news website at www.miamiherald.com. In gathering and reporting news, the Miami Herald uses public records, including court records, to inform the public of newsworthy events.

Times Publishing Company is a Florida corporation which publishes the *Tampa Bay Times*, a newspaper of general circulation in the greater Tampa Bay area, and also maintains a news website at www.tampabay.com. In gathering and reporting news, the Tampa Bay Times uses public records, including court records, to inform the public of newsworthy events.

Both the Miami Herald and the Tampa Bay Times have reported on President Trump before and throughout his presidential administration. They continue to report on President Trump post-presidency, including reporting on the August 8, 2022, search warrant execution at Mar-a-Lago.

The Eleventh Circuit has recognized the news media's right to intervene in matters to challenge the denial of access to court records. *See, e.g., United States v. Ellis*, 90 F.3d 447, 449 (11th Cir. 1996), *cert. denied*, 519 U.S. 1118 (1997); *Newman v. Graddick*, 696 F.2d 796, 800 (11th Cir. 1983); *see also Globe Newspaper Co. v. Super. Ct.*, 457 U.S. 596, 609 n.25 (1982) (“the press and general public ‘must be given an opportunity to be heard on the question of their

exclusion.” (citation omitted)). Only through intervention can the public’s right to open courts and records be vindicated. *See Newman*, 696 F.2d at 800.

There is no question that the Miami Herald and the Tampa Bay Times as news organizations—like The New York Times Company and other intervenors—have standing to seek access to all search warrant records related to the August 8, 2022, events at Mar-a-Lago.

II. All Subject Search Warrant Records Should Be Released.

For all the reasons stated in The Times’ Motion, which are specifically adopted and incorporated herein by reference, this Court should unseal all court records related to the subject search warrant.

III. Conclusion.

The Miami Herald and the Tampa Bay Times respectfully request that this Court grant this motion to intervene and unseal or otherwise make publicly available all search warrant-related court records regarding the events of August 8, 2022, at Mar-a-Lago.

REQUEST FOR HEARING

Pursuant to Local Rule 7.1(b)(2), the Miami Herald and the Tampa Bay Times request a hearing be set for this motion.³ Oral argument will aid this Court in assessing any further basis to continue to keep these extremely newsworthy records secret and allow this Court to directly inquire into any government justification for doing so. The Miami Herald and the Tampa Bay Times estimate the time required for argument to be sixty (60) minutes.

³ The Miami Herald, the Tampa Bay Times, CBS Broadcasting Inc. and The New York Times Company are represented by the same legal counsel in this matter, which would argue concurrently for all at any set hearing.

LOCAL RULE 7.1(a)(3) CERTIFICATE OF GOOD-FAITH CONFERENCE

Undersigned counsel for hereby certifies that on the afternoon of August 10, 2022, she made reasonable efforts to confer with the Assistant United States Attorney for the Southern District of Florida handling the matter, leaving a message with their office about news media intervention. She has yet to receive a return telephone call. As set forth in ECF 18, the Government does not oppose release of certain search warrant records identified therein.

Dated: August 12, 2022.

Respectfully submitted,

THOMAS & LOCICERO PL

/s/ Carol Jean LoCicero

Carol Jean LoCicero (FBN 603030)

Mark R. Caramanica (FBN 110581)

601 South Boulevard

Tampa, FL 33606

Telephone: (813) 984-3060

Facsimile: (813) 984-3070

clocicero@tlolawfirm.com

mcaramanica@tlolawfirm.com

tgilley@tlolawfirm.com

dlake@tlolawfirm.com

Dana J. McElroy (FBN 845906)

915 Middle River Drive, Suite 309

Fort Lauderdale, FL 33304

Telephone: (954) 703-3418

Facsimile: (954) 400-5415

dmcelroy@tlolawfirm.com

bbrennan@tlolawfirm.com

*Attorneys for The McClatchy Company, LLC d/b/a
Miami Herald and Times Publishing Company d/b/a
Tampa Bay Times*

CERTIFICATE OF SERVICE

I hereby certify that on August 12, 2022, a true and correct copy of the foregoing document is being electronically filed and will be furnished via CM/ECF. A copy of the foregoing is also being served by email and first-class mail, postage paid, to:

Juan Antonio Gonzalez
U.S. Attorney's Office
Southern District of Florida
98 NE 4th Street, Floor 8
Miami, FL 33132-2131
juan.antonio.gonzalez@usdoj.gov

/s/ Carol Jean LoCicero

Carol Jean LoCicero