

No. 25-1380

In the
UNITED STATES COURT OF APPEALS
for the
FIRST CIRCUIT

JASON GRANT, ALLISON TAGGART,
LISA PETERSON, AND SAMANTHA LYONS,

Plaintiffs-Appellants,

v.

TRIAL COURT OF THE COMMONWEALTH OF
MASSACHUSETTS, BEVERLY J. CANNONE,
GEOFFREY NOBLE, MICHAEL D'ENTREMONT,
AND MICHAEL W. MORRISSEY,

Defendants-Appellees.

*On Appeal from the United States District Court
for the District of Massachusetts
No. 1:25-cv-10770-MJJ
The Honorable Myong J. Joun*

**REPLY IN SUPPORT OF EMERGENCY MOTION
FOR CLARIFICATION AND TO ENFORCE JUDGMENT**

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**REPLY IN SUPPORT OF EMERGENCY MOTION
FOR CLARIFICATION AND TO ENFORCE THIS
COURT’S MAY 9, 2025, JUDGMENT**

1.0 How We Got Here

Appellants protested regularly near the Norfolk Superior Courthouse since November, without incident. The Norfolk County District Attorney did not like anti-government speech, so he sought an unconstitutional “buffer zone” from Judge Cannone. The protests criticized Judge Cannone as well as the prosecutor’s office. Correlation is not necessarily causation, but it certainly *appears* that smacking down protest was at least arguably out of self-interest.¹ Whether this was her motivation or not, the judiciary’s integrity is not only a question of acting appropriately, but acting with the *appearance* of propriety.

2.0 The Appearance of Impropriety is Stark

So what does it look like, to the public, now? It *looks like* the government wanted to quash anti-government protest. It *looks like* the judge they asked is biased. It *looks like* the District Court did not want to rein in a fellow judge. And it looks

¹ Had Defendant-Appellee Cannone invited due process, this appearance would be less stark. Had she recused herself from the decision as to whether or not protesters who mock her should be silenced, there might be less of an appearance of impropriety. However, she did none of those things. We are at a historical crossroads, where the integrity of the judiciary is under attack politically, every day. If the judiciary will not clean its own house, then it certainly augurs poorly for rallying the public to defend it during a constitutional crisis. The integrity in a final and decisive and clear pronouncement that the judicial branch will tolerate no less constitutional reverence than it expects out of the other branches of government would certainly go a long way to proving critics of the judiciary wrong.

like this Court wanted to act with the patience of Saint Monica and gave the government every opportunity to get its act together. Then, the Appellants had to come back to this Court, seeking emergency relief, because the government mistook patience and restraint for approval of their unconstitutional actions.

Judge Cannone decreed an unconstitutional buffer zone, without due process and without authority to do so. The Plaintiffs sought relief in the District Court, which failed to even think about three of the four questions in this case. This Court vacated the District Court's decision, and instructed it to have a hearing and actually *do something*. The District Court, rather than do that, decided to just hold a status conference, at which it simply decided to schedule another status conference. This required the Appellants to seek emergency relief here.

3.0 Why Relief is Still Necessary

Appellees, when presented with this Court's 48-hour deadline, decided to update the buffer zone order to try and make it look good, but they are playing games. Judge Cannone issued a new, vague, and largely unintelligible order, that does *seem* to finally conclude with the right language:

“Quiet, offsite demonstrations on public property, in areas and at times that do not interfere with trial participants’ entrance into or exit from the Courthouse, and that do not interfere with the orderly administration of justice, and that are not intended to influence any trial participants in the discharge of their duties are specifically outside the scope of the Buffer Zone restrictions.”

However, the updated injunction seems to be confusing to everyone² – especially to the Massachusetts State Police.

This Court will recall that it did not just ask for an update from the Court, but from all the Appellees. This Court ordered *all* defendants-appellees to “inform the Court what steps the prosecution has taken, if any, in response to the issues raised in its decision.” Instead of doing that, the District Attorney’s office and the Massachusetts State Police thumbed their noses at this Order, and simply wrote “*The Massachusetts Trial Court, the District Attorney’s Office, and the Massachusetts State Police have been reviewing this Court’s decision and actively considering their options moving forward.*” If this Court orders a party to do something, and that party just says “we’re thinking about it,” is that good enough? Shall all litigants have this latitude, or is this a special privilege extended to the government? If so, the Trump Administration will likely enjoy being updated that court orders are optional, as long as the party violating the Constitution is “actively considering its options.”

One of those “options” the State Police have chosen to exercise is to completely and totally ignore the new Buffer Zone order and to enforce it as they

² The confusion seems intentionally created – as there are a number of “face saving” clauses that Judge Cannone put in the new order, which seem to operate no differently than “whereas” clauses in a contract. If it is not intentional, then it is incompetent. This Court has the can make it clear to Defendant-Appellee Noble what the Massachusetts State Police can and cannot do. And if the Constitution means anything, it should mean that the Massachusetts State Police do not get to quash messages that offend them and then saying that Judge Cannone allowed it.

see fit. That means that they applied it, *this very morning*, to prohibit even this display within 200 feet of the Courthouse:



Plaintiff-Appellant Jason Grant sought to stand across the street from the Dedham Courthouse holding an American flag and a Bible verse: 2 Cor. 3:17 (“Now the Lord is the Spirit, and Where the Spirit of the Lord is, There is Freedom”). The Massachusetts State Police denied him access to a traditional public forum, applying Judge Cannone’s Amended Buffer Zone Order to now prohibit purely patriotic and/or religious speech.

4.0 The Court Must Act

The Court must take prompt action. It has already metaphorically said “don’t make me pull this car over.” The District Court failed to take the action this Court required of it, and Defendants-Appellees have shown they cannot be trusted.

Defendant-Appellee Noble has failed to ensure that even the gloss of the *mens rea* requirement newly instituted by Defendant-Appellee Cannone is abided.³ Judge Cannone cannot be enjoined to enter in an order that is crystal clear to Noble's subordinates unless and until she violates a declaratory decree. Plaintiffs-Appellants cannot simply wait for the District Court to keep hoping Judge Cannone might do what is necessary. The District Court should be directed to enjoin Noble to ensure his subordinates abide the Constitution.

5.0 Conclusion

The Courts and the Constitution are being mocked. It is time for that to end. This Court *must* issue an order that clarifies the buffer zone in a Constitutional manner and that stops the Massachusetts State Police, under the control and direction of Defendant-Appellee Noble, from violating the First Amendment.

Date: May 16, 2025.

Respectfully submitted,

/s/ Marc J. Randazza

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³ Although Plaintiffs-Appellants did not use the phrase "*mens rea*" in the District Court, they did address the issue of the need to narrowly tailor any buffer zone order to be limited to instances involving "actual contact with jurors or witnesses" thereby encompassing the *mens rea* issue. AA048.

CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(g)(1), I certify that:

This motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(C) because this reply contains 1,146 words, excluding the parts of the motion exempted by Fed. R. App. P. 32(f).

This motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this motion has been prepared in a proportionately spaced typeface using Microsoft Word Times New Roman 14-point font.

Date: May 16, 2025

RANDAZZA LEGAL GROUP, PLLC

/s/ Marc J. Randazza

Marc J. Randazza

CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2025, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the First Circuit by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

Date: May 16, 2025

RANDAZZA LEGAL GROUP, PLLC

/s/ Marc J. Randazza

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