

DISTRICT COURT, LA PLATA COUNTY, COLORADO Court Address: 1060 E. Second Ave., Durango, CO 81301 Phone Number: (970) 247-2304	DATE FILED: January 29, 2019
Plaintiff: PEOPLE OF THE STATE OF COLORADO v. Defendant: MARK ALLEN REDWINE	▲ COURT USE ONLY ▲
	Case Number: 17CR343
ORDER REGARDING THE MOTION FOR CHANGE OF VENUE (D-11)	

The defendant is charged with murder in the second degree and child abuse resulting in death in relation to the death of the defendant's thirteen-year-old son, Dylan. The case has generated a significant amount of local, state, and national publicity, both via the traditional media and the Internet. The defense has filed a motion to change venue in this case, alleging that the amount of prejudicial publicity this case has generated will taint the jury pool and prevent the defendant from receiving a fair trial. The Court takes judicial notice that La Plata County does not have its own television station and along with Montezuma County is one of two "orphan" counties in Colorado whose primary source of television news originates outside of Colorado in Albuquerque, New Mexico. The Court also notes that the most salacious and prejudicial information being disseminated about the case is disseminated via the Internet. However, for the reasons stated in C-17 Suppressed Order Regarding the Sealing and Redacting of Certain

Motions and Documents, dated October 11, 2018¹, the Court believes that the exposure of potential La Plata County jurors to the most prejudicial information regarding the case is much less extensive than feared by the defense.

The case began to receive publicity when Dylan was reported missing on November 19, 2012. The Court notes that if the trial begins as currently scheduled on June 24, 2019, six years and seven months will have passed since Dylan disappeared. The La Plata County Jury Wheel, as of the date of this order, contains 41,969 individuals and 37,674 eligible jurors. The Court notes that the Durango Herald and Pine River Valley Times are the primary sources of local news for La Plata County. According to Exhibit L attached to the first addendum to the motion to change venue that was filed December 12, 2018, there are 17,300 print readers of the Durango Herald and 15,000 Internet readers of the Durango Herald. No readership figures were provided for the Pine River Valley Times, but the Court takes judicial notice that the Pine River Valley Times, for the most part, covers items of interest in Bayfield and Ignacio and, therefore, has a significantly lower audience than the Herald. The Court also takes judicial notice that the Herald only issues a print edition four times per week. While the Herald may be able to state how many copies of the print Herald are sold, the Court does not find credible that there are 17,300 print readers of the Herald each day, as it is not published daily. Similarly, the Herald may be able to state how many views their website experiences daily, but there is no way the Herald can determine if each view is by a separate person, if each individual view is by someone who does not subscribe to the Herald, or if the person viewing the Herald online is reading any specific article. The Court subscribes to the print edition of the Herald and the Court will occasionally view the Herald on the Internet multiple times on some days, including the days it receives the

¹ C-17 is attached to this order as Exhibit 1. The Court will not attach a copy of C-17 in the public access copy of this order.

print edition. On other occasions, the Court will go several days without looking at the Herald's website. While the Court finds that the figures provided concerning daily readership of the Herald useful for argument, the Court does not find that 32,300 current citizens in La Plata County have read the majority of the articles about this case on one of the two Herald platforms.

While a substantial amount of publicity has been generated by the two newspapers over the past six years, the vast majority of the print stories are several years old. The defense alleges in its motion that the Durango Herald has printed over 150 articles about this case and the Pine River Valley Times almost 40 articles. If the trial was held as of the date of this order, 72 months of news coverage would exist for this case. Dividing 190 stories by 72 months averages 2.64 stories per month. The Court does not find that this amount of publicity over more than six years to be massive and pervasive.

The defense also argues that because of social media, as well as the Justice for Dylan and similar websites have had extensive views and comments, the jury pool in La Plata County is tainted by prejudice. It is not possible to know how many of these individuals are potential jurors from La Plata County, particularly when this case has received national and even international attention.²

The Court has been very careful about the information released to the public and has entered various orders regarding pretrial publicity, a courtroom decorum order, and access to the Court's filings to help minimize the prejudicial publicity this case will generate. While some details about the case were released to the public via the information contained in the indictment, law enforcement and the prosecution have not released many details of the case to the public.

The facts argued to support a change of venue based upon prejudicial pretrial publicity are not as massive and potentially prejudicial as *People v. Harlan*, 8 P.3d 448 (Colo. 2000), as

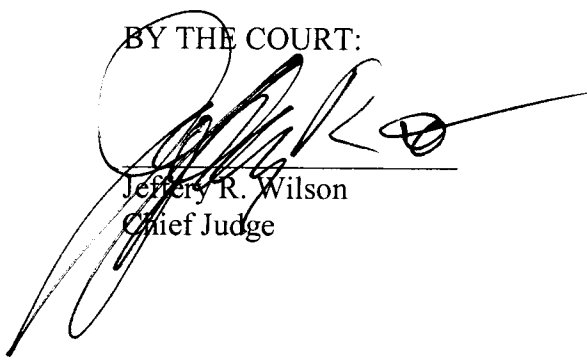
² The Court's clerk has fielded questions about this case from news organizations in England and Australia.

modified on denial of reh'g (Sept. 11, 2000), and overruled on other grounds by *People v. Miller*, 113 P.3d 743 (Colo. 2005), *People v. McCrary*, 549 P.2d 1320 (1976), or *People v. Botham*, 629 P.2d 589, (Colo. 1981). The Court does not find that prejudice of the potential jury pool can be presumed from the publicity the case has received. The Court, therefore, denies the motion to change venue based upon pretrial publicity.

The Court intends to call a much larger jury panel than normal, use a questionnaire, and conduct individual voir dire that is closed to the public to pick the jury in this case. The Court is aware that although it has denied the motion to change venue based upon pretrial publicity, the Court may well find, during jury selection that because of the nature of the case, the Court will be unable to pick a fair and unbiased jury to decide this case. The Court will therefore allow the defense to renew its motion for a change of venue during jury selection.

DONE this 29th day of January, 2019.

BY THE COURT:



Jeffery R. Wilson
Chief Judge