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District Court, El Paso County, Colorado El Paso County Combined Courts 270 South Tejon Street, Colorado Springs CO 80903	FILED IN THE DISTRICT AND COUNTY COURTS OF EL PASO COUNTY, COLORADO
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff	S.K. DEC 08 2015 DR. LYNETTE CORNELIUS CLERK OF COURT
v.  <b>ROBERT LEWIS DEAR,</b> Defendant	σ COURT USE ONLY σ
DOUGLAS K. WILSON, Colorado State Public Defender Daniel King (No. 26129) Chief Trial Deputy State Public Defender 1300 Broadway, Suite 400 Denver, Colorado 80203 Phone (303) 764-1400 Fax (303) 764-1478 E-mail: <a href="mailto:state.pubdef@coloradodefenders.us">state.pubdef@coloradodefenders.us</a>	Case No. <b>15CR5795</b>  Division 10
<b>D-013</b>  <b>OBJECTION TO COLORADO SPRINGS GAZETTE'S REQUEST FOR EXPANDED MEDIA COVERAGE</b>	

Pursuant to his state and federal constitutional rights to due process, a fair trial, to be presumed innocent, and to a fair and impartial jury, *see* U.S. Const. amends. V, VI, VIII, XIV; Colo. Const. art. II, secs. 16, 18, 20, 23, 25, Robert Dear, through counsel, files this objection to the request for expanded media coverage submitted by the Colorado Springs Gazette dated December 7, 2015 and asks the Court to deny this request. In support of this request, Mr. Dear states the following:

1. In Motion D-008, filed on December 1, 2015, Mr. Dear moved to preclude expanded media coverage of the December 9, 2015 pre-trial hearing in this case.

2. Subsequently, on December 7, 2015, counsel for Mr. Dear received a copy of an expanded media request from Lance Benzel of the Colorado Springs Gazette. The request states, that “[g]iven urgent public interest in the Dear case both locally and nationally, and consistent with the 1<sup>st</sup> Amendment and the principles of our nation’s open, public court system,” the Gazette is requesting the Court to “[a]llow the Gazette access to take photographs and video inside courtroom as well as to live-Tweet all public proceedings, including a possible trial, until the Dear case is fully resolved by the courts.”

3. The defense objects to this broad request.

4. First, as explained in Motion D-008, the Gazette’s request for expanded media coverage for “all public proceedings” clearly violates Rule 2 of Chapter 38 of the Colorado Court Rules, Public Access to Records and Information, which specifically bars “[e]xpanded media coverage of **pretrial hearings** in criminal cases, *except advisements and arraignments.*” (emphasis added).

5. Second, any request for expanded media coverage of a potential trial in this case is extremely premature. The request is being made before the prosecution has even formally charged Mr. Dear, and before the preliminary hearing, arraignment or any motions hearings in this case. The Court is clearly not currently in a position to evaluate the propriety of expanded media coverage of any possible trial in this case, and should deny the request at this early date.

6. Finally, defense counsel reiterate that while the media and the public have a qualified First Amendment right of access to certain pre-trial proceedings and trials, *see, e.g., Press Enterprise Co. v. Superior Court*, 478 U.S. 1 (1986); *Richmond Newspapers, Inc., v. Virginia*, 448 U.S. 555, 589 (1980), the media **does not** have a First Amendment constitutional right to expanded media coverage of any proceeding. Mr. Dear, in contrast, has a state and federal constitutional right to receive a fair trial by an impartial jury pursuant to the Fifth, Sixth, and Fourteenth Amendments of the United States Constitution and article II, section 16, 23 and 25 of the Colorado Constitution. *See, e.g., Sheppard v. Maxwell*, 384 U.S. 333, 350-51 (1966); *Irvin v. Dowd*, 366 U.S. 717, 728 (1961); *United States v. McVeigh*, 119 F.3d 806, 815 (10th Cir. 1997). Granting the expansive request for expanded media coverage filed by the Gazette on December 7, 2015 would place these important constitutional rights of Mr. Dear's in grave jeopardy.

Mr. Dear files this objection, and makes all other motions and objections in this case, whether or not specifically noted at the time of making the motion or objection, on the following grounds and authorities: the Due Process Clause, the Right to a Fair Trial by an Impartial Jury, the Rights to Counsel, Equal Protection, Confrontation, and Compulsory Process, the Rights to Remain Silent and to Appeal, and the Right to be Free from Cruel and Unusual Punishment, pursuant to the Federal and Colorado Constitutions generally, and specifically, the First, Fourth, Fifth, Sixth, Eighth, Ninth, Tenth, and Fourteenth Amendments to the United States Constitutions, and Article II, sections 3, 6, 7, 10, 11, 16, 18, 20, 23, 25 and 28 of the Colorado Constitution.



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Rosalie Roy (No. 26861)  
Deputy State Public Defender



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Kristen M. Nelson (No. 44247)  
Deputy State Public Defender

Dated: December 8, 2015



I hereby certify that on December 8, 2015, I

mailed, via the United States Mail,  
 faxed, or  
 hand-delivered

a true and correct copy of the above and foregoing document to:

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Rebekah Davis