

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPREME JUDICIAL COURT

ROCHESTER POLICE

v.

KEITH A. HOVAN

PETITION FOR RELIEF PURSUANT TO G.L. c. 211 § 3

Now comes petitioner The New Bedford Light (a news outlet), requesting on Jan. 7, 2022 that the Court exercises its powers under G.L. c.211, § 3, to overrule the denial of Wareham District Court (Daryl Manchester, Clerk Magistrate) to open the show cause hearing for Keith A. Hovan to the public and media. We request that the show cause hearing, scheduled for **Monday, Jan. 10, 2022, be open to the public and the media**. We appealed the clerk magistrate's denial, issued on Jan. 4, 2022, with Wareham District Court Judge Edward Sharkansky on Jan. 5, 2022. We have not heard back from Judge Sharkansky on a decision as of 1:30 p.m. on Friday, Jan. 7, 2022, the day all courts are closed due to a snowstorm.

The New Bedford Light, an online nonprofit news outlet based in New Bedford, Mass., has covered Keith A. Hovan through multiple news stories (exhibits in separate PDFs) since his arrest in early November of 2021 for assault and battery (a charge since dismissed in Wareham District Court). The Light and other news outlets are aware of and have reported the fact that Rochester Police are seeking a felony charge of multiple counts for alleged possession of illegal feeding devices/firearm magazines (exhibit in separate PDF).

We understand show cause hearings are presumptively closed to the public in Massachusetts, given the privacy interests of the accused in such an early stage of criminal court proceedings (when they are not yet charged with a crime). However, if the application is one of special public significance, the accused is well known, and if the legitimate interest of the public outweighs the right to privacy of the accused, then the hearing may be open to the public, per state district court standards.

This case involves a well-known figure (heading Southcoast Health for many years, which has thousands of employees) 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).

Our outlet argues the facts in this case override the presumption of a closed hearing for Southcoast Health President and CEO (though currently on leave) Keith A. Hovan. The New

Bedford Light, WBSM, *Boston Globe*, *Wareham Courier/Wicked Local*, ABC6 and the Boston Business Journal have published at least one news article (some outlets several) on the alleged assault and battery (since dismissed), and/or the potential felony charge for illegal firearm magazines that were taken by police.

The public is fully aware of the allegations and the parties involved. There is a Change.org petition, created by a member of the public, on which people have made reference to the alleged firearm-related legal issue (exhibits in separate PDF). The district court standards explain the privacy interest serves to protect the accused from “undeserved notoriety, embarrassment and disgrace.” Several public comments on the online petition already discuss Hovan’s alleged actions, his position as Southcoast Health president and CEO amid this legal action, and his reputation. Now, the public wants to know how the court will handle the allegations.

The Boston Globe in its Spotlight series, following substantial records analysis, called the state’s closed show cause hearings “[a land of arbitrary second chances](#), where the powerful, the privileged, and the lucky can see serious charges like reckless endangerment of a child and motor vehicle homicide quietly swept away in private hearings.” The public and press are seeking transparency in the upcoming court proceedings as a means of ensuring accountability—whatever the outcome may be.

We believe the facts in this case justify that the public (and thus, the press) be permitted to attend. If you decide to reject this appeal, we request that you please provide an explanation in writing.

Our sincere thanks for your time and consideration.