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

STATE OF UTAH, Plaintiff, vs. TYLER JAMES ROBINSON, Defendant.	STATE'S RESPONSE TO DEFENDANT TYLER JAMES ROBINSON'S MOTION *IN LIMINE* TO: 1) CLOSE THOSE PORTIONS OF THE PRELIMINARY HEARING TESTIMONY WHICH WOULD BE INADMISSIBLE AT TRIAL OR WHICH, IF PUBLICLY DISCLOSED PRIOR TO TRIAL, MAY PREJUDICE MR. ROBINSON'S CONSTITUTIONAL RIGHT TO A FAIR TRIAL, AND 2) SEALING PRELIMINARY HEARING EXHIBITS WHICH WOULD NOT BE ADMISSIBLE AT TRIAL OR WHICH, IF PUBLICLY DISCLOSED PRIOR TO TRIAL, MAY PREJUDICE MR. ROBINSON'S CONSTITUTIONAL RIGHT TO A FAIR TRIAL Case No. 251403576 Honorable Tony F. Graf Jr.

The State of Utah, by and through its counsel, Chad E. Grunander, Deputy Utah County Attorney, hereby responds to Defendant's Motion in Limine to Close Preliminary Hearing Testimony and Seal Exhibits ("Motion").

ARGUMENT

This Court should deny Defendant's Motion in part and grant it in part. Specifically, the request to close even portions of the hearing should be denied because: (1) the public and the media possess constitutional rights to access preliminary hearings, subject to limitations not applicable here; and (2) Defendant has failed to comply with the standards and procedures for restricting media coverage of the hearing under UCJA Rule 4-401.01 and this Court's Order. However, the States agrees that consistent with Utah case law, the Court should not permit the public or the press to physically inspect or copy the preliminary hearing exhibits, as such access would not serve the administration of justice.

I. Defendant Has failed to Demonstrate that the Public's and Media's Access to the Preliminary Hearing Poses a Realistic Likelihood of Prejudice to His Right to a Fair Trial.

In *Kearns-Tribune Corp. v. Lewis*, 685 P.2d 515 (Utah 1984), the Utah Supreme Court held that "the public's (including the media's) First Amendment right of access applies to preliminary hearings in criminal cases." *Id.* at 520.[1] The Court also held that both the public and the press have a constitutional right to access preliminary hearings under the Utah Constitution, subject to certain exceptions. *Id.* at 521-22. A trial court can deny access to a preliminary hearing *if* it finds that the publicity would pose a "realistic likelihood of prejudice to a fair trial …." *Id.* at

[1] In *Press-Enterprise Co. v. Superior Court (Press-Enterprise II)*, 478 U.S. 1, 13 (1986), the United States Supreme Court held that "the qualified First Amendment right of access to criminal proceedings applied to preliminary hearings as they are conducted in California."

522 (citing *State v. Williams*, 93 N.J. 63, 459 A.2d 641 (1983)). The burden of proof to close a preliminary hearing is on the party moving for closure. The Court outlined the following two factors that a court must analyze when considering closure:

> (1) the evidence relevant to the nature and extent of the adverse publicity [that may be] generated by the open pretrial proceedings, including any inferences as to its potential for prejudice against a fair trial by an impartial jury, and
>
> (2) the evidence relating to the [availability, feasibility, and efficacy of alternative] means of selecting jurors and conducting the trial to assure the integrity and impartiality of the jury.

Id. at 523 (citation omitted). The Court further explained that "these criteria . . . impose a significant burden on a party who seeks to obtain an exception to the people's right of access to the preliminary hearing in a criminal case." *Id.* Even when the closure standard is satisfied, closure must be "narrowly tailored to serve" the interest of protecting the right to a fair trial. *Id.* at 523 (quoting *Press-Enterprise Co. v. Superior Court ("Press-Enterprise I"*), 464 U.S. 501, 510 (1984).

In *State v. Archuleta*, 857 P.2d 234 (Utah 1993), the Utah Supreme Court reaffirmed the public's and the media's constitutional rights to access preliminary hearings:

> If [the people] are to exercise their sovereign power in an intelligent and responsible manner, [they] must have free speech and a free press and access to operations of government. "Democracy blooms where the public is informed and stagnates where secrecy prevails."

Id. at 238. (quoting *Kearns-Tribune*, 685 P.2d at 521). The Court further explained, "[c]losure of 'significant pretrial proceedings' such as preliminary hearings 'perpetuates general ignorance and cuts off public knowledge necessary to a full understanding of the criminal justice system.'" *Id.* (quoting *Williams*, 459 A.2d at 649).

In the present case, Defendant's Motion is legally deficient because it fails to address the two elements that must be analyzed under *Kearns-Tribune* and thus fails to satisfy the standard

for closing the preliminary hearing (or even portions of the preliminary hearing). First, Defendant has not identified the specific testimony or exhibits he seeks to suppress, and he has not demonstrated how any potential publicity from the hearing would create a "realistic likelihood of prejudice" to his right to a fair trial. *Kearns-Tribune*, 685 P.2d at 523 (quotation simplified).[2] Second, his Motion is silent on the availability, feasibility, or efficacy of alternative measures. Under the controlling legal standard, the burden rests squarely on Defendant to show that closure is the only viable way to protect his right to a fair trial. [3] But he has offered only vague assertions. Because Defendant has failed to make the necessary showing on either analytical factor, his Motion to close even portions of the preliminary hearing should be denied.

II. The State's Reliance on Rule 1102 of the Utah Rules of Evidence to Admit Evidence at the Preliminary Hearing Will Not Jeopardize Defendant's Right to a Fair Trial.

While Defendant has failed to identify his particular concerns with the evidence, the State nonetheless addresses his general arguments. Defendant objects to the State's reliance on Utah Rule of Evidence 1102, which permits the admission of "reliable hearsay" at preliminary hearings. Motion at 5. Defendant argues that because such hearsay is very likely inadmissible at

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[2] The State provided Defendant with a preliminary hearing witness and exhibit list on April 3, 2026, see Motion at 5, and an updated witness and exhibit list on May 6, 2026. See Dkt. 523. Yet Defendant's has not identified "with particularity" the specific portions of the preliminary hearing that he believes should be closed or the particular exhibits he believes should be sealed. See Utah R. Crim. P. 12. It is not enough for the defense to say that it will identify those details at the oral argument on the Motion or provide the details shortlybefore the oral argument. That approach does not give the State, the media, or the Court sufficient time to consider and address the claims.

[3] The Utah Supreme Court has "consistently held, and more recently stressed, that moving parties must strive to direct the reviewing court to the specific relief they are seeking." *Judson v. Wheeler RV Las Vegas, LLC*, 2012 UT 6, ¶ 20 n.9, 270 P.3d 456. "[A] reviewing court is entitled to have the issues clearly defined with pertinent authority cited and is not simply a depository in which the [moving] party may dump the burden of argument and research." *State v. Gomez,* 2002 UT 120, ¶ 20, 63 P.3d 72 (internal quotation marks omitted).

trial, public disclosure of that evidence at the preliminary hearing would jeopardize his right to a fair trial. *Id.* This argument is misplaced. The relevant inquiry is the admissibility of the underlying substantive evidence, not the procedural mechanism used to introduce it, i.e., direct testimony vs. hearsay. In *Press-Enterprise II*, the United States Supreme Court held that preliminary hearings in California are open to the public, provided that the defendant's right to a fair trial is preserved. 478 U.S. at 13. The Court articulated:

> If the interest asserted is the right of the accused to a fair trial, the preliminary hearing shall be closed only if specific findings are made demonstrating that, first, there is a substantial probability that the defendant's right to a fair trial will be prejudiced by publicity that closure would prevent and, second, reasonable alternatives to closure cannot adequately protect the defendant's fair trial rights.

Id. at 14. (additional citations omitted). The Court then discussed the risks of public suppression hearings but reasoned that the risk of exposing the public to evidence that would be inadmissible at trial "does not automatically justify refusing public access to hearings on every motion to suppress." *Id.* at 14-15. (quoting *Gannett Co., Inc. v. DePasquale*, 443 U.S. 368, 378 (1979).

Nothing in the Supreme Court's opinion turned on the procedural mechanism of introducing evidence at a preliminary hearing. Rather, the inquiry focused on the defendant's right to a fair trial and the substance of the evidence itself. And as explained, the Utah Supreme Court's analysis in *Kearns-Tribune* also turned on whether the public's exposure to "the evidence" at open preliminary hearings would create a "realistic likelihood of prejudice to a fair trial," not on the rules governing how that evidence is admitted. *See* 685 P.2d at 523.

Furthermore, if relying on reliable hearsay pursuant to Rule 1102 to admit evidence at a preliminary hearing requires closure of the hearing—solely because the evidence was admitted in the form of hearsay rather than direct testimony, and therefore would be inadmissible at trial—this procedural exception would effectively swallow the rule. Hearsay is a staple of

preliminary hearings. This seemingly absurd conclusion would directly undermine the constitutional presumption that the proceedings are open to the public and the media.

The State intends to introduce testimony and exhibits consisting entirely of evidence that is substantively admissible under the rules of evidence—not only at a preliminary hearing, but at trial. The state plans to introduce much of this evidence at the preliminary hearing in the form of reliable hearsay, as the Utah Constitution and evidentiary rules allow. *See* Utah Const. art. I, § 12; Utah R. Evid. 1102. This evidence includes witnesses' personal observations, photographs of seized physical evidence, witness recordings of the alleged crimes, surveillance video, foundational statements for evidence, statements from law enforcement officers to other officers, autopsy findings, forensic laboratory findings, and Defendant's own admissions. [4] None of this evidence is speculative in nature, inaccurate, or inflammatory, and Defendant has not argued that the substance of this evidence would be inadmissible if introduced directly rather than as reliable hearsay.

Moreover, under article I, § 12 of the Utah Constitution and Rule 7B of the Utah Rules of Criminal Procedure (URCrP), preliminary hearings are strictly limited to probable cause determinations and reliable hearsay is permitted. Further, rule 7B(b) dictates that objections to evidence on the grounds it was unlawfully acquired "are not properly raised at the preliminary examination."[5] Because Defendant cannot litigate the suppression or exclusion of the evidence at

[4] The State previously provided copies of the exhibits to both the defense and the Court for inspection and stands prepared to address each exhibit at the oral arguments on Defendant's Motion. *See* Dkt. 532.

[5] In *Kearns-Tribune*, the Court noted that if the prosecution attempted to use suppressible evidence at a preliminary hearing, "the defendant could seek special measures to avoid its public disclosure." *Id.* at 521. But the Court explained that this risk is "not inevitably involved in the preliminary hearing in Utah" because Utah's preliminary hearings "[do] not include hearings on motions to suppress evidence." *Id.*

this stage of the case, and given Defendant's failure to object to the substance of any of the particular evidence the State will introduce, there is no procedural reason or prejudice-based justification to close even portions of the preliminary hearing from the public's view.

It is also important to recognize the practical effect of admitting evidence under Rule 1102 during a preliminary hearing. For example, while admitting autopsy and forensic reports in lieu of live testimony is permissible, its immediate practical effect remains largely confined to the record. At a preliminary hearing, these documents are merely received by the Court for bind-over purposes. They are typically not published to the courtroom gallery. This practice mitigates any immediate risk of public exposure during the hearing itself. While the reports will be referred to and possibly even partially quoted during testimony and arguments, they are not prominently displayed to the public and the media.

III. Defendant Has Not Overcome the Legal Presumption that Electronic Media Coverage is Permitted at Preliminary Hearings.

Utah Code of Judicial Administration (UCJA) Rule 4-401.01 outlines uniform standards and procedures for electronic media coverage of court proceedings. Subsection (2)(A) creates a presumption that "electronic media coverage by a news reporter shall be permitted in public proceedings where the predominant purpose of the . . . coverage request is journalism or dissemination of news to the public." To overcome this presumption, trial courts must consider some or all of the factors outlined in subsection (2)(B). Moreover, this Court's Order requires any party seeking to restrict electronic media coverage of a proceeding to file a motion under Rule 4-401.01. *See* Dkt. 535 at 8.

The preliminary hearing in this matter is a public proceeding. Consequently, the media has a right to be present and to report on the hearing. As the Utah Supreme Court stated in

Archuletta, "[t]he Press is certainly entitled to attend preliminary hearings in appropriate circumstances and to report all that occurs there." 857 P.2d at 242. Closure of even portions of the hearing would restrict the media's access, thereby implicating UCJA Rule 4-401.01. Here, Defendant not only failed to address the factors outlined in Rule 4-401.01, but he also failed to even reference the rule in his Motion. Defendant has therefore failed to comply with this Court's Order requiring him to file a motion under the rule to restrict media access. Accordingly, Defendant has not met his burden and his Motion to close the hearing or any portions of it should be denied.

IV. The Court Should Restrict the Public and the Media from Physically Inspecting or Copying the Preliminary Hearing Exhibits but Allow the Media to Report on What Occurs at the Hearing.

In *Archuleta*, the press intervened in a murder prosecution to access pretrial documents and preliminary hearing exhibits. *See* 857 P.2d at 234. The media asserted a right to "inspect and copy" all of the exhibits. *Id.* at 241. Some of the exhibits included the autopsy report, the medical examiner's photos of the victim's body, tissue, bone fragments, instruments used to torture and kill the victim, bloody clothing, and fingerprints from the crime scene. *Id.* The Court described the facts of the case and the evidence in question as "horrific," a "torture-slaying," "sensitive and inflammatory evidence or information," "inadmissible and possibly inaccurate information," and "speculative [in] nature." *Id.* at 236, 239-40. While the Court reaffirmed the press's right to attend preliminary hearings and "report all that occurs there," it clarified that the First Amendment does not grant a presumptive right to physically inspect or copy exhibits from those hearings:

> Permitting the public [and the media] to parade into a courtroom to inspect . . . items of evidence that will conceivably be used at a subsequent trial would severely disrupt the efficient performance of justice and create obvious problems

> concerning the court's and the State's mandate to adequately preserve the integrity of the evidence.

Id. at 241-42.

The Court also held that the public and the media are not entitled under the Utah Constitution to inspect preliminary hearing exhibits. The Court explained that "allowing blanket inspection of exhibits that must be preserved for a trial later if the defendant is bound over to district court *will hinder, not further, the interests of the criminal process*." *Id.* at 242 (emphasis added).

While the Court held that the public and the media possess a common law right to inspect and copy preliminary hearing exhibits, it recognized that this right is not absolute and is subject to the "sound discretion of the trial court to be exercised in light of the relevant facts and circumstances of the particular case." *Id.* at 242. The Court further concluded that providing the requested access to the exhibits "would not serve the administration of justice and … could very well jeopardize defendants' right to a fair trial." *Id.*

Here, none of the State's proposed evidence is speculative, inflammatory, or inaccurate, although the videos of the victim being shot are sensitive. And again, there is nothing to suggest that the substance of the evidence is inadmissible. Moreover, the evidence does not involve torture, horrific claims, or other information that would implicate rule 403 of the Utah Rules of Evidence.[6] However, because some of the exhibits are likely to be used at a subsequent trial, the public and the media should be restricted from physically examining or copying them. In light of

[6] "The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence." Utah R. Evid. 403.

the vast amount of pre-trial publicity in this case, allowing the public or the media to physically inspect or copy the exhibits at this stage may "disrupt the efficient performance of justice," hamper judicial interests, or jeopardize Defendant's right to a fair trial. *See id.* at 241-42. However, as explained, the press should be entitled to attend the hearing, observe the proceedings, and report on "all that occurs there," *Id.* at 242, and Defendant has not shown that the media's presence and reporting on this case will jeopardize his right to a fair trial. To address any residual concerns, the Court has authority to restrict the display of the videos of the shooting to the public section of the courtroom.

CONCLUSION

For these reasons, this Court should deny Defendant's Motion to close even portions of the preliminary hearing but grant the Motion in part to restrict the public and the media from physically examining or copying the exhibits.

RESPECTFULLY SUBMITTED this 15th day of May 2026.

/s/ Chad E. Grunander
CHAD E. GRUNANDER
Deputy Utah County Attorney

CERTIFICATE OF DELIVERY

I certify that I caused the State's Response to Defendant's Motion in Limine to Close Preliminary Hearing Testimony and Seal Exhibits to be filed on 05/15/2026 through the Court's e-filing system and it was thereby delivered to defense counsel of record for Defendant. Further, counsel for the media (Jeffrey J. Hunt, David C. Reymann, Carissa A. Uresk, and C. Michael Judd) were provided copies of the State's Objection via email.

/s/ Chad E. Grunander
CHAD E. GRUNANDER
Deputy Utah County Attorney