

DISTRICT COURT, TELLER COUNTY, STATE OF COLORADO Court Address: 101 West Bennett Avenue Cripple Creek, Colorado 80813	<p style="text-align: right;">FILED IN THE COMBINED COURTS DATE FILED: February 8, 2019 OF TELLER COUNTY, COLORADO</p> <p style="text-align: right;">FEB 8 2019</p> <p style="text-align: right;">SHEILA GRIFFIN CLERK OF COURT</p> <p style="text-align: center;">COURT USE</p>
Plaintiff: PEOPLE OF THE STATE OF COLORADO vs Defendant: SIR PATRICK FRAZEE And, Non-Party Movant: KOAA News 5	

MOTION TO UNSEAL JUDICIAL RECORDS IN THE COURT FILE
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Movant KOAA News5, by undersigned counsel, respectfully moves this honorable Court to unseal certain of the judicial records contained in the court file, as specified herein.

Counsel for Movant has conferred with counsel for the People and the Defendant. The People do not object to the relief requested herein. The Defendant does not oppose the relief requested herein.

INTRODUCTION

Just before Thanksgiving last year, Kelsey Barreth went missing. Ten days later her fiancé Patrick Frazee was arrested related to her disappearance. He has been in Teller County jail since his arrest. An Idaho woman, Crystal Kinney, brought into the jail and plead has plead guilty to conspiracy.

Records relating to Patrick Frazee and the disappearance of Kelsey Barreth are currently sealed. Movant now moves the Court to unseal those records.

While the public's right of access to court records is qualified, judicial records may properly be sealed from public view only where express findings have been made

and entered that (1) continued sealing is necessary to protect a governmental interest of the highest order, (2) sealing will be effective in protecting that interest, (3) any sealing order is narrowly tailored and (4) no reasonably available alternatives can adequately protect the compelling state interest.

THE INTEREST OF MOVANT

Movant, KOAA News5, is a journalism organization engaged in gather news and other information on matters of public concern, including these judicial proceedings, and disseminating it to the general public.

Movant appears before this Court on its own behalf -- as a member of the public -- entitled to the rights afford it by the U.S. Constitution, the Colorado constitution, and all applicable statutes, and the common law. In addition, the Movant appears on behalf of the broader public that receives the news and information that KOAA News5 gathers and disseminates. *See e.g., Richmond Newspaper, Inc. v. Va.*, 448 U.S. 555, 573-574 (1980) (the print and electronic media function as “surrogates for the public”); *Saxbe v. Wash. Post Co.*, 417 U.S. 843, 863 (1974) (Powell, J. dissenting) (in seeking out the news the press “acts as an agent of the public at large.”)

ARGUMENT

I. Movant Has Standing to Assert the Right of Public Access to Court Records.

The First Amendment to the U.S. Constitution, article II, section 10 of the Colorado constitution, and the common law all protect the right of the people to receive information about the criminal justice system through the news media, and the right of the news media to gather and report that information.

Movant’s standing to be heard to vindicate those rights is well established. *Star Journal Publ'g Corp. v. Cnty. Ct.*, 591 P.2d 1028, 1029-30 (Colo. 1979). The press is permitted to be heard in criminal cases for the purpose of challenging the sealing for court record. *See e.g., In re People v. Thompson*, 181 P.3d 1143, 1148 (Colo. 2008).

II. The Public is Entitled to the Criminal Records Unless There is a Compelling Governmental Interest and No Alternative to a Blanket Seal.

The public has a right to inspect court records as protected by the First Amendment to the U.S. Constitution. *Press-Enter Co. v. Super. Ct.*, 464 U.S. 501, 510-511 (1984). When documents in the court’s file involve a matter of public interest or concern, access to such

records is guaranteed by Article II, Sec. 10 of the Colorado Constitution. *Office of State Ct. Adm'r v. Background Info. Sys.*, 994 P.2d 420, 428 (Colo. 1999).

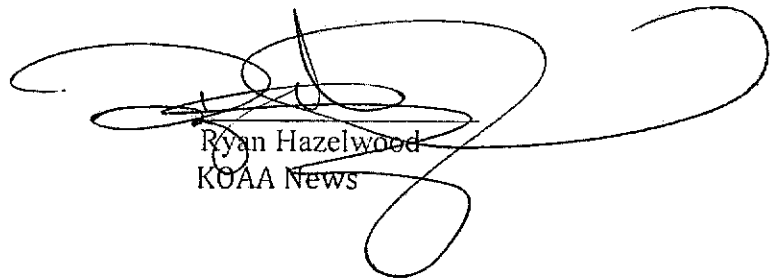
Court records in criminal cases are also subject to public access under the Colorado Criminal Justice Records Act, 24-72-301, C.R.S. (2013).

The fact that this case is the subject of much media attention only increases the burden on any party wishing to shield portions of the court file from public scrutiny. The First Amendment right of public access applies with full force to judicial records on file.

CONCLUSION

WHEREFORE, for the reasons stated above, Movant KOAA News5 respectfully requests that the Court forthwith enter an order unsealing the Criminal records regarding Patrick Frazee. Including, but not limited to, all motions, responses, replies, briefings, minute orders, orders, transcripts, and records of any kind.

Dated February 8, 2019:


Ryan Hazelwood
KOAA News