Kathryn N. Nester (UT #13967)
NESTER LEWIS PLLC
40 S 600 E
Salt Lake City, UT 84102
Telephone: 801-535-4375
Email: kathy@nesterlewis.com

Richard G. Novak, *pro hac vice*
RICHARD G. NOVAK, APLC
65 North Raymond Avenue, Suite 320
Pasadena, CA 91103
Telephone: 626-578-1175
Email: richard@rgnlaw.com

Michael N. Burt, *pro hac vice*
LAW OFFICE OF MICHAEL BURT PC
1000 Brannan Street Suite 400
San Francisco, California 94103
Telephone: 415-522-1508
Email: mb@michaelburtlaw.com

Staci Visser (UT #14358)
BROWN, BRADSHAW & MOFFAT
422 N 300 W
Salt Lake City, UT 84103
Telephone: 801-532-5297
Email: staci@brownbradshaw.com

Attorneys for Tyler James Robinson

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 TYLER JAMES ROBINSON'S REPLY IN SUPPORT OF MOTION TO VACATE OR CONTINUE PRELIMINARY HEARING** Case No. 251403576 Hearing: April 17, 2026, 10:00 A.M. Honorable Tony F. Graf, Jr.

Defendant, Tyler James Robinson, by and through his counsel of record, hereby files his reply in support of his *Motion to Vacate or Continue Preliminary Hearing Pending Discovery and to Permit Constitutionally Adequate and Reasonable Time for Preparation and Memorandum in Support* ("*Mtn to Continue*") (Doc. 466) and responding to the State's *Memorandum in Opposition to Defendant's Motion to Continue Preliminary Hearing* ("*Opp*.") (Doc. 476). Considering the arguments and evidentiary support in the *Motion to Vacate or Continue* and this reply, the Court should grant Mr. Robinson's motion.

INTRODUCTION

The United States Constitution, the Utah Constitution, and applicable Utah law compel this Court to continue Mr. Robinson's preliminary hearing until the prosecution complies with its discovery obligations with respect to the forensic evidence it seeks to superficially preview for this Court through the admission of certain expert reports. As explained below, the State's assertion that these reports are admissible before the underlying data upon which they rely has been produced to and meaningfully evaluated by the defense makes a mockery of article I, section 12 of the Utah Constitution. Admission of these reports pursuant to Utah Rule of Evidence 1102(b)(4) under the current conditions clearly violates the Eighth Amendment's requirement of "heightened reliability" in all aspects of a capital proceeding, as well as Mr. Robison's right to due process.

Moreover, the Utah Supreme Court's 2020 decision in *State v. Lopez* is wholly inapplicable here. Mr. Robinson does not seek to obtain additional testimony from a victim, let alone a victim of an alleged sex offense as to whom the defendant could make no showing that her testimony would defeat a showing of probable cause. Even if that test were to apply here, the

State's failure to obtain from its federal "partners" the DNA data and other files upon which most of the expert reports are based makes it impossible for Mr. Robinson to engage in the forensic analysis which must be done before that showing can be made. The State does not dispute that it has not produced those data files, the FBI case file and the other forensic materials requested by Mr. Robinson. It asserts, incorrectly, that the preliminary hearing can proceed, including the receipt into evidence of reports based upon the FBI and ATF analyses, without Mr. Robinson having had *any* opportunity to evaluate the underlying data, the methodologies deployed by federally employed forensic examiners, and the conclusions of those examiners.

Additionally, the State's suggestion that the Court should refrain from considering Mr. Robinson's motion to continue until *after* it has seen the State's evidentiary presentation puts, to quote the State, the cart before the horse. Mr. Robinson has a right to cross-examine witnesses in the preliminary hearing and to present his own witnesses.[1] Expert reports cannot be cross-examined. He also has the right to present evidence. He cannot present evidence related to those expert reports without having had access to and a meaningful period of time to review the discovery upon which those reports are based. Moreover, since, according to Mr. Robinson's experts, a significant period of time is needed to review the data and case files not yet received, possibly as much as six months, the notion of beginning and then suspending the preliminary hearing for that period of time accomplishes nothing other than to place this case in suspended animation mid-hearing.

[1] Unlike the defendant in *Lopez*, Mr. Robinson does not need this Court to issue a subpoena to compel Mr. Robinson's forensic experts to testify. Moreover, this Court does not have the authority to compel the federal forensic examiners to testify, although Mr. Robinson has requested that the FBI and ATF authorize them to do so. While the FBI has engaged in discussions about that request, it has not yet decided whether or not it will do so. The ATF has not responded to the request that its forensic examiners appear to testify. Hence, *Lopez* does not offer a helpful framework here.

The victim representative's assertion of their "right" to a speedy trial does not trump Mr. Robinson's' right to a constitutionally reliable preliminary hearing proceeding. If the State had wanted to take every possible step to avoid the delay its law enforcement partners have created here, it could have presented this case to a grand jury. Its decision not to obtain an Indictment and eliminate the constitutional imperative, in the alternative, of a reliable preliminary hearing that complies with both due process and the Eighth Amendment is what the victim representative should be complaining about, not Mr. Robinson's invocation of his right to discovery of data which underly much of the potentially most important and contested evidence in this case.

The State attempts to wash its hands of the unexplained delays in the FBI's production to the Utah County Attorney's Office of data in their possession since September 2025. The State's argument is an attempt to distance itself from its law enforcement partner, the FBI. This effort at distancing should be rejected by this Court for exactly what it is-an effort to hold Mr. Robinson to answer a capital charge based, in large part, on DNA evidence without first providing him with that evidence.

When this Court announced in December that no party would be prejudiced by the setting of this preliminary hearing date and that it was tentative, the State and the FBI were on notice that if they did not timely comply with their discovery obligations in a manner which permits Mr. Robinson to test the reliability of its forensic evidence, there would be a continuance. The State now seeks to do exactly what it knew then it could not. Notably, the State makes no excuses for the FBI's failure to produce its data and case files, presumably because there are no legitimate excuses. Given the FBI's broad and continuing involvement in this case, as the detailed discovery index lodged with the Court demonstrates, its failure to produce these DNA-related materials shocks the conscience. The State attempts to write it off as if Mr. Robinson

were pursuing the highly dubious strategy of intimidation of the victim in *Lopez*. There is no place here for that analogy.

The Court should grant Mr. Robinson's motion and vacate the preliminary hearing until the missing DNA-related discovery has been produced and Mr. Robinson has had a reasonable and meaningful time to review it. Now that the State has produced to Mr. Robinson its witness and exhibit list, the only other alternative is to preclude the State from presenting any expert reports through Rule 1102(b)(4) as to which Mr. Robinson has not yet received and had a meaningful opportunity to evaluate the underlying data.

This is a moment that calls out for aggressive case management that protects Mr. Robinson's constitutional rights. Mr. Robinson's motion is an effort to protect those rights, and the State's response is to deny the motion or at most to ignore it until later. That response should be swiftly rejected by this Court.

I. Mr. Robinson's Request for Additional Time to Allow Counsel to Render Effective Assistance of Counsel Is Not Unusual and the State's Suggestion That the Preliminary Hearing Proceed Without This Allowance Is a Constructive Denial of Mr. Robinson's Rights Under the Sixth and Eighth Amendments, and the Utah Constitution, Article I, Section 12.

There is nothing unusual about Mr. Robinson's request to continue the preliminary hearing in order for counsel to receive and have the opportunity to review discovery the defense believes in good faith is necessary to provide effective assistance of counsel to Mr. Robinson at the preliminary hearing. Further, it is not unreasonable for this Court to allow Mr. Robinson sufficient time to determine based on that review what evidence he intends to present at the preliminary hearing, whether it be through lay witnesses, other law enforcement witnesses, the forensic experts identified in the reports the State intends to admit, or by Mr. Robinson calling

his own forensic experts to testify.[2] The point is that without the underlying data that Mr. Robinson has diligently requested, a fact the State does not dispute, the defense has insufficient information to make those critical strategic decisions. In so doing, the State is forcing a denial of Mr. Robinson's rights to the effective assistance of counsel. *See* U.S. Const. amend. VI; Utah Const. art. I, § 12; *Menzies v. Galetka*, 2006 UT 81, ¶ 99-100, 150 P.3d 480 (an attorney abdicating his duties results in a forfeiture of the proceeding itself; "a forfeiture due to counsel's deficient representation renders the proceedings inherently unreliable").

As stated in the lodestar for ineffective assistance of counsel claims (and therefore the inverse, guiding trial counsel on the effective assistance of counsel), *Strickland v. Washington*, "[t]he right to counsel plays a crucial role in the adversarial system embodied in the Sixth Amendment, since access to counsel's skill and knowledge is necessary to accord defendants the 'ample opportunity to meet the case of the prosecution' to which they are entitled." 466 U.S. 668, 685 (1984) (quoting *Adams v. United States ex rel. McCann*, 317 U.S. 269, 275 (1942)). The right to counsel embodies much more than mere presence. *See id*. And the "[g]overnment violates the right to effective assistance when it interferes in certain ways with the ability of counsel to make independent decisions about how to conduct the defense." *Id*. at 686.

[2] As this Court correctly observed in December, a continuance of a preliminary hearing in a case as complex as this one is not unusual. To that point, the Court may look to one of the other death penalty cases pending in Utah County, *State v. Jayne*, 241401620. That case was filed on May 14, 2024. A preliminary hearing was initially set in that matter for May of 2025. As in this case, the victims filed a demand for speedy trial prior to the preliminary hearing. Doc. 328. The preliminary hearing was continued three times, once at the request of the State and then twice at the request of the defense, with the first day of evidence occurring in January of 2026 and the second day in March of 2026. The delays appear to be based on the defense's need to retain and call expert witnesses at the preliminary hearing. While the facts and circumstances of Mr. Robinson's case are different, his constitutional rights are not.

This is precisely the type of forced constitutional error the State is promoting here by trying to force a preliminary hearing, even just the "first half" of the preliminary hearing, before providing discovery the defense has explained, in great detail, is essential to rendering effective assistance of counsel to Mr. Robinson at the preliminary hearing. *See Mtn to Continue*, at 12–24. Without this complex biological and statistical information, the defense is not in a position to consult with experts before and, if appropriate, call experts to testify at the preliminary hearing. The expert analysis informs strategy on a fundamental level including guiding defense questioning of the State's witnesses;[3] continuing its good faith and timely efforts to call the FBI and ATF forensic experts as witnesses; and make other decisions about which lay and/or expert witnesses it intends to call.

The State has relied on the forensic evidence in this case since Mr. Robinson's arrest and Mr. Gray's press conference. The forensic evidence, specifically the DNA, is cited in the charging document. It stands to reason that the evidence is important to reliable fact determinations and Mr. Robinson is entitled to fully understand it and make strategic decisions about it before he is bound over for a capital offense for which the State is seeking the penalty of death. That Mr. Robinson is not currently in a position to review and evaluate evidence he does not have and make strategic decisions based on that evaluation is no fault of his.[4] Should this

[3] Mr. Robinson is entitled to question the investigating peace officers the State intends to call "on the totality or details of the investigation of the crime for which the defendant is charged." Utah R. Crim. P. 7B(d)(2). This means that Mr. Robinson is allowed to ask questions of State witnesses about issues and evidence the State may not intend to elicit or admit, including questioning surrounding the forensic evidence the State intends to admit. Full discovery is critical to exercising this right with respect to the forensic evidence.

[4] The State's argument laying blame on the defense for the delay in additional ATF testing of the bullet fragment is not well taken. *See Opp*. at 15–16. The State is well aware that the defense is not seeking to *prevent* the testing, rather, the defense seeks to have the testing either recorded or to have a defense expert present during the testing. The State has refused this accommodation, citing

Court adopt the State's views and force a preliminary hearing before Mr. Robinson's team is allowed to investigate the forensic evidence upon which the State intends to rely, the denial of Mr. Robinson's constitutional rights, including his right to effective assistance of counsel, falls squarely on the State and this Court.

II. *State v. Lopez* Does Not Apply; the Factors in *Layton City v. Longcrier* Provide Meaningful Guidance to the Court on the Issue of the Continuance.

The State's reliance on *State v. Lopez* is wholly misplaced. *See Opp*. at 4–5. This Court should decline to extend the *Lopez* analysis for subpoenaing victim witnesses at a preliminary hearing to Mr. Robinson's motion to vacate or continue the preliminary hearing to complete investigation the defense believes is necessary to render effective assistance of counsel with respect to forensic evidence. Rather, this Court should rely on Utah Rule of Civil Procedure 40(b), applicable to criminal cases through Utah Rule of Civil Procedure 81(f), and the cases interpreting this provision such as *Layton City v. Longcrier*, 943 P.2d 655, 659 (1977). *See Mtn to Continue*, at 5–6.

In *State v. Lopez*, the Utah Supreme Court examined questions regarding the ability of the defendant to subpoena a victim witness at his preliminary hearing, specifically examining the standard governing a victim's motion to quash a defense subpoena under Utah Rule of Criminal Procedure 14(a)(2). 2020 UT 61, ¶ 41, 474 P.3d 949. The *Lopez* Court ultimately concluded that "a subpoena of a victim witness may be quashed as 'unreasonable' in light of governing provisions of our law that speak to the limited purpose of the preliminary hearing, the low burden of proof that governs the bindover decision, and victims' rights under the Utah Constitution." *Id*. The victim rights considered were the right of crime victim "to be treated with

---

federal laboratory policies. The defense requests in this regard are reasonable and *the State controls the evidence*. The State bears all responsibility for the delay in testing.

'fairness, respect, and dignity," and "to be free from harassment and abuse through the criminal process." *Id*. ¶ 50 (quoting Utah Const. art. I, § 28).

Lopez does not apply here for numerous reasons. First, and most obviously, Mr. Robinson has not sought to subpoena a victim under Utah Rule of Criminal Procedure 14, and there is no motion to quash. While Mr. Robinson is seeking cooperation from the relevant federal agencies concerning making their experts available for the preliminary hearing as controlled by the *Touhy* regulations, that is not the source of delay.

Second, the State's effort to apply the holding in *Lopez* to a motion to continue the preliminary hearing is circular. The State presents the illogical proposition that Mr. Robinson must make a showing as to how the missing forensic discovery would impact a probable cause determination without him first having access to those data. To even have this discussion, Mr. Robinson needs the discovery and reasonable opportunity for his experts to review it.

Third, *Lopez* does nothing to inform the ultimate issue—whether Mr. Robinson should *receive a continuance* in order to obtain the very narrow class of discovery the defense has determined is necessary to ensure both effective assistance of counsel at and reliability in the preliminary hearing proceeding.

Finally, the State's efforts to somehow make *Lopez*—a case in no way addressing a motion to continue—more applicable to these circumstances than the case cited to by Mr. Robinson, *Layton City v. Longcrier*—a case examining a motion to continue to obtain counsel—is altogether unavailing. *See Opp*. at 13–14. The issue presented here is the State's insistence that

Mr. Robinson participate at a critical stage of the proceeding without the effective assistance of counsel likening this circumstance more to *Longcrier*, by far.[5]

The *Longcrier* analysis provides guidance to this Court; *Lopez* does not.

III. If Rule 1102(b)(4) Permits the State to Proceed as It Proposes Where the Underlying Data and Data Files in the Possession of the Prosecution Team's Law Enforcement Partners Have Not Been Produced to Mr. Robinson, Then Rule 1102(b)(4) Violates Mr. Robinson's Constitutional Rights to Due Process, to the Effective Assistance of Counsel and to Heightened Reliability in Critical Stages of His Criminal Proceeding Which May Ultimately Result in a Sentence of Death.

Read in conjunction with each other, article I, section 12 and Rule 1102(b)(4) contemplate that expert reports may be imbued with some presumption of reliability, but only if a defendant has been provided with the discovery upon which those reports are based. *See Mtn to Continue*, at 9–12. Otherwise, a defendant's constitutional right to test that evidence through cross-examination or to present his own evidence concerning the data underlying those reports is a hollow legislative promise of constitutional dimension.

The Supreme Court has explained that "[i]n capital proceedings generally, this Court has demanded that factfinding procedures aspire to a heightened standard of reliability." *Ford v. Wainwright*, 477 U.S. 399, 411 (1986). Decisions applying a higher standard of review in capital cases emanate from the Eighth Amendment's Cruel and Unusual Punishment Clause but also flow from the Due Process Clause of the Fifth Amendment. This constitutionally required "heightened reliability" standard is not reserved only for penalty phase proceedings. As the Court explained in *Beck v. Alabama*, "we have invalidated procedural rules that tended to diminish the reliability of

[5] To the extent the State suggests that the right to effective assistance of counsel is somehow different at a preliminary hearing than it is at a trial, that is simply incorrect. Utah Courts, and the United States Supreme Court, "find constitutional error without any showing of prejudice when counsel was either totally absent, or prevented from assisting the accused during a critical stage of the proceeding." *United States v. Cronic*, 466 U.S. 648, 659 n. 25 (1984); *State v. Curry*, 2006 UT App 390, ¶ 8, 147 P.3d 483.

the sentencing determination. The same reasoning must apply to rules that diminish the reliability of the guilt determination." 447 U.S. 625, 638 (1980). The Court has also deployed the Fifth and Eighth Amendments to invalidate death sentences imposed, in part, upon documentary evidence not available to the defendant, *see Gardner v. Fla*., 430 U.S. 349 (1977), and under the Fifth Amendment upon a finding that a sentence of death was imposed after an insufficiently reliable voir dire. *Turner v. Murray*, 476 U.S. 28 (1986).

Since Mr. Robinson is only exposed to a potential sentence of death if this Court makes certain findings in his preliminary hearing based upon evidence that it (and not the State) finds reliable, the State's approach here sanctions a preliminary hearing without any meaningful adversarial testing of a significant portion of the evidence it intends to proffer.[6]

The Utah Supreme Court has explained one of the connections between the Sixth Amendment and reliability is the need for adversarial testing. Referring to the United States Supreme Court, it has explained that "[a]s the Supreme Court has noted, this right is designed to ensure that criminal defendants receive a fair and reliable proceeding before life or liberty are taken." *Menzies v. Galetka*, 2006 UT 81, ¶ 85. It explains further:

> This fairness is "derive[d] from the adversarial nature of our justice system, which is premised on the 'well-tested principle that truth--as well as fairness--is best discovered by powerful statements on both sides of the question.'" *United States v. Collins*, 430 F.3d 1260, 1264 (10th Cir. 2005) (quoting *Penson v. Ohio*, 488 U.S. 75, 84, 109 S. Ct. 346, 102 L. Ed. 2d 300 (1988)); *see also Strickland*,

[6] *See State v. Christensen*, 2015 UT 74, ¶ 25, 365 P.3d 1189 ("A prosecutor who files a criminal information commences adversary litigation. The defendant then has a right to be informed of the charges and to be represented by counsel. *See* U.S. Const. amend. VI; *Coleman v. Alabama*, 399 U.S. 1, 9–10, 90 S.Ct. 1999, 26 L.Ed.2d 387 (1970) (holding that preliminary hearings are a "critical stage" of the criminal process). The defendant must be allowed to present evidence in her defense, to challenge the admissibility of the prosecution's evidence, and to cross-examine the prosecution's witnesses. She also has a right to discovery, and the prosecution must give her all the exculpatory evidence in its possession even if she fails to request it. *Strickler v. Greene*, 527 U.S. 263, 280–81, 119 S.Ct. 1936, 144 L.Ed.2d 286 (1999) (summarizing prosecutors' disclosure duties).").

> 466 U.S. at 688 (recognizing "the law's presumption that counsel will fulfill the role in the adversary process that the [Sixth] Amendment envisions"). The right to the effective assistance of counsel therefore ensures the fairness and reliability of proceedings by requiring counsel to adequately discharge his or her role in the adversary process.

Id.

Clearly, there is no procedural or evidentiary rule, or rush to judgment, or media-driven confusion which justifies denial of these constitutional rights. Under the status quo in this case as to the status of the forensic evidence, admission of the forensic reports at issue and reliance by this Court upon them would violate Mr. Robinson's constitutional rights. Even if the State wants to take that risk, this Court cannot permit it to do so.

IV. The State's Interpretation of Its Constitutional and Rule-Based Discovery Obligations Is Incorrect; the State Is Responsible for Seeking Out and Providing What Is Known and Requested.

The State's argument regarding its obligations under Utah Rule of Criminal Procedure 16, the governing rule anticipated by article I, section 12 of the Utah Constitution, is an effort to relieve it of its burden to produce evidence to which Mr. Robinson is constitutionally entitled, is known to the prosecution, and that has been "presently and reasonably available" to the prosecution either before charges were filed against Mr. Robinson in September of 2025, or very shortly thereafter. The State's efforts to relieve itself of its constitutional obligation to provide the requested discovery create an untenable loophole in Rule 16 and Utah Constitution, article I, section 12 that results in no constitutional protections at all. *See Opp*. at 10–12.

The State makes much of the phrase in Rule 16(a)(2), "to the prosecutor" in the following:

> In every case, all material or information listed under paragraph (a)(1) that is presently and reasonably available to the prosecutor must be disclosed before the preliminary examination, if applicable, or before the defendant enters a plea of guilty or no contest or goes to trial, unless otherwise waived by the defendant.

The prosecution interprets this to mean that the only evidence it need produce to the defense prior to the preliminary hearing is that which its lawyers physically have in their possession. However, this argument ignores the plain language incorporating the (a)(1) *mandatory* disclosures and undermines the State's constitutional obligation to go beyond its own files to those of the entire prosecution team as part of its *ongoing* discovery obligations. *See, e.g., Kyles v. Whitley*, 514 U.S. 419, 437 (1995) ("the individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf in the case, including the police."). As a policy matter, such an interpretation would encourage or at least excuse bad faith decisions by the State to do the opposite—to intentionally avoid seeking information from its law enforcement partners prior to the preliminary hearing so it does not have to disclose it. Mr. Robinson is not suggesting here that there has been bad faith by the State's attorneys with respect to discovery prosecution, but that is not the standard.

Mr. Robinson has never argued, as the State suggests, that discovery must be complete before a preliminary hearing. *Cf. Opp*. at 7. Mr. Robinson does argue that the State must disclose evidence the defense *has requested* since its initial discovery request in October of 2025, that is *known to be in possession of the police-prosecution team*, and to which the defense reasonably believes is *necessary to render effective assistance of counsel* and to ensure Mr. Robinson a constitutionally rigorous and reliable preliminary hearing. *See State v. Thomas*, 1999 UT 2, ¶ 24, 974 P.2d 269 ("In the past, we have stressed the importance that the prosecution has a duty to provide discovery materials to the defense on request . . . Furthermore, rule 3.8(d) of the Rules of Professional Conduct dictates that a prosecutor shall '[m]ake timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense.'" (additional citation omitted)). Whether these disclosures are what the

State would likewise provide prior to calling an expert at trial is irrelevant. The issue presented is what the defense requires to render effective assistance of counsel at a constitutionally reliable preliminary hearing in a capital case and again, the defense has made it abundantly clear that it cannot meet these constitutional obligations, particularly under the strictures of the Eighth Amendment, without the discovery repeatedly requested.

Further, Mr. Robinson's plain language interpretation of Rule 16 and Utah Constitution, article I, section 12, that requires sufficient discovery prior to reliance on "reliable hearsay" does not cause chaos, as the State suggests. This interpretation doesn't mandate the completion of all expert investigation and discovery before a preliminary hearing. It simply puts the onus on the proponent of the evidence to provide the data underlying the evidence *it intends to rely upon* in the preliminary hearing as reliable hearsay to allow adversarial testing.[7] This is not some insurmountable obstacle to preliminary hearings; it supports a basic tenant of all criminal proceedings—that evidence must be reliable to be admissible.

V. The Victim Representative's Invocation of Their Right to a Speedy Trial Does Not Trump Mr. Robinson's Constitutional Rights to Due Process and to Heightened Reliability in Every Phase of This Constitutional Proceeding.

An alleged victim's rights *do not trump* an accused's rights; the accused's rights are paramount. Simply, "the rights afforded to crime victims pursuant to the constitutional amendment and corresponding statutes were drafted so as to not infringe on the constitutional protections belonging to defendants." *State v. Lane*, 2009 UT 35, ¶ 23, 212 P.3d 529. *Also* Utah Code § 77-38-

[7] The overwhelming majority of preliminary hearings in the State of Utah rely on written statements from alleged victims or other witnesses as reliable hearsay. Certainly, the State is required to provide those victim's and witness's statements during the course of investigation prior to using those 1102 statements and indeed, this is the practice. This is no different. Providing the forensic data used to inform a report that is reliable hearsay is the same as providing the underlying investigative materials relevant to a witness's statement.

12(4) ("All of the rights contained in this [victim's rights] chapter shall be construed to conform to the Constitution of the United States"); *Id.* § 77-38-12(6) ("The enumeration of certain rights for crime victims in this chapter shall not be construed to deny or disparage other rights granted by the Utah Constitution or the Legislature . . ."). [8] Respectfully, the victim's right to a speedy disposition of this case cannot supersede Mr. Robinson's plenary of constitutional rights that are at the forefront of this case.

CONCLUSION

The motion should be granted. It has been three weeks since Mr. Robinson filed his motion and almost a month since he informed this Court that he would be so moving. The State has offered no explanation over this period of time as to *why* the missing forensic data and reports have not been produced, nor has it promised *when* those deficiencies will be remedied. In light of the status quo, the course of action that is most efficient is to vacate the preliminary hearing date and then convene a hearing to reschedule it once the missing forensic discovery has been produced to the defense.

[8] Issues for which a victim has the right to object and other victims' rights and protections are explicitly delineated in the Utah Rules and other victims' rights statutes. *See, e.g.*, Utah Code § 77-38-4 (1) (victims have the right *to be present* at important criminal justice hearings; *to be heard* at the important criminal justice hearings as provided by statute; to submit a written statement in any action on appeal related to that crime; upon request to the judge hearing the matter, to be present and heard at the initial appearance relating to release); *State v. Brown*, 2014 UT 48, ¶ 14, 342 P.3d 239 (victims may file a notice of a claim for restitution); Utah R. Evid. 412 (requiring notice to victim of motion seeking admission of sexual activities); Utah R. Crim. P. 14(b) (giving alleged victim opportunity to object *to subpoenas* issued by defendant of private and privileged records). Victims do not have standing as a party in a criminal case upon which to file motions, to seek the reversal of judgments or to act independently of the actual parties to the action. *Cf. Lane*, 2009 UT 35, ¶ 17 (appeal moot because neither State nor Defendant appealed final judgment and victim was not a party with a right to appeal).

RESPECTFULLY SUBMITTED this 10th day of April, 2026.

/s/ Kathryn N. Nester	*/s/Richard G. Novak*
Kathryn N. Nester	Richard G. Novak
/s/ Michael N. Burt	*/s/ Staci Visser*
Michael N. Burt	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 10th day of April, 2026, which served all attorneys of record.

/s/ Staci Visser
Staci Visser