

<b>DISTRICT COURT, LA PLATA COUNTY, COLORADO</b> <b>Court Address: 1060 E. Second Ave., Durango, CO 81301</b> <b>Phone Number: (970) 247-2304</b>	DATE FILED: October 30, 2020 5:16 PM
<b>Plaintiff: PEOPLE OF THE STATE OF COLORADO</b>  <b>v.</b>  <b>Defendant: MARK ALLEN REDWINE</b>	<b>▲ COURT USE ONLY ▲</b>
<b>Public Access</b>	<b>Case Number: 17CR343</b>
<b>ORDER REGARDING PUBLIC ACCESS TO THE COURTROOM DURING TRIAL (C-57)</b>	

The prosecution requested that the Court reserve seven seats for the prosecution team and Dylan’s mother and her family to be present during the trial after voir dire is completed. The defense team will also need seating for investigators and other support personnel in addition to their two attorneys. Prior to the issuance of this order, the Court had ordered that because the proceedings would be streamed via Webex, the public would be precluded from the courtroom after the jury was selected. The Court has reconsidered that order. The Court will reserve sufficient seating in the courtroom for four members of the prosecution team, which includes Dylan’s mother and her family. The Court will reserve sufficient seating in the courtroom for four members on the defense team. This will allow four members of the public to physically attend the trial in the courtroom.

The Court has issued various orders in this case and Sixth Judicial District Administrative Orders regarding the wearing of face coverings and how jury trials in the Sixth Judicial District will be conducted, both in general and specifically in this case. The Court incorporates its previous findings in those orders regarding the COVID-19 pandemic and its threat to public

safety throughout the country and the Sixth Judicial District. The Court finds that the public health crisis that necessitated those orders continues and as of the current time is getting more dangerous. The Court has therefore limited the public's physical access to the courtroom in this case. The Court finds that the more separate individuals are allowed into the courtroom during this trial, the more likely that one of those separate individuals is to be contagious with COVID-19, thereby subjecting the jury and other trial participants to the COVID-19 virus.

To supplement the ability of the press and public to observe the trial, the Court will stream the trial over the Internet via Webex Events except for individual voir dire. The public portion of voir dire will stream audio only to protect the privacy of the venire. The remainder of the trial will stream both audio and video. To receive the streamed content, an individual need only go to the Sixth Judicial District's homepage on the Internet, click on the Redwine trial Webex link and enter a name and e-mail address. There is no charge to view this trial over the Webex Events platform. Such streaming will allow up to 3,000 different users to observe the trial over the Internet. The Court is allowing news and other media organizations to capture, record, or re-broadcast the proceedings, thereby expanding public access to the trial to a much greater extent than would be otherwise possible.

The Colorado Supreme Court, by amending C. R. Crim. P. 43 and adding subsection (f), titled Public Health Crisis Exception, authorizes the Court during a public health crisis to substitute an audio broadcast of certain court proceedings and audio-visual broadcasts of other proceedings in lieu of the proceedings being held in a courtroom open to the public. The proceedings that are authorized to be broadcast do not include trials. The Court notes that public trials are an important constitutional right under both the First Amendment and the Sixth Amendment of the United States Constitution. See *Waller v. Georgia*, 467 U.S. 39, 46, 104 S. Ct. 2210, 2215, 81 L. Ed. 2d 31 (1984); *People v. Hassen*, 351 P.3d 418 (Colo. 2015). As to the

press and public's First Amendment rights to a public trial in this case, the Court finds that the procedures the Court has designed in this trial, with the exception of individual voir dire which will be discussed below, allows the press and public to observe in real time everything they would be able to observe if allowed into the courtroom without any filter as to what will be observed. These procedures actually enhance the public nature of the proceedings due to the wide distribution of the audio and video streaming that is possible by use of the Internet. Many more people and media organizations will be able to observe the trial of this case than is possible with the limited seating in the courtroom. The Court finds that because of the danger posed by the COVID-19 virus, there is an overriding public interest in protecting all participants in this trial, as well as everyone else who may come to the La Plata County Courthouse during the trial, from infection. The Court further finds that although the number of individuals physically present will be significantly less than were normally present during pre-pandemic times, a significantly greater number of the press and public will be able to hear all trial proceedings that occur (other than individual voir dire) and they will be able to see all of the trial after the jury is selected.<sup>1</sup> There will be no difference to the information the public will receive via streaming this trial as opposed to sitting in a courtroom and observing the trial. The ability to turn up the volume of the audio, replay portions of the trial and not have the camera's view obstructed, as can happen in a crowded courtroom, will actually enhance the ability of the press and public to observe the trial.<sup>2</sup> The Court finds that the procedures contemplated to be used in this trial, if they can be considered a closure of the trial due to the limited amount of public seating in the

---

<sup>1</sup> The Court is limiting the Webex streaming of voir dire to audio content only to protect the privacy of the venire.

<sup>2</sup> Additionally, the courtroom in which this trial will take place is adjacent to a media room with windows that overlook the courtroom. The glass from one of the windows has been removed to enhance the video quality of the Webex content. This room will be available to a limited number of the press to observe the trial if they wish to avail themselves of this option.

courtroom, are no broader than are necessary and there is no reasonable alternative available to protect the health of everyone involved in this trial. See *Hassen*, pp. 420-421.

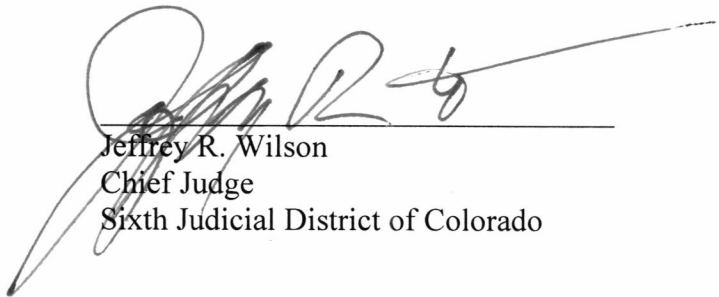
The defense has requested that the Court conduct individual voir dire. The Court has previously ruled that members of the venire will be questioned in private, but on the record, by counsel regarding various aspects of this case, such as the massive pretrial publicity and whether the notoriety of this case precludes the juror from being fair and impartial. It is necessary to ask such questions privately to ensure candid responses from jurors due to the allegations of child abuse and

**Redacted**

The

Court finds that the very nature of this questioning needs to be done in private to prevent the answers of a biased juror from prejudicing the entire jury pool thereby denying the defendant a fair and impartial jury. The Court finds that the need to pick a fair and unbiased jury is a compelling interest, that closing only this portion of the trial to the public is no broader than necessary to protect the defendant's due process rights, and there are no other reasonable measures for the Court to take other than holding individual voir dire in private.

Done and signed this <sup>30<sup>th</sup></sup>~~30~~ day of October, 2020, NPT October 28, 2020.



Jeffrey R. Wilson  
Chief Judge  
Sixth Judicial District of Colorado