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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.	**MOTION TO STRIKE RESPONSE TO DEFENDANT'S MOTION TO APPEAR AT ALL IN-PERSON PROCEEDINGS IN CIVILIAN CLOTHING AND WITHOUT RESTRAINTS** Case No. 251403576 Honorable Tony F. Graf, Jr.

Defendant, Tyler James Robinson, by and through undersigned counsel hereby files this Motion pursuant to Utah Rule of Criminal Procedure 12. The Utah County Sheriff's Department ("Sheriff's Office") has not provided any authority, statute or otherwise, that would afford it standing to file a responsive pleading in this criminal case. Indeed, the Sheriff's Office is a witness in this matter. Further, where the Utah County Attorney's Office ("UCAO") has not

sought to distinguish its own responses from that of the Sheriff's Office, the pleading should be stricken in its entirety.

ARGUMENT

"Only the State and the defendant are actual parties to a criminal action." *State v. Lane*, 2009 UT 35, ¶ 17, 212 P.3d 529. "Pleadings are filed only by parties, and the traditional parties to a criminal proceeding are two—the prosecution and the defendant." *State v. Brown*, 2014 UT 48, ¶ 14, 342 P.3d 239.

In very unique and circumstances authorized by law, a non-party may participate in a criminal proceeding. For example, victims are afforded limited purpose standing in a criminal case to exercise specific rights, such as requesting restitution independently of the prosecution. *See Brown*, 2014 UT 48, ¶ 19. Alleged victims are also afforded standing to assert privacy interests in privileged mental health records under Utah Rule of Evidence 506 when a party requests to subpoena those records. *See F.L. v. Court of Appeals*, 2022 UT 32, ¶ 37, 515 P.3d 421. Unlike the victims in *Brown* or *F.L.*, the Sheriff's Office has not provided this Court with any authority, statutory or otherwise, that would grant it standing to file a pleading in a criminal case. Indeed, having an interest in a criminal case alone does not afford an individual or entity standing to file pleadings or there would be virtually no limitation on permissible filers.

The Court's two interim orders seemingly recognize this issue. In the first order issued on Monday, October 13, 2025, the Court ordered both the Sheriff's Office (i.e. Corrections Division) to file a response by noon on October 17, 2025. *See* Exhibit A.[1] The Court also ordered

[1] The October 13, 2025 Interim Order received by defense counsel does not appear in the Court docket and is not referenced in the October 14, 2025 Interim Order. Defense Counsel interprets these events to mean that this Court intended the Interim Order on file with the case to be controlling.

the State (i.e. the prosecution) to respond by the same date. *Id*. However, on October 14, 2025, the Court modified the order, requiring only *the State* to respond. It appears that the Court recognized that it would be inappropriate and impermissible to order a non-party in a criminal case to respond to a defendant's pleading.

The Sheriff's Office/UCDAO seemingly did not identify this distinction in its filing, arguing summarily that the Sheriff's Department has standing to respond where the Court ordered it to. *See Response*, at 2. This is incorrect.

In addition, the Sheriff's Office should not be treated as a party to this matter because the Sheriff's Office is fundamentally a witness. The Sheriff's Office holds documents relevant to the matter at hand and its employees are potential witnesses at an evidentiary hearing on the issues of protocol, observations of Mr. Robinson while incarcerated, safety issues specific to this case, and any number of other facts this Court must consider when a non-shackling motion is filed. The appropriate time for the Sheriff's Office to provide information would be upon an Order issued by the Court to produce records or other evidence.

Finally, it is concerning to the defense, as it should be to the Court, that the UCAO has conflated its role in this case. The UCAO represents the State of Utah in prosecuting individuals accused of criminal offenses. On the other hand, the Utah County Attorney Civil Division represents the Sheriff's Office. From a conflict standpoint, it makes sense that a different entity represents the Sheriff's Office to protect those particular interests in all aspects, while the prosecutorial division represents and protects the interests attendant to a criminal trial, *including its responsibilities to a criminal defendant*. As stated by our professional rules of conduct, "A prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations to see that the defendant is accorded procedural

justice and that guilt is decided upon the basis of sufficient evidence." Utah R. Prof'l Cond. 3.8, comment 1.

UCAO appears to have abdicated its role as a party in this case to counsel for the Sheriff's Office. *See* Exhibit B (email from Counsel explaining that "the Civil Division, who represents the Sheriff's Office, is going to be responding for the State."). It is not appropriate for UCAO to assume a role as counsel for the Sheriff's Office and allow the Sheriff's Office to assume standing through UCAO's participation as a party in this case. The opposite is likewise true—it is not appropriate for the Sheriff's Office to assume a prosecutorial role in this case, but that is what has occurred.

CONCLUSION

Where the Sheriff's Office has not provided any authority affording it standing to file a pleading in a criminal case, and where UCAO has made no effort to distinguish its own position from that of the Sheriff's Office, the Response should be stricken.

RESPECTFULLY SUBMITTED this 21st day of October, 2025.

/s/ Kathryn N. Nester
Kathryn N. Nester

/s/ Michael N. Burt
Michael N. Burt

/s/ Richard G. Novak
Richard G. Novak

/s/ Staci Visser
Staci Visser
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 21st day of October, 2025, which served all attorneys of record.

/s/ Staci Visser
Staci Visser

Exhibit A

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

STATE OF UTAH, Plaintiff, vs. TYLER JAMES ROBINSON, Defendant.	**INTERIM ORDER** **RE: DEFENDANT'S MOTION TO APPEAR IN CIVILIAN CLOTHING AND WITHOUT RESTRAINTS** Case No. 251403576 Judge Tony F. Graf, Jr.

Defendant Tyler James Robinson moves for an order permitting him to appear in civilian clothing and without physical restraints at all pre-trial hearings. (Dkt. 83). Mr. Robinson is currently scheduled to appear in-person at a hearing on October 30, 2025.

Recognizing that the motion will not be fully briefed and decided prior to the October 30, 2025, hearing, Mr. Robinson requests the following interim relief:

1) An order from this court compelling the Utah County Sheriff Department to disclose all files, records, correspondence, and reports created by or in 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 the motion; and
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.

Mr. Robinson's interim requests are subject to further briefing that is also unlikely to be resolved prior to the October 30, 2025, hearing. To expedite the process, the court orders the following:

1. Mr. Robinson must serve his motion on the Utah County Sheriff's Office, Corrections Division, as soon as possible and no later than October 14, 2025.

2. The Corrections Division is required to file a response by noon on October 17, 2025. If the Corrections Division's response requires the disclosure of inmate custody protocols or other secure information, the Division may file its response as a sealed document.
3. Upon request by the parties, the court may consider a motion to view the response from the Corrections Division in a controlled setting. If the court grants the motion, any view of the document will be for attorneys' eyes only and will be subject to a protective order against further dissemination. The attorneys will not be given a copy of the document absent a showing of good cause.
4. The State must file its response by noon on October 17, 2025.
5. Mr. Robinson will have until noon on October 22, 2025, to file a reply.
6. The briefing must address Mr. Robinson's request to appear in civilian clothing and without physical restraints as well as Mr. Robinson's interim requests for an order compelling documents from the Utah County Sheriff, for an order allowing him temporary relief, and for an order allowing a closed hearing.

This is the order of the court.

Dated this 13th day of October, 2025.

BY THE COURT:

Judge Tony F. Graf, Jr.
District Court Judge

Exhibit B

From:	Chad Grunander
To:	Kathryn Nester
Cc:	Michael Burt; Richard Novak; Staci Visser
Subject:	RE: question
Date:	Tuesday, October 14, 2025 1:24:17 PM

Kathy,

I have no idea why the order changed, we just saw it come in like you. But I will tell you that our Civil Division, who represents the Sheriff's Office, is going to be responding for the State.

Chad

From: Kathryn Nester <kathy@nesterlewis.com>
Sent: Tuesday, October 14, 2025 1:27 PM
To: Chad Grunander <chadgr@UtahCounty.gov>
Cc: <mb@michaelburtlaw.com> <mb@michaelburtlaw.com>; Richard Novak <richard@rgnlaw.com>; Staci Visser <staci@brownbradshaw.com>
Subject: question

Hi Chad,

Any idea why the judge changed the Order and the Sheriff is no longer required to respond? Did y'all ask for more time? Thanks…

Kathy

NESTER LEWIS ATTORNEYS AT LAW

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Attorney

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