



BAKER RAVENEL BENDER

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August 19, 2016

E-Mail Only

The Honorable Richard M. Gergel
U.S. District Judge, No. 28
P.O. Box 835
Charleston, South Carolina 29402

RE: U.S. v. Dylann S. Roof

Dear Judge Gergel:

I represent The Post & Courier and am writing in response to news reports that you have scheduled a hearing in the above-referenced prosecution that is to be closed to the public and press. Proceeding on the belief that the news reports are accurate with respect to the closure of a hearing, the newspaper objects to a closed hearing on grounds that it is inconsistent with established First Amendment precedent. In addition, under long-standing Fourth Circuit precedent, a public hearing must be held on the issue of closure in advance of a decision on the issue.

The Supreme Court of the United States held in *Press Enterprise Co. v. Superior Court*, 464 U.S. 501 (1984), that a party seeking to close a hearing advance an interest that would be prejudiced unless the right of access to hearings is overridden, the closure of the hearing is no broader than necessary to protect the overriding interest, reasonable alternatives to closing the proceeding are considered by the court, and findings in support of the closure are made on the record.

The Court of Appeals for the Fourth Circuit has since 1984 held consistently that a motion to close a proceeding be docketed publicly, and that persons opposed to closure be given an opportunity to be heard in advance of the decision. In re *The Charlotte Observer*, 882 F.2d 850 (4th Cir. 1989), In re *Knight Pub. Co.*, 743 F.2d 231 (4th Cir. 1984).

Based on the foregoing, The Post & Courier requests an opportunity to be heard in opposition to closure of any hearings in this case. Your consideration of this request

presented in this manner is greatly appreciated.

Yours very truly,

A handwritten signature in blue ink, appearing to read "J. Wokuba Jr.", written in a cursive style.

Jay Bender

JJB/tkt

Cc: Ms. P.J. Browning (via email)
Mr. Mitch Pugh (via email)