

REDACTED

District Court, El Paso County, Colorado Court address: 270 South Tejon Colorado Springs, CO 80903 Phone Number: (719) 452-5446	DATE FILED: November 21, 2016
People of the State of Colorado, Plaintiff, v ROBERT LEWIS DEAR, JR, Defendant.	
Attorney or Party without Attorney (Name and Address): Phone Number: Email: FAX Number: Atty.Reg#:	Case Number: 15CR5795 Division 10 Courtroom W570
ORDER RE: (D-026) REGARDING MOTION PROHIBITING MR. DEAR FROM COMMUNICATING WITH NEWS MEDIA	

1. The Court incorporates its oral ruling and findings of November 17, 2016 as if fully set forth herein.

2. The defense argues that Mr. Dear's continued communication with journalists will undermine his right to a fair trial.

3. The People in their response state "The People do not believe they can take a position on the request by the defense"; however they did submit a response.

4. The Colorado Department of Human Services on August 10, 2016 indicated by email to Clerk of Court, Lynette Cornelius, that they were not taking a position on the motion.

5. The Court will not re-state all of the procedural history of the case other than to state the defendant, per the November 2, 2016 report continues to remain incompetent to proceed.

6. The Court notes to date there has been considerable pre-trial publicity.

7. What the defense counsel is asking the Court to do is issue an order which would amount to a prior restraint on speech. A prior restraint on speech is a very serious infringement and should only be granted in limited situations.

8. In addition the Court did not find any state regulation that allows the state hospital to restrict a patient's constitutional right to free speech.

9. The Court has not received any information that Mr. Dear's contact with the media created or would create security or safety concerns.

10. The Court has additional options at its disposal to insure that Mr. Dear receives a fair trial without imposing the very serious infringement of a prior restraint to free speech. Those options may include expanded voir dire in jury selection, individual voir dire in jury selection or change of venue if appropriate.

11. One of the concerns the Court has is that defense is asking the Court to speculate as to what defendant will do or say. This type of speculation would be embarking on a very "slippery slope" and in the court's mind is an inappropriate prior restraint.

12. In addition the harm that defense counsel is trying to prevent may have already occurred. Mr. Dear has already had contact with the media and discussed his point of view.

13. The Court finds that the defense motions would allow for a prior restraint that is too broad, is unlimited and because of the posture of the case it may be an indefinite restriction. Under the circumstances of this case a prior restraint is not warranted.

WHEREFORE, the Court is DENYING defense counsel's motion to prohibit Mr. Dear from communicating with the media.

DONE this 21st day of November, 2016.

BY THE COURT:

Die Mastey
District Court Judge