

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION**

SA'DA and TYJUAN JOHNSON, minors, by)
their parent and next friend FELICIA JOHNSON,)
et al.,)

Plaintiffs,)

vs.)

BOARD OF EDUCATION OF CHAMPAIGN)
COMMUNITY UNIT SCHOOL)
DISTRICT #4,)

Defendant.)

Case No. 00-1349

Chief Judge McDade

**MEMORANDUM IN SUPPORT OF MOTION TO ALLOW THE PHOTOGRAPHING
AND VIDEOTAPING OF COURT PROCEEDINGS
BY THE NEWS-GAZETTE, INC.**

Intervenor, The News-Gazette, Inc., for its Memorandum in Support of Motion to Allow the Photographing and Videotaping of Court Proceedings by the News-Gazette, Inc., respectfully states as follows:

PROCEDURAL BACKGROUND

It is the understanding of The News-Gazette, Inc. that the Court in the instant case as exercised its discretion and will allow the videotaping of the Court's proceedings to be conducted on September 15, 2009 by representatives of television stations covering this matter. It is understand that the Court has determined that The News-Gazette, Inc. will be denied the opportunity to photograph and or videotape the said proceedings.

ANALYSIS

Generally, the record of a judicial proceeding is public. *Jessup v. Luther*, 277 F.3d 926, 927 (7th Cir. 2002)(citing cases). Access to public proceedings serves numerous interests,

including: (1) promoting community respect for the rule of law; (2) providing a check on the activities of judges and litigants; and (3) fostering more accurate fact finding. *Grove Fresh Distribs., Inc. v. Everfresh Juice Co.*, 24 F.3d 893, 897 (7th Cir. 1994).

In the instant case, the interest of the public could not be more intense. The Court's decision to allow unusual media access by the news media to these proceedings is motivated by The Court's admirable desire to give the public every opportunity to inform itself as to how these proceedings will impact the education of young people within the Champaign community. The News-Gazette, Inc. asks only that the Court's decision be applied to the media in a uniform manner.

The News-Gazette, Inc. is a representative of the media, regularly publishing in a variety of forms within Central Illinois. The geographic base of its operations is Champaign-Urbana, Illinois. Its publications include a newspaper of general circulation, and a website on which both photographs and videotape are regularly posted. The defendant in this matter is the Champaign Community School District No. 4 Board of Education. The matter before the Court is of profound local and regional interest, and will affect the conduct of public education within the community of Champaign for years to come.

The News-Gazette, Inc. proposes to cover these proceedings in several ways. These include the presence in the courtroom of a reporter who will be accompanied by a photographer. The photographer will have the capability of taking both still photographs and videotape. The mechanism used for the taking of still photographs will include a "cover" that will mask any sound caused by the camera - a cover used in the photographing of classical music events at Krannert Center for the Performing Arts on the campus of the University of Illinois. The video

equipment to be used will be, essentially, identical to the equipment being used by representatives of television stations that will be covering the event.

The Court's goal, as indicated above, seems to be to inform as broad a cross section of the community as possible of the matters before the Court. The News-Gazette, Inc. represents the best opportunity for accomplishing this goal in that it publishes a broadly circulated newspaper, maintains a website and allows access to both means of publishing the news not only on the day of the event but into the future as well. Full coverage (including by photography) of these events by The News-Gazette, Inc. is clearly in the public's best interest. The public's interest in these proceedings will be tremendously enhanced by allowing the relief requested by The News-Gazette, Inc.

The News-Gazette, Inc. does not choose to argue the constitutional questions raised by the general desire of the media to film these events. It is argued, however, that once the Court determines in the exercise of its discretion to allow such filming, the First Amendment to the United States Constitution requires that this ruling be applied uniformly and in a manner that does not favor one form of media outlet over another.

WHEREFORE, Intervenor, The News-Gazette, Inc., respectfully requests that this Court allow The News-Gazette, Inc. to photograph and videotape the proceedings of this matter.

Respectfully submitted,

THE NEWS-GAZETTE, INC.

BY: WEBBER & THIES, P.C.

BY: s/ David C. Thies

David C. Thies (3126449)
Attorney for The News-Gazette, Inc.
WEBBER & THIES, P.C.
202 Lincoln Square
P.O. Box 189
Urbana, IL 61803
Telephone: (217) 367-1126
Facsimile: (217) 367-3752
dthies@webberthies.com