

DISTRICT COURT, COUNTY OF ARAPAHOE, STATE OF COLORADO 7325 S Potomac Street Centennial, Colorado 80112	σ COURT USE ONLY σ
Plaintiff: People of the State of Colorado v. Defendant: Holmes, James	Case No. 12CR1522 Division: 201
ORDER AND RULINGS REGARDING EXPANDED MEDIA COVERAGE AND DECORUM	

This Matter comes before the Court pursuant to Petitioners KUSA-9News', Associated Press Photos', and The Denver Post's requests for expanded media coverage of the advisement proceeding of the Defendant on July 23, 2012. Having reviewed the Motions, the Court issues the following Rulings:

I. RULING ON EXPANDED MEDIA COVERAGE

Standards for Authorizing Coverage

Rules 1 and 2 of Chapter 38 of the Colorado Court Rules, Public Access to Records and Information, provide the standards for authorizing expanded media coverage. In determining whether expanded media coverage should be permitted, a judge shall consider the following factors:

1. Whether there is a reasonable likelihood that expanded media coverage would interfere with the rights of the parties to a fair trial;
2. Whether there is a reasonable likelihood that expanded media coverage would unduly detract from the solemnity, decorum and dignity of the Court;
3. Whether expanded media coverage would create adverse effects that would be greater than those caused by traditional media coverage.

Discussion/Analysis

The Petitioners seek expanded media coverage in this case for the advisement of the Defendant set on July 23, 2012. After consideration of the above-listed three factors, this Court believes that expanded media coverage should be permitted as to still, video and audio coverage. However, this Court will require strict adherence to the parameters outlined in Chapter 38, Public Access to Records and Information. As a reminder to Petitioners, the Court highlights the following limitations of expanded media coverage:

(3) Limitations on Expanded Media Coverage. Notwithstanding the authorization to conduct expanded media coverage of the proceeding, there shall be no:

- (A) Expanded media coverage of pretrial hearings in criminal cases, except advisements and arraignments;
- (B) Expanded media coverage of jury voir dire;
- (C) Audio recording or “zoom” closeup photography of bench conferences;
- (D) Audio recording or closeup photography of communications between counsel and client or between co-counsel;
- (E) Expanded media coverage of *in camera* hearings;
- (F) Closeup photography of members of the jury.

Thus, this Order only authorizes expanded media coverage for the advisement (still photography, video and audio) of Defendant with the full compliance of all applicable restrictions. The Court will allow only one representative to cover video and audio footage, KUSA-9News. The Court will allow one representative to cover still photography, Associated Press Photos, or its designated representative.

(4) Authority to Impose Restrictions on Expanded Media Coverage. A judge may restrict or limit expanded media coverage as may be necessary to preserve the dignity of the court or to protect the parties, witnesses, or jurors. A judge may terminate or suspend expanded media coverage at any time upon making findings of fact that: (1) rules established under this Rule or additional rules imposed by the judges have been violated; or (2) substantial rights of individual participants or rights to a fair trial may be prejudiced by such coverage if it is allowed to continue.

Thus, the expanded media coverage granted for Petitioners is subject to revocation at any time by this Court.

Equipment Limitations.

1. **Video.** Only one person at a time shall be permitted to operate a videotape, television, or motion picture camera. This person shall be a representative of KUSA-9News only for this proceeding in question. The camera operator may use a tripod and other necessary equipment to comply with this Order, but shall not change location while court is in session. KUSA-9News has been given permission from this Court to live stream the video and audio from this proceeding from the Courtroom to the internet and/or live television.
2. **Audio.** Audio will be consistent with the Court’s Order in paragraph 1, above.
3. **Still cameras.** Only one person at a time shall be permitted to operate still cameras, which shall make as little noise as possible. The still photographer may use a tripod, but shall not change location while Court is in session.
4. **Lighting.** No movie lights, flash attachments, or sudden lighting changes shall be permitted without the permission of the judge. No modification or addition of lighting equipment shall be permitted without the permission of the judge.
5. **Operating Signals.** No visible or audible light or signal (tally light) shall be used on any equipment.

6. **Pooling Arrangements.** The media shall be solely responsible for designating one media representative to conduct each of the categories of expanded media coverage [listed above] and for arranging an open and impartial distribution scheme with a distribution point located outside of the Courtroom. If no agreement can be reached on either of these matters, then there shall be no expanded media coverage of the type for which no pooling arrangement has been made. Neither judges nor other court personnel shall be called upon to resolve any disputes concerning such pooling arrangements.
7. **Conduct of Media Representative.** Persons conducting expanded media coverage shall conduct themselves in a manner consistent with the decorum and dignity of the Courtroom. The following practices shall apply:
 - a. Equipment employed to provide expanded media coverage shall be positioned and operated so as to minimize any distraction;
 - b. Identifying marks, call letters, logos, symbols, and legends shall be concealed on all equipment. Persons operating such equipment shall not wear clothing bearing any such identifying information;
 - c. Equipment used to provide expanded media coverage shall not be placed in, or removed from, the Courtroom while Court is in session. No film, videotape, or lens shall be changed within a Courtroom while Court is in session.

Procedures. The following procedures shall be followed in obtaining authorization for expanded media coverage:

1. **Request for Expanded Media Coverage.** A written request shall be submitted to the judge at least one day before expanded media coverage is requested to begin, unless a longer or shorter time is required or permitted by the judge. Copies of the request shall be given to counsel for each party participating in the proceeding. The request shall include the following:
 - a. The name, number, date and time of the proceeding;
 - b. The type (audio, video or still photography) of expanded media coverage requested and a description of the pooling arrangements [above], including the identity of the designated representatives.
2. **Objections.** Any party or witness may lodge with the judge a written objection to expanded media coverage of all or a portion of the proceeding.
3. **Judicial Authorization.** The judge shall rule on a request or objection within a reasonable time prior to the proceeding or promptly after the request or objection if the proceeding has begun. The ruling shall be made on the record and the reasons therefore set forth briefly.
4. The media or any witness may not appeal, or seek review by original proceeding, the granting or denial of expanded media coverage. A party may seek review of a ruling by original proceeding, if otherwise appropriate, or by post-trial appeal.

Other Use of Media.

1. A judge may authorize the use of electronic or photographic means for the perpetuation of a record, or for purposes of judicial administration.

2. A judge may authorize the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings.

II. RULING ON DECORUM

Upon consideration of the intense public and media interest in the proceedings in this matter, the Court, in the exercise of its inherent power to provide for the orderly disposition of this case, hereby enters the following Orders pertaining to the conduct of proceedings in this matter. It is the Court's intent to preserve the processes by which a fair trial may be conducted. Any inappropriate attempts to disrupt the process may result in exclusion from further proceedings and/or other legal sanctions, including Contempt of Court. To that end, all persons must recognize that the Arapahoe County Justice Center and the individual courtrooms are not large facilities, and that reasonable accommodation and coordination is necessary. At all times, access to and movement within the Arapahoe County Justice Center must remain available for the conduct of the normal business of the Court. The media, members of the public having gained access to the Arapahoe County Justice Center, parties and their legal representatives, and agents thereof shall at all times be subject to this Decorum Order to the extent that it is not inconsistent with any other specific Court Order. This Order shall apply to all proceedings and other scheduled matters in this case until further order of this Court. "Proceeding" means any trial, hearing, or any other matter held in open Court that the public is entitled to attend.

1. **The following restrictions shall apply to the following areas within the Arapahoe County Justice Center:** the areas comprised of Courtroom 201, Courtroom 202, the Jury Assembly Room, and other areas as stated in this Order.
 - A. All electronic devices, including but not limited to, computers, cameras, cell phones, video phones, tape recorders, iPads, or other recording or transmitting devices or any devices capable of communicating from the inside of Courtroom 201, Courtroom 202, and the Jury Assembly Room to the outside of Courtroom 201, Courtroom 202, and the Jury Assembly Room shall be barred except as set forth here and above or as permitted by the ruling on expanded media coverage, *infra*. Any person who attempts to or does operate any recording or transmitting device within these areas in violation of the Court's Order shall be removed from the premises and the device(s) shall be confiscated and/or the person shall be subject to contempt of Court. This provision shall not apply to employees of the Court or the Arapahoe County Sheriff's Office, or to other law enforcement personnel in the Arapahoe County Justice Center for law enforcement purposes. Nothing in this Order shall prohibit prosecution attorneys or defense counsel and their respective staffs from having these devices to the extent necessary to further the prosecution or defense of the case, provided, however, that any communication and/or visual recordings or transmission capabilities of such devices shall be turned off and not used except by specific permission of the Court.
 - B. No interviews shall be conducted within the Courthouse. This provision does not restrict any member of the public or press from making inquiries of court

personnel regarding the scheduling of proceedings, the filing of papers with the Court, or requesting any other information in the public record concerning this case.

C. There shall be no photography, transmitting, or recording of any kind within Courtroom 201, Courtroom 202, or the Jury Assembly Room, except as set forth here and above or as permitted by the expanded media coverage order. This restriction includes photographs, transmissions, or recordings of persons inside Courtroom 201, Courtroom 202, or the Jury Assembly Room even if taken or obtained from outside said areas.

D. The media and members of the public may capture images of persons as they come and go from the Courthouse, except that persons known or identified to be summoned or selected jurors may not have their images captured. Selected jurors will be given a juror badge, and any such person displaying the badge shall not have his or her image captured. Any summoned juror who displays a jury summons upon entrance to the Courthouse shall not have his or her image captured. If an image of a person is captured before that person is determined to be a summoned or selected juror, his or her image shall not be displayed, distributed, or identified as a juror.

E. At all times there shall be clear passage and entry into the Courthouse for all persons who conduct business with the Court. There shall be no obstructions to clear passage through the public hallways in the Courthouse. At all times there shall be clear passage and entry for Sheriff's and other emergency vehicles through the parking lots, entrances, and roadways leading to and from the Arapahoe County Justice Center and the Arapahoe County Detention Center.

F. No member of the public or media shall conduct or attempt to conduct any interview of any party (including Defendant), designated witness, or attorney engaged in the case within the Courthouse. Persons known or identified to be summoned or selected jurors shall not be approached, contacted, questioned, interviewed, or harassed, whether on or off the premises of the Arapahoe County Justice Center, about the prospective service, qualifications, opinions, or any other matter concerning this case until such time as the summoned or selected juror has been discharged from jury service.

G. No structures or other facilities, whether placed for a single proceeding or intended to remain in place until the conclusion of this matter, shall be erected and no tents, chairs, tables and similar items shall be placed on the Public Grounds of the Arapahoe County Justice Center except as approved and permitted by the Court, Arapahoe County Sheriff's Office, and Court Administrator. Any such permitted structure or facilities which are intended for use as listening or viewing structures or facilities must meet the requirements imposed by the Court as to the transmission of any video or audio feed. Any conduct not otherwise approved and which may damage or destroy existing lawn and landscaping is prohibited.

H. Notwithstanding the above provisions, all persons on the premises of the Arapahoe County Justice Center shall at all times comply with any specific direction given by Court personnel and Arapahoe County Sheriff's personnel.

2. **The following restrictions shall apply to all courtrooms.** For purposes of this section 2, "Courtroom" shall include any spillover Courtroom, including Courtroom 201, Courtroom 202 and Jury Assembly Room or other auxiliary listening facility, whether operated by the Court or the Media.

A. No electronic devices, including but not limited to computers, cameras, cell phones, video phones, iPads or other recording or transmitting devices, shall be permitted in Courtroom 201, Courtroom 202, or the Jury Assembly Room except pursuant to the expanded media coverage order. Cameras permitted pursuant to the expanded media coverage order shall be turned on and operating only while Court is in session.

B. No media interview shall be conducted within the Courthouse at any time.

C. Except for the front row on each side in Courtroom 201, which is to remain vacant, the public will be admitted to the designated media portion of Courtroom 201 only if seating remains available after all the media have been seated. The media will be admitted to the public portion of Courtroom 201 only if seating remains available after all members of the public have been seated. The Court reserves the right to reserve additional seating for the parties and witnesses. Requests for specific seating for family members of the parties shall be made to the Court Administrator. Separate procedures may be established for jury selection days.

D. Except for emergencies, all members of the public and media in the courtroom shall be seated before the Court session begins, rise, and then be seated at the beginning of the proceeding and shall remain seated until a recess is called. No admittance or departure will be permitted while Court is in session.

E. All members of the public and media must remain quiet, and may not comment on the proceedings or engage in any disruptive behavior while in Courtroom 201, Courtroom 202, or the Jury Assembly Room. Signs or symbols on clothing or otherwise indicating support for any party shall be considered prohibited comment.

F. No members of the public and media shall be permitted in any area of Courtroom 201, Courtroom 202, or the Jury Assembly Room other than the areas designated for public and media seating.

G. Heightened security measures shall be in place in the Courthouse. All persons who enter Courtroom 201, Courtroom 202, or the Jury Assembly Room shall be subject to screening by magnetometer, wand, or both; all bags shall be subject to inspection. Persons in possession of prohibited items shall be subject to refusal of entry. Prohibited items discovered in the Courthouse may be confiscated pending further order of the Court.

3. **Restrictions shall apply to parking areas**, and shall be in effect at all times, twenty-four hours per day, seven days per week. A designated media staging/parking area has been established, *See Attachment A* to this Order. This parking area is to be used by media on a first-come, first-served, basis. Media parking will not be permitted in the general public parking lot outside the designated media area.
4. **Any violation of the foregoing**, and any other conduct which the Court finds disruptive to the proceedings, may result in an order of temporary or permanent exclusion from the proceedings and/or other legal sanctions, including Contempt of Court.
5. **Additional provisions pertaining to photography or videography** of any alleged victims, Defendant, counsel, families, witnesses, and jurors may be addressed by this Court as it becomes necessary.
6. **A copy of this Order shall be posted**, at a minimum, at all entrances to the Arapahoe County Justice Center as well as Courtroom 201, Courtroom 202, and the Jury Assembly Room.

ACCORDINGLY, this Court hereby GRANTS Petitioners' request for expanded media coverage of the ADVISEMENT of the Defendant on July 23, 2012 subject to the terms and conditions of Chapter 38, Public Access to Records and Information, and this Order. KUSA—9News shall be the sole representative for audio and video coverage and Associated Press Photos and The Denver Post shall determine who will send the sole representative for still photography.

Done this 20th day of July, 2012.



WILLIAM BLAIR SYLVESTER
DISTRICT COURT JUDGE

I certify that on _____ (date), I mailed this Order to the following:

- Petitioner Prosecuting Attorney Defendant
 Other: _____

CLERK