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| District court  la plata county, colorado  1060 E. 2nd Ave., Durango, Co 81301 | cOURT USE ONLY |
| THE PEOPLE OF THE STATE OF COLORADO,  Plaintiff  vs  **Mark Redwine**,  Defendant |
| Douglas K. Wilson, Colorado State Public Defender  John Moran, #36019  Deputy State Public Defender  Durango Regional of the Colorado Public Defender  175 Mercado Drive, Suite 250 Durango, CO 81301  Phone 970-247-9284 Fax (970) 259-6497 | Case No. 17CR343  Division 1 |
| **OBJECTION TO EXPANDED MEDIA COVERAGE**  **[D-8]**  **[Public Access]** | |

Mr. Redwine, through counsel, moves for the following:

Standards for Authorizing Coverage

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

Law and Analysis

1. Denial of the media's request(s) is necessary to protect Mr. Redwine's rights under the United States Constitution and Colorado Constitution to a fair trial by an impartial jury, to effective assistance of counsel, to be presumed innocent, and to due process of law, among other fundamental rights. Those rights support both a presumption against expanded media coverage and placing the burden of proving the appropriateness of expanded media coverage on those who seek it. Further, the Colorado Supreme Court Rules, Chapter 38, Rule 2, "Media Coverage of Court Proceedings" sets out factors that a Court should consider *before* permitting expanded media coverage thereby indicating a presumption against expanded media coverage, and that the burden of proof lies with the media to prove that its activities will not interfere with the court proceedings or defendant’s rights.
2. Applying these factors, it is clear that this Court should not authorize expanded media coverage for the July 23, 2012 advisement, nor any other proceeding, in this case. Expanding media coverage heightens the risk of prejudicing Mr. Redwine's constitutional right to a fair trial. *See* Audrey Winograde, *Cameras in the Courtroom: Whose Right Is It Anyway?* 4 Sw. J.L. & Trade Am. 23 (1997) at 29 ("There is little dispute that from the moment a trial judge announces that a case will be televised, the case becomes a 'cause celebre.' The morbid details become interesting to the whole community, including prospective jurors."). Expanded television coverage, due to the nature of the medium, will only increase the chance of tainting prospective jurors. Cf. Christo Lasssiter, *The Appearance of Justice: TV or Not TV-That is the Question,* 86 J. Crim. L. & Criminology 928, 930:

But in the vast majority of cases courts adjudicate highly personal lives of people and compromise nothing of interest to the general public beyond that of prurient possible voyeurism. The trial process represents human effort to do justice in an imperfect world. In-court camera coverage... can be prejudicial to the very process it seeks to showcase by infecting it with political bias of all kinds, petty, personal and demographic...

There are three prejudicial effects of cameras in the courtroom, First, the trial, in reality, operates on a larger theme than the matter under charge; the judicial process is corrupted by a substitution of the solemn, calm, deliberate judgment of the finder of fact for the outrage of an inflamed public. Second, the adversarial system, designed for neutral and dispassionate judicial prosecution, transforms into an instrument of a politically motivated prosecution. Third, the public outcry leads to political vice of judicial disposition against a disfavored minority. *Id.* at 934-35.

1. Local and national media outlets are extensively covering this case. Hence, the probability of tainting potential jurors is already of great concern and this Court should take every opportunity it has to control the media's impact on this case and protect the rights of Mr.Redwine by denying any request for expanded media coverage in this case. *See* Robert Hardaway & Douglas R. Tumminello, *Pretrial Publicity in Criminal Cases of National Notoriety: Constructing a Remedy for the Remediless Wrong,* 46 Am. U.L. Plev. 39, 44 (1996):

[P]retrial publicity becomes a more difficult issue for the trial court judge to resolve when the media and the nation are watching. Otherwise ordinary crimes that would receive nominal local treatment become subjects of national engrossment when they involve 'murder and mystery, society, sex, and suspense. Accordingly, media treatment of the crime is more widespread, and resultant publicity about the crime reaches a larger population of potential jurors than in less notorious cases. In addition, potential jurors are more likely to have been exposed to more in-depth, all-encompassing publicity about the crime, the defendant, or the victim.

1. Denying requests for expanded media in this case will not prejudice the media's ability to cover this case. Most likely, the media will present in force within and without the courthouse as evidenced by the media's coverage and speculation regarding this case thus far. There has been no shortage of images of Mr. Redwine. Thus, traditional coverage, without the distractions of cameras and lights in the courtroom will serve the media's purpose without jeopardizing Mr. Redwine's constitutional rights to due process, a fair trial, and a fair and impartial jury. U.S. Const. amends. V, VI, VIII, XIV; Colo. Const. art. II, secs. 16, 18, 20, 23, 25; *see also People v. Botham,* 629 P.2d 589 (Colo. 1981); *Sheppard v. Maxwell,* 384 U.S. 333 (1966).

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| \_/s/ John Moran\_\_\_\_\_\_\_\_\_\_  John Moran #36019  Deputy State Public Defender  Dated: August 15, 2017 | **Certificate of Service**  I hereby certify that I served the foregoing document by e-filing with ICCES same to all opposing counsel of record.  **\_\_\_/s/ John Moran\_\_\_** |

Mr. Redwine therefore respectfully objects to any request by any media outlet and/or their agents for expanded media coverage for the advisement in this matter and further objects to expanded media coverage at all future proceedings in this case. Mr. Redwine further requests a hearing before any such request is granted. Mr. Redwine further requests a court order requiring 30 days' notice in advance of any hearing for which such future requests are made.