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IN THE FOURTH JUDICIAL DISTRICT COURT, PROVO DEPARTMENT

IN AND FOR THE COUNTY OF UTAH, STATE OF UTAH

STATE OF UTAH, Plaintiff, vs. TYLER JAMES ROBINSON, Defendant.	**DEFENDANT'S MOTION TO APPEAR AT ALL IN-PERSON PROCEEDINGS IN CIVILIAN CLOTHING AND WITHOUT RESTRAINTS and MEMORANDUM IN SUPPORT** Case No. 251403576 Honorable Tony F. Graf, Jr.

Defendant, Tyler James Robinson, by and through undersigned counsel hereby moves the Court for an order permitting Mr. Robinson to appear at all proceedings in civilian clothing and without physical restraints. As articulated herein, this motion is grounded in Mr. Robinson's rights to a fair trial, to Due Process of law, the presumption of innocence, and to a reliable

penalty determination under State and Federal constitutional provisions, including the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and to article I, sections 7 and 12 of the Utah Constitution.

REQUESTED RELIEF TO DETERMINE MOTION

Prior to the determination of the Motion, the Court should order the following:

1. An order compelling the Utah County Sheriff Department to disclose any and all files, records, correspondence, and reports created by or in the possession of the Department relating to Defendant's motion.

2. A temporary order allowing Mr. Robinson to appear in civilian clothing and without visible restraints at any in-person, public hearing held prior to the determination of this motion.

3. A closed hearing for the Court to receive evidence regarding the need for physical restraints in this particular case and the opportunity to further brief this issue.

MEMORANDUM

Mr. Robinson makes two requests: (1) to allow him to appear at all proceedings in civilian attire; and (2) to be without physical restraints during all in-person hearings—both pretrial and trial. These requests are necessary to maintain the presumption of innocence, to protect Mr. Robinson's rights to a fair and impartial trial, and to maintain courtroom decorum and dignity.

Recognizing that the Court must make an individualized assessment of a purported need for physical restraints, Mr. Robinson asks the Court for an order directing the Utah County Sheriff's Department to disclose relevant records and for the opportunity to supplement this motion after an evidentiary hearing on the issue of physical restraints. To avoid the very prejudice this motion seeks to prevent, Mr. Robinson requests a temporary order from the Court allowing Mr. Robinson to appear at any pretrial proceedings in civilian clothing and without visible restraint while this

motion is pending, and a further order granting a closed hearing at which the Court can take evidence regarding the need for physical restraints in this particular case.[1]

I. The Law of Courtroom Restraints.

The presumption of innocence lies at the heart of our system of criminal justice. *See Estelle v. Williams*, 425 U.S. 501, 503 (1976). In a series of cases, the Supreme Court has held that constitutional principles of due process and non-constitutional principles of fair administration of justice require courts not to impose excessive physical restraints on the accused, who is still presumed innocent.

In *Illinois v. Allen*, the Supreme Court wrote that an accused could be tried while shackled and gagged, or even removed from the courtroom altogether, but only as last resorts based on the accused's repeated and aggravated refusals to behave in court. 397 U.S. 337, 344 (1970). Defendant Allen earned such rare treatment in his jury trial by repeatedly disrupting the proceedings to the extent that an orderly trial was impossible if he was present and able to speak and interrupt. *Id*. at 346-47.

In *Holbrook v. Flynn*, the Court found acceptable the presence of uniformed police in the front row of the courtroom, finding that security measure was not an "inherently prejudicial" practice, like shackling, that "should be permitted only where justified by an essential state interest specific to each trial." 475 U.S. 560, 568–69 (1986),

In *Deck v. Missouri*, the Supreme Court made clear that during the guilt phase of a criminal trial, the due process clauses of the Fifth and Fourteenth Amendments forbid routine use of visible shackles. 544 U.S. 622, 626-29 (2005), *abrogated on other grounds by Fry v. Pliler*, 551 U.S. 112

[1] Such a temporary order has precedence. A similar request was granted in another recent, highly publicized death penalty case in Ada County, Idaho while the underlying motion was litigated. *See* Exhibit A (Order Temporarily Granting Defendant's Motion to Wear Street Clothing).

(2007). Drawing on English sources older than the United States, *Deck* identified the traditional common law rule that defendants "must be brought to the bar without irons, or any manner of shackles or bonds; unless there be evident danger of an escape." *Id*. at 626 (quoting 4 W. Blackstone, Commentaries on the Laws of England 317 (1769)). Only in "extreme and exceptional cases, where the safe custody of the prisoner and the peace of the tribunal imperatively demand, the manacles may be retained." *Id*. at 626–27 (quoting 1 J. Bishop, New Criminal Procedure § 955, p. 573 (4th Ed. 1895)). *Deck* then extended the constitutional limits on shackles to the sentencing phase of capital cases, although the defendant is no longer presumed innocent. *Id*. at 633.[2]

In *Deck*, the Supreme Court explained that "[j]udicial hostility to shackling" effectuates "three fundamental legal principles: (1) preserving the presumption of innocence to which every criminal defendant is entitled; (2) ensuring that the defendant is able to participate meaningfully in his or her defense; and (3) maintaining the dignity of the judicial process. *Id*. at 630–31.

While neither the Supreme Court nor any Utah appellate court have yet addressed the issue in a post-*Deck* case, it has been held that the right to be free from unwarranted courtroom restraints "applies whether the proceeding is pretrial, trial, or sentencing, with a jury or without." *United States v. Sanchez-Gomez*, 859 F.3d 649, 661 (9th Cir. 2017) (en banc), *vacated on other grounds*,

[2] The Utah Supreme Court reached a contrary result in the pre-*Deck* case of *State v. Young*, 853 P.2d 327 (Utah 1993). However, even then the *Young* court cautioned: "By holding that shackling at the penalty phase does not inherently violate the due process rights of a defendant, we do not hold that shackling is necessary or appropriate in all capital sentencing proceedings. The mere fact that a jury convicted a defendant of first degree murder is not a sufficient basis for a decision to shackle him during the penalty phase. The trial court should look at the particular facts of the case and the conduct of the proceedings and should balance the need for safety and security in the courtroom against the potential for prejudice." *Id*. at 350–51. The holding in *Young* does not survive *Deck*.

584 U.S. 381 (2018). The right "respects our foundational principle that defendants are innocent until proven guilty" and is implicated by "the perception of any person who may walk into a public courtroom, as well as those of the jury, the judge and court personnel. A presumptively innocent defendant has the right to be treated with respect and dignity in a public courtroom, not like a bear on a chain." *Id*.

Numerous courts agree. *See, e.g., United States v. Williams* 736 F.Supp.3d 400, 406–07 (W.D. Va. 2024) ("after carefully reviewing this case law, this court would be remiss if it didn't state its firm conviction that a broader, qualified right of a criminal defendant to be unshackled exists and should be recognized at non-jury proceedings") (citing *Sanchez-Gomez*); *State v. Luthi* 549 P.3d 712, 713–14 (Wash. 2024) ("the due process right to appear without unjustified restraints applies to every court appearance, including nonjury pretrial hearings." (internal quotation omitted)); *People v. Best*, 979 N.E.2d 1187, 1189 (N.Y. 2012) ("The routine and unexplained use of visible restraints does violence to each of [the three fundamental legal principles recognized in *Deck*], essential pillars of a fair and civilized criminal justice system that are no less implicated when the factfinder is the trial judge rather than a jury."); *In re R.W.S.*, 2007 ND 37, ¶ 15, 728 N.W.2d 326 (agreeing with cases finding that "juveniles have the same rights as adult defendants to be free from physical restraints") (collecting cases); *People v. Allen,* 856 N.E.2d 349, 353 (Ill. 2006) ("even when there is no jury, any unnecessary restraint is impermissible because it hinders the defendant's ability to assist his counsel, runs afoul of the presumption of innocence, and demeans both the defendant and the proceedings."); *People v. Fierro*, 821 P.2d 1302, 1322 (Cal. 1991) ("restrictions on the use of physical restraints at trial should apply at a preliminary hearing" because "the policies which underlie such restrictions have application to other proceedings as

well."); *State v. Doe,* 333 P.3d 858, 870-71 (Idaho Ct. App. 2014) (due process requires that juveniles be afforded the same rights as adults to be free from physical restraints at trial.)

These cases and many others demonstrate two critical points. First, decisions about extraordinary restraints are decisions for the judge and cannot be delegated to security or correctional personnel. Second, the reasons for the limits on such extraordinary restraints apply to criminal hearings broadly; those reasons are not limited to only what a jury might see.

A. *No Delegation of the Judicial Responsibility*

One central theme of the law of courtroom restraints is that the trial judge is the person responsible for making the decisions. The judge cannot simply delegate that responsibility to the Sheriff's Department or other correctional or security staff.

The Utah Supreme Court has made this point by holding in *Chess v. Smith*, that a trial judge has the responsibility to inquire as to why a defendant is appearing in court in prison clothes, even in the absence of defense objection. 617 P.2d 341, 345 (Utah 1980). *See also State v. Bennett*, 2000 UT 34, ¶ 7, 999 P.2d 1 ("Absent such an inquiry and a reasoned determination that such an appearance is necessary, automatic reversal is the consequence."); *Young*, 853 P.2d at 350–51 ("The trial court should look at the particular facts of the case and the conduct of the proceedings and should balance the need for safety and security in the courtroom against the potential for prejudice.").

The federal courts have more explicitly held that a trial court cannot delegate decision-making on the issue of physical restraints or courtroom attire to a third party. *See, e.g., Sanchez-Gomez*, 859 F.3d at 661 ("Courts cannot delegate this constitutional question to those who provide security, such as the U.S. Marshals Service."); *United States v. Wardell,* 591 F.3d 1279, 1294–95 (10th Cir. 2009) (collecting cases and emphasizing that trial court has "legal duty to make a

thorough and independent determination" of need for device); *Lopez v. Thurmer*, 573 F.3d 484, 493 n.2 (7th Cir. 2009) ("although a trial court's decisions about the required level of security during a trial are entitled to deference, those decisions must be made by the court itself; the trial judge may not delegate his discretion to another party") (internal quotation omitted); *United States v. Miller*, 531 F.3d 340, 345 (6th Cir. 2008) (trial judge abused discretion by deferring without explanation to marshal's recommendation that defendant wear stun-belt in jury trial) ("a district court's blind adherence to a corrections officer's recommendation, without making any individualized determinations or specific findings, amounts to an abuse of discretion"); *Gonzalez v. Pliler*, 341 F.3d 897, 902 (9th Cir. 2003) ("The use of physical restraints is subject to close *judicial*, not law enforcement, scrutiny." (emphasis in original)); *United States v. Durham*, 287 F.3d 1297, 1304 (11th Cir. 2002) (same).

This need for a decision by the judge runs through the Supreme Court's decisions on courtroom restraints, as well. *See Allen*, 397 U.S. at 343 (judge "must be given sufficient discretion to meet the circumstances of each case. No one formula for maintaining the appropriate courtroom atmosphere will be best in all situations."); *Deck*, 544 U.S. at 629, (Fifth and Fourteenth Amendment prohibit use of physical restraints visible to the jury "absent a trial court determination, in the exercise of its discretion, that they are justified by a state interest specific to a particular trial").

B. It's Not Just About the Jury.

The use of courtroom restraints has been litigated most often when the restraints are used during jury trials. That's where the dangers of unfair prejudice are most severe, and where, if any restraints are to be used, the usual course is to ensure they are never visible to the jury. Yet the

reasons for the limits on courtroom restraints apply more broadly. They weigh in favor of applying those limits to pretrial proceedings. The Court laid out these reasons in *Deck v. Missouri*.

First, of course, the criminal justice system presumes the defendant is innocent unless and until proved guilty. *Deck*, 544 U.S. at 630. "Visible shackling undermines the presumption of innocence and the related fairness of the factfinding process." *Id*. By necessity, judges are trusted to be less vulnerable than lay jurors to this and other forms of unfair prejudice. However, the psychological reality is that the human beings who serve on the bench are likewise not immune to such subconscious and subliminal influence from seeing a human being in chains to protect others from him. *See, e.g.*, *People v. Hamlett*, 193 N.Y.S.3d 658, 663 (N.Y. 2023) ("It cannot merely be assumed that judges are immune from the prejudice and bias caused by visible shackles. We judges are human, and the sight of a defendant in restraints may unconsciously influence even a judicial factfinder.").

Second, *Deck* invoked the right to counsel because full shackles can interfere with the accused's ability to communicate with his lawyer. 544 U.S. at 631 (quoting *Allen*, 397 U.S. at 344). Courts have long expressed concerns that shackles can be heavy and painful, distracting the accused from focusing on his defense. *E.g., Durham*, 287 F.3d at 1304 (restraints "may confuse the defendant, impair his ability to confer with counsel, and significantly affect the trial strategy he chooses to follow"); *People v. Harrington*, 42 Cal. 165, 168 (1871), quoted in *Deck*, 544 U.S. at 631. These forms of interference do not depend on whether a jury is present or even on whether the shackles are visible.

Third, and most important here, "judges must seek to maintain a judicial process that is a dignified process." *Deck*, 544 U.S. at 631. The *Deck* Court continued:

> The courtroom's formal dignity, which includes the respectful treatment of defendants, reflects the importance of the matter at issue, guilt or innocence, and

> the gravity with which Americans consider any deprivation of an individual's liberty through criminal punishment. And it reflects a seriousness of purpose that helps to explain the judicial system's power to inspire the confidence and to affect the behavior of a general public whose demands for justice our courts seek to serve.

Id. This dignity is for the good of the institution and the public.

In *Allen*, the Supreme Court acknowledged that the use of shackles and gags in court "is itself something of an affront to the very dignity and decorum of judicial proceedings that the judge is seeking to uphold." 397 U.S. at 344. Indeed, "[a] presumptively innocent defendant has the right to be treated with respect and dignity in a public courtroom, not like a bear on a chain." *Sanchez-Gomez*, 859 F.3d at 661. "We must not exaggerate the distance between 'us,' the lawful ones, the respectable ones, and the prison and jail population; for such exaggeration will make it too easy for us to deny that population the rudiments of humane consideration." *Johnson v. Phelan*, 69 F.3d 144, 152 (7th Cir. 1995) (Posner, C.J., dissenting).

Such routine treatment is unfair to the defendant, and it diminishes the courts:

> Courtrooms are palaces of justice, imbued with a majesty that reflects the gravity of proceedings designed to deprive a person of liberty or even life. A member of the public who wanders into a criminal courtroom must immediately perceive that it is a place where justice is administered with due regard to individuals whom the law presumes to be innocent. That perception cannot prevail if defendants are marched in like convicts on a chain gang. Both the defendant and the public have the right to a dignified, inspiring and open court process. Thus, innocent defendants may not be shackled at any point in the courtroom unless there is an individualized showing of need.

Sanchez-Gomez, 859 F.3d at 662. The Ninth Circuit went on to emphasize that these institutional concerns are present whether the hearing is before a jury or a judge:

> We must take seriously how we treat individuals who come into contact with our criminal justice system—from how our police interact with them on the street to how they appear in the courtroom. How the justice system treats people in these public settings matters for the public's perception, including that of the defendant. Practices like routine shackling and "perp walks" are inconsistent with our constitutional presumption that people who have not been convicted of a crime are innocent until proven otherwise. That's why we must

> examine these practices more skeptically than those deployed in an institutional setting . . . We must treat people with respect and dignity even though they are suspected of a crime.

Id. at 665 (internal citations omitted). The Utah Supreme Court made essentially the same point in condemning trials of the accused in prison garb:

> It would seem that the occurrence of a defendant, armed with a presumption of innocence, standing trial before a jury in prison clothes should long ago have ceased. A decent respect for basic fairness and the indignity of appearing in a court of law in clothes which mark a defendant, who has not been convicted, as a lawbreaker would suggest as much.

Chess, 617 P.2d at 345.

C. The Factors To Be Considered and The Need For A Hearing.

Because of the inherently prejudicial impact of appearing shackled before the jury, courtroom shackling is permitted only "as a last resort." *See Allen*, 397 U.S. at 344("[N]o person should be tried while shackled and gagged except as a last resort."); *Holbrook*, 475 U.S. at 568–69 ("[S]hackling[] should be permitted only where justified by an essential state interest specific to each trial."). Reviewing courts require a showing of necessity before tolerating a trial court's decision to shackle. *See, e.g., United States v. Brantley*, 342 F. App'x 762, 770 (3d Cir. 2009) ("[Shackling]is an extreme measure, that the Supreme Court considers 'a last resort.' Any court considering such an extreme measure must first establish that it is actually necessary, not simply a matter of practice or convenience. And in making such a determination, a district judge must scrupulously 'make a case specific and individualized assessment' that supports his decision to shackle a defendant and provides a reviewing court with an adequate record.").[3] Thus, "a trial judge may ... impose restraints only when 'confronted with disruptive, contumacious, [and]

[3] *Spain v. Rushen*, 883 F.2d 712, 728 (9th Cir.1989) (same) cert. denied, 495 U.S. 910 (1990); *Elledge v. Dugger*, 823 F.2d 1439, 1452 (11th Cir.1987) (same) cert. denied, 485 U.S. 1014 (1988); *Tyars v. Finner*, 709 F.2d 1274, 1284–85 (9th Cir.1983) (same); *People v. Duran*, 545 P.2d 1322, 1327 (Cal. 1976) (same); *Bello v. State*, 547 So.2d 914, 918 (Fla.1989) (same).

stubbornly defiant defendants'" and shackling "must be limited to cases urgently demanding that action." *Tyars*, 709 F.2d at 1284 (quoting *Allen*, 397 U.S. at 343). *See also State v. Mitchell*, 824 P.2d 469, 473 (Utah Ct. App. 1991) ("An accused may be physically restrained if needed to prevent an escape, resort to violence, or disruption of the trial.").

Furthermore, before a court may shackle a disruptive defendant, it must first "pursue less restrictive alternatives." *Spain*, 883 F.2d at 721; *see also Tyars*, 709 F.2d at 1284. Lesser restraints may include increasing courtroom security personnel, warning the defendant of the consequences of disruptive behavior, such as the possibility of contempt or removal. *See Spain*, 883 F.2d at 726.

Under decided case law, a defendant is also entitled to an adequate opportunity to challenge untested information that serves as the basis for courtroom restraints and to address all other factors relevant to a decision to impose restraints. *See United States v. Durham*, 287 F.3d 1297, 1307 (11th Cir. 2002) (conviction vacated because in deciding that restraints were necessary, the trial court denied the defendant's request for an evidentiary hearing and "did not make any findings on critical factual matters"); *Zygadlo v. Wainwright*, 720 F.2d 1221, 1223–24 (11th Cir. 1983) (due process may require an evidentiary hearing if the factual basis for security procedures was in dispute); *State v. Moen*, 491 P.2d 858, 860–61 (Idaho 1971) (defendant should be afforded a reasonable opportunity to meet the information); *State v. Tolley*, 226 S.E.2d 553, 368 (S.C. 1976) (evidentiary hearing is required).

II. The Law Prohibiting Court Appearances in Jail or Prison Clothing.

Although the right to appear free from unjustified restraint arises most often in shackling cases, federal and state courts recognize that other courtroom practices implicate due process as well. For example, the Supreme Court has held that "compelling [a defendant] to wear jail clothing" violates due process because it "furthers no essential state policy" and creates "an

unacceptable risk ... of impermissible factors coming into play." *Estelle*, 425 U.S. at 505; *see also State v. Daniels*, 2002 UT 2, ¶ 21, 40 P.3d 611 ("Compelling an accused to wear identifiable prison clothing at a jury trial, absent exceptional circumstances, has been held to be inherently prejudicial."); *United States v. Portillo-Quezada*, 469 F.3d 1345, 1350 (10th Cir. 2006) ("defendants who are compelled to appear before the jury in handcuffs, shackles or prison attire suffer prejudice which unconstitutionally undermines the presumption of innocence."), quoted in *United States v. Folse* (D.N.M., Jan. 18, 2019, No. CR 15-2485 JB) 2019 WL 266745, at *5 ("As the Court sees little argument against Folse wearing civilian clothing [at sentencing], the Court will permit him to dress in such articles.").

As with the rule forbidding unnecessary shackling, the rationale of forbidding the defendant's court appearance in civilian clothing extends beyond its effect on potential jurors. As the Colorado Supreme Court found in the very first case in this country prohibiting trial in jail or prison clothing, "the mind of a prisoner would be as much disturbed and his mental faculties as much confused and embarrassed by carrying on his person such brand of incarceration" as "requiring a prisoner to wear the word 'County Jail' branded upon his clothing[.]" *Eaddy v. People*, 174 P.2d 717, 718 (Co. 1946). The *Eaddy* Court further stated that requiring either shackles or jail garb,

> . . .is a mockery, an indignity and a humiliation not consonant with innocence and freedom. The presumption of innocence requires the garb of innocence, and regardless of the ultimate outcome, or the evidence awaiting presentation, every defendant is entitled to be brought before the court with the appearance, dignity, and self-respect of a free and innocent man, except as the necessary safeguard and decorum of the court may otherwise require

Id. at 718-19.

Similarly, the Utah Court of Appeals has held in order to protect the presumption of innocence—a "basic component of a fair trial"—criminal defendants are entitled to the indicia of

innocence. *Mitchell*, 824 P.2d at 473 (quoting *Estelle,* 425 U.S. at 503). Indicia of innocence include the right of a criminal defendant to be tried wearing civilian clothing rather than clothing identifiable as prison or jail attire. *See id*. As reasoned by the Utah Supreme Court,

> The prejudicial effect that flows from a defendant's appearing before a jury in identifiable prison garb is not measurable, and it is so potentially prejudicial as to create a substantial risk of fundamental unfairness in a criminal trial.

Chess, 617 P.2d at 344 (Utah 1980).

And unlike other indicia of guilt, i.e. physical restraints, the Supreme Court and the Utah Court of Appeals have recognized that "compelling an accused to wear jail clothing furthers no essential state policy[.]" *Mitchell*, 824 P.2d at 473. *See also Estelle,* 425 U.S. at 505 ("C]ompelling an accused to wear jail clothing furthers no essential state policy.")*; Hernandez v. Beto*, 443 F.2d 634, 636-37 (5th Cir. 1971) ("The wearing of prison garb certainly could have little or nothing to do with security precautions in this case.").

III. The Application of The Law to This Case.

A. Mr. Robinson Should Be Permitted to Don the Indicia of Innocence.

In the modern age of ubiquitous internet access and unrelenting media attention to high-profile criminal cases, the prejudicial effect of a criminal defendant appearing in shackles, jail attire, and bullet-proof or suicide vests at any hearing threatens fundamental fairness. These appearances increase the likelihood that the future jury pool will be exposed to Mr. Robinson in this state. In this case, where publication of each and every pretrial hearing is a foregone conclusion and where Mr. Robinson faces the potential penalty of death, additional care must be taken to ensure Mr. Robinson receives a fair trial by an impartial jury. *See Sampson v. United States*, 724 F.3d 150, 163 (1st Cir. 2013) ("The right to an impartial jury is nowhere as precious as when a defendant is on trial for his life.").

Indeed, the Supreme Court "has stressed the 'acute need' for reliable decisionmaking when the death penalty is at issue." *Deck*, 544 U.S. at 633. Reliable decision-making must be grounded in admissible evidence, not on innuendo derived from a defendant's custodial status. *See Holbrook*, 475 U.S. at 567 ("Central to the right to a fair trial, guaranteed by the Sixth and Fourteenth Amendments, is the principle that one accused of a crime is entitled to have his guilt or innocence determined solely on the basis of the evidence introduced at trial, and not on grounds of official suspicion, indictment, continued custody, or other circumstances not adduced as proof at trial.")

Illustrative of the magnitude of the issue, on September 16, 2025 at 3:00 p.m. Mr. Robinson appeared for the first time in this case from the Utah County Jail via Webex. The hearing was streamed live and covered by media outlets the world over including the BBC, Al Jazeera, ABC, CBS, NBC, Newsweek, NPR, the Daily Mail, Fox News, CNN and countless others, generating approximately 18,000 news search results.[4] Mr. Robinson's physical appearance alone was and is subject to endless scrutiny and speculation. One article described Mr. Robinson during his initial appearance as "emotionless" and "star[ing] blankly ahead" and "sporting slightly mussed locks, several days' worth of facial hair" and wearing "a green 'suicide smock[.]'"[5] With each development in the case generating thousands of articles and comments online, the likelihood of potential jurors seeing and drawing conclusions regarding Mr. Robinson's guilt and or deserved punishment from obvious signs of pretrial incarceration will only increase.

[4] An October 5, 2025 search in Google "News" tab of "Tyler Robinson first court appearance" generated over 18,000 results including articles and videos from the media outlets listed here.

[5] Nesi, Chris, *Tyler Robinson emotionless*, NY POST (posted 9/16/2025, 5:28 p.m. ET), *available at* https://nypost.com/2025/09/16/us-news/tyler-robinson-emotionless-wearing-suicide-smock-in-first-virtual-court-appearance-since-charlie-kirk-assassination/.

Indeed, given the pervasive media coverage in this case, the repeated and ubiquitous display of Mr. Robinson in jail garb, shackles, and a suicide vest will undoubtedly be viewed by prospective jurors and will inevitably lead to prospective juror perception that he is guilty and deserving of death. *See, e.g.*, Street, Kylene L., et al. *The Cloak of Innocence: Perception of Attire in the Courtroom*, J. of Police & Criminal Psychology (2024):1-11 (empirical study finding that a defendant dressed in a prison jumpsuit versus a dress suit was seen as "more aggressive" , and that this perceived aggressiveness resulted in defendants being found 5.27 times more likely than mock jurors in the formal attire condition to render a guilty verdict than a not guilty verdict.")[6]; Nancy Mehrkens Steblay et al., *The Effects of Pretrial Publicity on Juror Verdicts: A Meta-Analytic Review*, 23 LAW & HUM. BEHAV. 219 (1999) (The effect of pretrial publicity on juror verdicts was examined through a meta-analysis of 44 empirical tests representing 5,755 subjects, finding that subjects exposed to negative PTP were significantly more likely to judge the defendant guilty compared to subjects exposed to less or no negative PTP.)[7]

In the face of worldwide scrutiny, permitting Mr. Robinson to wear civilian clothing for court appearances is a minor inconvenience compared to the already present concerns with securing a fair trial before an impartial jury.

B. The Court Must Make an Individualized Assessment to Justify Any Restraints and in This Case Shackling of Mr. Robinson Is Not Justified.

The Court should allow Mr. Robinson to appear at all proceedings without restraint. Given the need for a particularized evaluation of the circumstances of this case, the Court should order appropriate disclosures by the relevant governmental entities (i.e. the Utah County Sheriff

[6] *Available at* https://link.springer.com/article/10.1007/s11896-024-09710-w.

[7] https://scholar.google.com/scholar?hl=en&as_sdt=0%2C5&q=The+Effects+of+Pretrial+Publicity+on+Juror+Verdicts%3A+A+Meta-Analytic+Review&btnG=.

Department) and thereafter take evidence on this issue. Mr. Robinson requests the opportunity to supplement briefing after the evidentiary hearing.

"The rule that a defendant be tried in the 'garb of innocence' has generally been extended to include a defendant's right to be tried without being shackled, chained, bound, handcuffed, gagged, or otherwise physically restrained." *Mitchell*, 824 P.2d at 473. The use of restraints "is itself something of an affront to the very dignity and decorum of judicial proceedings" that the Court seeks to uphold. *Allen*, 397 U.S. at 344. In addition, even when not visible, restraints impact the ability of the criminal defendant to participate in the proceedings by causing confusion or distraction, impairing communication between the defendant and his counsel, and creating discomfort or pain. As stressed in *Allen*, "one of the defendant's primary advantages of being present at the trial, his ability to communicate with his counsel, is greatly reduced when the defendant is in a condition of total restraint." *Id*. *See also Spain,* 883 F.2d at 720–21 ("The lower federal courts have observed two further weaknesses in imposing physical restraints: they may confuse and embarrass the defendant, thereby impairing his mental faculties; and they may cause him pain."); *Zygadlo v. Wainwright*, 720 F.2d 1221, 1223 (11th Cir. 1983) (even non-visible shackles "may confuse the defendant, impair his ability to confer with counsel, and significantly affect the trial strategy he chooses to follow" (internal quotation and citations omitted)).

As discussed above, the Supreme Court has found that "the Fifth and Fourteen Amendments prohibit the use of physical restraints visible to the jury absent a trial court determination, in the exercise of its discretion, that they are justified by a state interest specific to a particular trial." *Deck*, 544 U.S. at 629. Thus, trial courts should carefully consider the need (or lack thereof) for restraints "to prevent an escape, resort to violence, or disruption of the trial." *Mitchell*, 824 P.2d at 473; *see also U.S. v. Bell*, 819 F.3d 310, 321 (7th Cir. 2016) ("restraints,

because they are regarded as an extreme measure, should be employed only in the presence of a special need" (cleaned up)). A defendant appearing in unjustified visible restraints is a due process violation so serious that, on appeal, the State must show the defendant was not prejudiced beyond a reasonable doubt. *See, e.g., U.S. v. Morales*, 758 F.3d 1232, 1237 (10th Cir. 2014).

Mr. Robinson is a twenty-two-year-old, life-long resident of the State of Utah. He has no criminal history[8] and, upon information and belief, has been polite, deferential to jail staff, and without any disciplinary issue while in the Utah County Jail. Although he has been accused of (but not convicted of) aggravated murder, that fact alone is insufficient to justify restraints. *See Young*, 853 P.2d at 350–51 ("The mere fact that a jury convicted a defendant of first degree murder is not a sufficient basis for a decision to shackle him during the penalty phase."). Mr. Robinson intends to exercise his right to be present at all stages of these criminal proceedings as constitutionally guaranteed. *See* U.S. Const. XI, XIV; Utah Const. art. I, § 12. This Court should allow him to exercise this right without looking "like a bear on a chain." *Sanchez-Gomez*, 859 F.3d at 661.

As noted above, the world is watching Mr. Robinson and these proceedings. Even in pretrial proceedings, additional care must be taken to preserve the presumption of innocence and to prevent tainting the pool of jurors that will ultimately decide Mr. Robinson's guilt or innocence, and if guilty, if Mr. Robinson should receive the death penalty. As such, the Court should order the appropriate disclosures by the Utah County Sheriff Department and thereafter set a hearing for the production of evidence necessary for the Court's determination.

Finally, given that court and jail security protocols and prejudicial material and opinions not admissible at the guilt phase of this trial will be evidenced at the hearing, it is reasonable and appropriate for this Court to close those proceedings and maintain the transcript, evidence, and

[8] *See* Document 3 (Public Safety Assessment Report), on file with the Court.

pleadings commenting thereupon as private in the record. *See generally Kearns-Trib. Corp., Publisher of Salt Lake Trib. v. Lewis*, 685 P.2d 515, 524 (Utah 1984) ("[I]f disclosure of the allegedly prejudicial material is essential to the conduct of the hearing on the motion for closure, the court should first seek a voluntary agreement from the parties who wish to be present that they will not disclose the allegedly prejudicial information until it is disclosed at the trial or the trial has concluded. Absent such an agreement, the court may close the courtroom in order to conduct in camera whatever proceedings cannot be conducted without disclosure of the allegedly prejudicial information." (citation omitted)).

CONCLUSION

Based upon the foregoing, the Court should order relief consistent with Mr. Robinson's request.

DATED this 9th day of October, 2025.

Respectfully submitted,

/s/ Kathryn N. Nester
Kathryn N. Nester

/s/ Michael N. Burt
Michael N. Burt

/s/ Richard G. Novak
Richard G. Novak

Attorneys for Defendant, Tyler James Robinson

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was served via the Court's electronic filing system on the 9th day of October, 2025, which served all attorneys of record.

/s/ Kathryn N. Nester
Kathryn N. Nester

Exhibit A

NO.
A.M. FILED P.M. 304
SEP 25 2024
TRENT TRIPPLE, Clerk
By ANNA MEYER
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

BRYAN C. KOHBERGER,

Defendant.

Ada County Case No. CR01-24-31665

ORDER TEMPORARILY GRANTING DEFENDANT'S MOTION TO WEAR STREET CLOTHING

Before the Court is Defendant's "Motion for Defendant to Wear Street Clothing to All Public Hearings" (Sept. 20, 2024). Having considered the motion and for good cause showing, the Court will TEMPORARILY GRANT the motion for purposes of the hearing noticed for September 26, 2024 only. Civilian clothing must be provided by defense counsel to the Ada County Sheriff's Office in advance of the hearing.[1] At that hearing, a date will be set for a subsequent closed/sealed hearing on Defendant's motion as it pertains to his future appearances.

IT IS SO ORDERED.

DATED this 25th day of September, 2024.

Steven Hippler
District Judge

[1] The Court may direct the Ada County Sheriff's Office to employ other security measures related to Defendant's September 26, 2024 appearance.