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

STATE OF UTAH, Plaintiff, v. TYLER JAMES ROBINSON, Defendant.	MOTION TO SET ASIDE OCTOBER 20, 2025, ORDER GRANTING MOTION TO PRESERVE EVIDENCE Case No. 251403576 Judge Tony F. Graf, Jr.

The State moves the Court to set aside its October 20, 2025, Order granting Defendant's motion to preserve evidence because the Order was entered prematurely without allowing the State an opportunity to respond.

FACTS

1. On October 8, 2025, Defendant filed a Motion to Preserve Evidence. *See* Dkt. #75.

2. Twelve days later, on October 20, 2025, and before the State's deadline to respond had expired, the Court entered an order granting the motion. *See* Dkt. #107.

3. No party filed a request to submit the motion for decision.

ARGUMENT

Parties have fourteen days to respond to a motion. *See* Utah R. Civ. P. 7(d)(1) ("A nonmoving party may file a memorandum opposing the motion with 14 days after the motion is filed."); *see also* Utah R. Civ. P. 81(e) ("These rules of procedure shall also govern in any aspect of criminal proceedings where there is no other applicable statute or rule," absent a conflicting "statutory or constitutional requirement"). Moreover, a written request to submit for decision, or other similar notice to the court and parties, is required before a court may rule on a motion. *See* Utah R. Crim. P. 12(b) ("If no party files a written Request to Submit, or the motion has not otherwise been brought to the attention of the court, the motion will not be considered submitted for decision.").

Because Defendant filed his motion on October 8, 2025, the State has until October 22, 2025, to file its response. *See* Utah R. Civ. P. 7(d)(1). But this Court entered an order granting the motion on October 20, 2025, before the deadline for the State's response had run and before any notice to submit was filed. *See* Dkt. #107.

This Court committed a legal error when it disregarded the provisions of rule 7(d)(1) of the Utah Rules of Civil Procedure, and rule 12(b) of the Utah Rules of Criminal Procedure, and granted Defendant's motion without allowing the State its full time to respond. A district court abuses its discretion when its ruling "contains a legal error." *State v. Torres-Orellana*, 2024 UT 46, ¶ 6, 562 P.3d 706. The Court therefore abused its discretion when it prematurely entered its October 20, 2025, Order. Accordingly, the Court should set aside that Order and enter a new order after considering the State's response and hearing any necessary argument from the parties.

CONCLUSION

For the foregoing reasons, this Court should set aside its Order granting Defendant's motion to preserve evidence.

DATED October 22, 2025.

UTAH COUNTY ATTORNEY'S OFFICE

s/ Christopher D. Ballard
Christopher D. Ballard
Deputy Utah County Attorney

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I certify that on October 22, 2025, I filed the foregoing MOTION TO SET ASIDE OCTOBER 20, 2025, ORDER GRANTING MOTION TO PRESERVE EVIDENCE through the court's electronic filing system, which served a copy to all counsel of record.

s/ Christopher D. Ballard
Christopher D. Ballard