

DISTRICT COURT, EL PASO COUNTY, COLORADO 270 S. Tejon Street Colorado Springs, Colorado 80903	DATE FILED: May 22, 2019 10:07 PM FILING ID: D768F3996E3C6 CASE NUMBER: 2018CR330
PEOPLE OF THE STATE OF COLORADO, Plaintiff v. PATRICK FRAZEE, Defendant	⌄ COURT USE ONLY ⌄
MEGAN A. RING, Colorado State Public Defender Adam P. Steigerwald #40092 Deputy State Public Defender 30 E. Pikes Peak Ave., Suite 200 Colorado Springs, Colorado 80903 Phone: (719) 475-1235 Fax: (719) 475-1476 Email: adam.steigerwald@coloradodefenders.us	Case No. 18CR330       Division 11
<b>MOTION FOR SANCTIONS (D-12)</b>	

Patrick Frazee, by and through counsel, moves this Court to impose sanctions pursuant to violations of the Court’s Expanded Media Coverage Orders and the Supreme Court’s rules regarding Expanding Media Coverage. In support of this Motion, Mr. Frazee states the following:

1. Arraignment in Mr. Frazee’s case was first scheduled for April 5, 2019. On March 28, 2019, KDVR/KWGN filed a Request for Expanded Media Coverage of the Arraignment. On April 2, 2019, HLN – Warner Media filed a Request for Expanded Media Coverage.
2. On April 2, 2019, the Court issued an order concerning the first petition, filed by KDVR/KWGN, allowing expanding media coverage, allowing filming of the Arraignment.
3. Pursuant to Chapter 38, Rule 3 of the Colorado Supreme Court Rules, the Court decided that there was not a reasonable likelihood that expanded media coverage would interfere with the rights of the parties to a fair trial. Pursuant to the same Rule, the Court decided that there was not a reasonable likelihood that expanded media coverage would unduly detract from the solemnity, decorum, and dignity of the Court. And pursuant to the same rules, the Court decided that expanded media coverage would not create adverse effects greater than traditional media coverage. Mr. Frazee believes the media, in failing to adhere to the rules set forth by the court, interfered with his right to

a fair trial, unduly detracted from the solemnity, decorum, and dignity of the Court, and did so in a way that traditional media coverage would not.

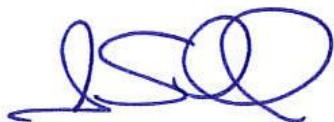
4. The Court, in its April 2 Order, highlighted a few of the Supreme Court's rules concerning expanded media coverage.
5. Counsel refers the Court, in a way analogous to an exhibit, to:  
<https://www.youtube.com/watch?v=1dC-CwFyDmM&t=984s>
6. The above linked website is an archived version of the "Live-Stream" that appeared on KOAA's website, an identical version, or portions thereof, of which also appeared on other local and national websites at the time of the arraignment and continue to appear online as of the time of the writing of this Motion. All time stamps referred to below are from that website.
7. There was only one camera allowed in the courtroom for the April 5 Arraignment, per court order, so all the feeds, regardless of network, affiliate, or website, were identical.
8. The camera on April 5 was set up immediately behind defense counsel table, as opposed to previous court dates when Expanded Media Coverage was allowed, when the camera was set up next to the jury box, across the courtroom from the defense table.
9. As has been this Court's practice, before the Court called the case of Mr. Frazee, counsel met with the judge in chambers. During this period, Mr. Frazee was brought into court by Teller County Sheriff Deputies. *See 5:58 into the YouTube video.* The live stream broadcast for nearly six minutes before Mr. Frazee was in the courtroom. Mr. Frazee appears on camera wearing a striped jail jumpsuit, pink handcuffs, and a bullet-proof vest. Mr. Frazee sits at defense counsel table alone because counsel was in chambers with the judge and opposing counsel. The camera zooms up close on Mr. Frazee's face before focusing on the pink handcuffs he has been placed in. *See 7:05 into the YouTube video.*
10. At 8:35 into the YouTube video, counsel enters the courtroom from chambers. Counsel was carrying a piece of paper – work product – with him. It was placed on defense table as counsel sat down and began speaking with Mr. Frazee. The camera *immediately* zoomed in on the paper. *See 8:50 into the YouTube video.* Fortunately, the paper was placed with a blank side of the page up.
11. The camera then, in direct violation of the Court's orders, zoomed in on counsel and Mr. Frazee having a conversation at defense table. *See 8:55 into the YouTube video.*

12. After opposing counsel entered the room, the camera then zoomed in again; this time, on the papers on the lectern in the middle of the courtroom. *See 9:15 into the YouTube video.*
13. After moving about the courtroom, the camera then zoomed in on opposing counsel having a private conversation. *See 9:59 into the YouTube video.*
14. The camera then focused on the defense table, displaying defense counsel's computer screen, which, again, was work product. *See 10:30 into the Youtube video.* As counsel and Mr. Frazee spoke privately, the camera zoomed in on counsel and Mr. Frazee from the side. *See 10:48 into the YouTube video.*
15. The camera, after moving about the bench, then zoomed in on an open book on the Courts' desk, showing highlights on what appears to be a statute book. *See 11:30 into the YouTube video.*
16. After the Arraignment, the camera again zoomed in on counsel and Mr. Frazee having a conversation. *See 16:35 into the YouTube video.*
17. All of the above mentioned instances were in violation of the Court's orders concerning expanded media coverage, substantially placed into jeopardy Mr. Frazee's rights to a fair trial, or unduly subtracted from the solemnity of the court and proceedings.
18. Zoom photography of counsel and Mr. Frazee's conversations was specifically prohibited by the Court's Order.
19. Zooming in on documents on counsel table, on documents on the lectern, on books on the judge's bench, or on counsel's computer all place Mr. Frazee's right to a fair trial in jeopardy. All examples also detract from the proceedings and the solemnity of the court.
20. Additionally, none of those offenses would have taken place with traditional media coverage.
21. Importantly, none of these breaches of the court's orders or etiquette at all informed the public of anything of import. Such that there is a balancing test in play, there was nothing of value on the side of expanding media coverage as compared to traditional media coverage that was added, only the possibility of prejudice and actual prejudice.
22. Counsel cannot simultaneously represent Mr. Frazee while blocking a camera from recording conversations, nor be effective while ensuring that documents on counsel

table are hidden from the media, in addition to documents on the lectern, opposing counsel table, and the judge's bench are similarly kept hidden from zoom photography.

23. After the Arraignment, the Court held a hearing concerning a violation of the Court's Decorum Order prohibiting photography in the halls outside of the courtroom, where a member of the media admitted to "forgetting" about the court's order and violating it.
24. As such, Mr. Frazee requests this court impose sanctions on media members violating its orders and issuing a stricter decorum order in order to protect the dignity of the proceedings and Mr. Frazee's right to a fair trial.
25. Mr. Frazee requests that the Court investigate and determine whether contempt proceedings are appropriate for the violations of its orders on April 5, 2019.
26. Mr. Frazee requests that the Court deny any expanded media coverage requests for the duration of the above captioned case.
27. Mr. Frazee requests the Court expand its current decorum order, and/or work with the Teller County Sheriffs Office, so that photography of Mr. Frazee while he enters and exits vans transporting him to and from the Court immediately outside the courthouse be prohibited. Mr. Frazee's personal safety and life is placed in jeopardy by such coverage, as evidenced by the Teller County Sheriff's Office insistence on dressing Mr. Frazee in a bulletproof vest for court appearances.
28. Mr. Frazee requests that the seats behind counsel table be reserved for members of the public not the media to ensure that counsel can defend Mr. Frazee and his rights, and not work product or documents from view from the media.
29. Mr. Frazee requests the Court expand its current decorum order to prohibit live streaming, blogging, tweeting, texting, or any other form of electronic communication from happening "live" in the courtroom during proceedings.

WHEREFORE, Mr. Frazee requests this Court consider sanctions and impose a stronger standing Decorum Order in to protect Mr. Frazee's rights to a fair trial and the dignity and solemnity of the Court.

A handwritten signature in blue ink, appearing to read 'ASW', with a stylized flourish at the end.

Adam P. Steigerwald #40092  
Deputy State Public Defender  
Dated: May 22, 2019

**Certificate of Service**

I certify that on 5/22/19, all parties were served electronically.