

12/21/2021

Subject: MOTION FOR ACCESS in the hearing on an application for a criminal complaint against Keith A. Hovan

Dear Clerk Magistrate Daryl Manchester:

My name is Anastasia Lennon and I'm a reporter with The New Bedford Light, an online nonprofit news outlet based in New Bedford, Mass. I'm requesting that Wareham District Court allow the news outlet access to the court proceedings of the Clerk Magistrate's Hearing on **January 10, 2022**, for the application for criminal complaint against Keith A. Hovan for alleged possession of illegal ammunition (firearm magazines), filed by the Rochester Police Department.

I understand that hearings on applications for criminal complaints are presumptively closed in Massachusetts. However, if the application is one of special public significance, and, if, in your opinion as Magistrate, the legitimate interest of the public outweighs the right to privacy of the accused, then the hearing may be open to the public. This case involves a public figure whose case has already attracted public attention. See District Court Standards of Judicial Practice, The Complaint Procedure §§3.15 and 3:16 (2008) and Guidelines On The Public's Right Of Access To Judicial Proceedings and Records, Supreme Judicial Court Judiciary/Media Steering Committee (March 2000).

To quote from the District Court Standards:

“Where an incident has already attracted public attention prior to a show cause hearing, the interest in shielding the participants from publicity is necessarily diminished, while the public's legitimate interest in access is correspondingly stronger. “In deciding whether to allow access to a particular show cause hearing, clerk-magistrates should consider not only the potential drawbacks of public access, but its considerable benefits: ‘It is desirable that [judicial proceedings] should take place under the public eye . . . .’ “The transparency that open proceedings afford may be especially important if a well-publicized show cause hearing results in a decision not to bring criminal charges, thereby ending the matter. In such cases, the public may question whether justice has been done behind the closed doors of the hearing room. This

is not to say that every case that may attract public attention necessarily requires a public show cause hearing . . . .” -- *Eagle-Tribune Pub. Co.*, 448 Mass. at 656-657, 863 N.E.2d at 527 (internal citations omitted).

I believe the facts in this case override the presumption of a closed hearing for Southcoast Health President and CEO (though currently on leave) Keith Hovan, who was arrested by the Rochester Police Department and charged with assault and battery (a charge which was dismissed by Wareham District Court on December 20, 2021). The New Bedford Light, WBSM, ABC6, *Boston Globe*, *Wareham Courier*, and the Boston Business Journal have published news articles (some outlets several) on the alleged assault and battery (since dismissed), and/or ammunition that was confiscated by police. The public is fully aware of the allegations and the parties involved. Now, the public wants to know how the court will handle the ammunition allegation.

I believe the facts in this case justify that the public (and thus, the press) be permitted to attend. If you decide to reject this motion for access, I request that you provide in writing your reasoning. Per the court standards: “When there is a request that the public be permitted to attend, the Supreme Judicial Court has encouraged magistrates to make a written record of the reasons for their decision on that request” (*Eagle-Tribune Pub. Co.*, 448 Mass. at 657 n.17, 863 N.E.2d at 527 n.17).

My sincere thanks for your time and consideration.

Respectfully,

Anastasia E. Lennon  
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