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

STATE OF UTAH, Plaintiff, vs. TYLER JAMES ROBINSON, Defendant.	**ORDER REGARDING DEFENDANT'S APPLICATION FOR CERTIFICATE FOR ATTENDANCE OF OUT-OF-STATE WITNESS AND STATE'S MOTION TO QUASH SUBPOENA** Case No. 251403576 Judge Tony F. Graf, Jr.

This matter comes before the Court on Defendant Tyler James Robinson's Application for Certificate for Attendance of Out-of-State Witness under Utah Code § 77-21-3. Defendant seeks to compel the live testimony of Lance Twiggs at the upcoming preliminary hearing. The State opposes the application and seeks to quash the subpoena. Having reviewed the briefing, and the pertinent legal authorities, the Court issues the following Decision and Order.

I. INTRODUCTION

Defendant is charged with aggravated murder, felony discharge of a firearm, obstruction of justice, tampering with a witness, and violent offense committed in the presence of a child. Lance Twiggs allegedly resided with and was in a romantic relationship with Defendant at the time of the alleged offenses.

The State does not intend to call Mr. Twiggs to testify live at the preliminary hearing. Instead, the State plans to establish probable cause through reliable hearsay, specifically a video-recorded interview of Mr. Twiggs conducted pursuant to Utah Rule of Evidence 1102. The State will also rely on electronic messages, a handwritten note, and other corroborating evidence. According to

the record before the Court, Mr. Twiggs allegedly made statements to investigators indicating that Defendant confessed to the crimes, concealed the weapon, disposed of clothing, and directed Mr. Twiggs not to contact law enforcement.

Defendant seeks to compel Mr. Twiggs's attendance from Texas to provide live testimony. Defendant asserts that he intends to cross-examine Mr. Twiggs extensively concerning the reliability and credibility of his statements, his immunity agreements with state and federal prosecutors, his state of mind, and the surrounding circumstances of the alleged offenses. When Mr. Twiggs's counsel declined to accept service of a subpoena, Defendant sought this Court's intervention to certify the out-of-state subpoena.

II. LEGAL STANDARD

The preliminary hearing is a fundamental procedural right under Article I, Section 13 of the Utah Constitution, but its purpose is strictly limited to determining whether probable cause exists to bind a defendant over for trial. To prevail, the State must present sufficient evidence to support a reasonable belief that an offense has been committed and that the defendant committed it.

Under Rule 7B of the Utah Rules of Criminal Procedure, the probable cause determination may be based, in whole or in part, on reliable hearsay. While Rule 7B(a) states that a defendant may call witnesses and cross-examine adverse witnesses, the right to subpoena witnesses is not absolute. Under Rule 14(a)(2), the Court may "quash or modify the subpoena if compliance would be unreasonable".

The Utah Supreme Court has repeatedly emphasized that a preliminary hearing is "not a trial on the merits" but a "gateway to the finder of fact". Consequently, the magistrate's role is not to weigh credible but conflicting evidence, nor to eliminate alternative inferences favoring the

defense; such tasks are reserved for the jury at trial. A magistrate may only disregard evidence if it is "wholly lacking and incapable of creating a reasonable inference".

Recently, in *State v. Lopez*, 2020 UT 61, the Utah Supreme Court clarified the intersection between a defendant's right to call witnesses at a preliminary hearing and the court's authority to quash subpoenas. The Court held that a subpoena compelling an alleged victim to testify at a preliminary hearing is unreasonable and should be quashed unless the defendant demonstrates that "the subpoena is necessary to present specific evidence that is reasonably likely to defeat the showing of probable cause".

III. ARGUEMENTS

Defendant's Arguments: Defendant argues that he has a constitutional right to compulsory process under the Sixth Amendment and Article I, Section 12 of the Utah Constitution, as well as a right to call witnesses under Rule 7B. Defendant contends that Mr. Twiggs is a central, highly material witness whose testimony touches on nearly every charge and enhancement. Defense counsel argues that *Lopez* was specifically tailored to protect the constitutional rights of victims (pursuant to the Victims' Rights Amendment), and because Mr. Twiggs is not a victim, *Lopez* does not directly apply. Defendant asserts that he must be permitted to test Mr. Twiggs's credibility, the circumstances of his immunity, and the reliability of his statements through live cross-examination.

State's Arguments: The State opposes the certification and moves to quash the subpoena. The State argues that preliminary hearings are no longer discovery devices, having been strictly limited to probable-cause determinations. Furthermore, the State argues that the Utah Constitution expressly permits the use of reliable hearsay at preliminary hearings, a practice that would be eviscerated if defendants could routinely subpoena the hearsay declarants. The State relies on *State*

v. Schmidt and *State v. Ramirez* to assert that credibility weighing at this stage is extremely limited, rendering Defendant's stated goal of "testing credibility" immaterial to the probable-cause analysis. Thus, the State argues the subpoena is unreasonable under Rule 14(a)(2).

IV. ANALYSIS

1. The State's Prima Facie Probable-Cause Showing

The Court expresses no opinion regarding whether the State ultimately will establish probable cause. The Court addresses only whether the subpoena should be enforced based upon the parties' current proffers. The proffered evidence—including statements that Defendant confessed to the shooting, hid a rifle, changed clothes, and directed Twiggs to withhold information—is directly material to the elements of aggravated murder, obstruction of justice, and witness tampering If this evidence is presented at the hearing and evaluated under the governing preliminary-hearing standard, which requires the Court to view it in the light most favorable to the prosecution, as required by State v. Schmidt, it would constitute evidence from which a magistrate could find probable cause if credited under the standards governing preliminary hearings.

2. Rule 14(a)(2), *Lopez*, and Reasonableness

A central dispute is whether the standard established in *State v. Lopez* applies to Mr. Twiggs, who is a non-victim witness. Defendant correctly argues that *Lopez* arose in the context of a subpoena directed to an alleged victim and that the Utah Supreme Court's analysis was informed in part by the protections afforded under Utah's Victims' Rights Amendment. The Court agrees that *Lopez* cannot be read without attention to that context. Victim status mattered in *Lopez* because the subpoena imposed burdens upon persons whom Utah law independently protects from unnecessary harassment, delay, and retraumatization.

Although *Lopez* arose in the context of a victim subpoena, its discussion of Rule 14(a)(2) provides guidance concerning how courts evaluate reasonableness in light of the limited purpose of a preliminary hearing. The Court need not decide whether *Lopez*'s precise holding extends to all non-victim witnesses. Even assuming it does not, the same Rule 14 reasonableness considerations identified in *Lopez* support denial of the requested certification under the circumstances presented here.

The Lopez Court emphasized several principles that are not dependent upon victim status: (1) a preliminary hearing is not a discovery device; (2) the Utah Constitution permits the State to establish probable cause through reliable hearsay; and (3) the magistrate's role is limited to determining whether probable cause exists, not to resolving ordinary credibility disputes or weighing competing evidence. Those structural principles apply regardless of whether the subpoenaed witness is a victim, an eyewitness, a cooperating witness, or another hearsay declarant.

Accordingly, the Court relies primarily on Rule 14(a)(2) and the limited purpose of a preliminary hearing. The Court references *Lopez* only because its discussion of reasonableness informs that analysis. Whether *Lopez* formally governs subpoenas directed to non-victim witnesses need not be resolved to decide the present motion.

The Court's ruling does not depend upon extending *Lopez* beyond its facts. Rather, *Lopez* is persuasive authority regarding the application of Rule 14(a)(2)'s reasonableness requirement, while the Court's holding rests independently upon Rule 14(a)(2), Rule 7B, and the limited function of a preliminary hearing.

The Court also considers Defendant's constitutional arguments. The Sixth Amendment and Article I, Section 12 of the Utah Constitution protect a defendant's right to compulsory process for obtaining witnesses in his favor. That right remains important at the preliminary-hearing stage but

operates within the procedural framework governing probable-cause determinations. Accordingly, the relevant question is not whether Defendant may compel Mr. Twiggs's testimony at trial, but whether the proposed testimony is necessary to present evidence reasonably likely to defeat probable cause at this preliminary-hearing stage.

The Court recognizes that compulsory process serves interests distinct from confrontation and discovery. Nevertheless, at the preliminary-hearing stage those interests must be evaluated within the procedural framework governing probable-cause determinations and the limitations imposed by Utah law upon that proceeding.

The Court determines that compulsory process does not automatically require live testimony from a hearsay declarant at a preliminary hearing merely because a defendant seeks impeachment. Whether compulsory process requires live testimony depends upon the relationship between the proposed testimony and the probable-cause determination at issue. Under the circumstances presented here, Defendant has not identified testimony reasonably likely to negate probable cause, and the Court therefore concludes that compulsory process does not require certification of the subpoena.

For these reasons, the Court need not determine whether *Lopez* formally governs subpoenas directed to non-victim witnesses. Even assuming it does not, Rule 14(a)(2) reasonableness principles discussed in *Lopez* support the result here. The question remains whether Defendant has demonstrated that the proposed testimony is necessary to present specific evidence reasonably likely to defeat probable cause rather than merely impeach the credibility of the State's evidence.

3. Has Defendant Shown that Live Testimony is Reasonably Likely to Defeat Probable Cause?

Even under the framework discussed in *Lopez*, a subpoena survives a motion to quash only if the defendant demonstrates that the testimony is necessary to present specific evidence that is reasonably likely to defeat the showing of probable cause.

Defendant asserts he wishes to cross-examine Mr. Twiggs on his reliability, credibility, immunity, state of mind, and the surrounding circumstances. Under Utah law, this does not establish a basis to require live testimony at a preliminary hearing. As established in *State v. Ramirez* and *State v. Schmidt*, a magistrate may not weigh credible but conflicting evidence. Even if Defendant's cross-examination successfully exposed inconsistencies in Mr. Twiggs's statements or highlighted his motives to lie due to his immunity agreements, the magistrate is required to draw all reasonable inferences in favor of the State.

Evidence demonstrating bias, motive, immunity benefits, or inconsistent statements may be highly relevant at trial and may provide fertile grounds for cross-examination before the ultimate finder of fact. The Court does not minimize the significance of immunity agreements as potential sources of bias. Rather, under the governing preliminary-hearing standard, such evidence affects the probable-cause determination only if it eliminates the reasonable inference arising from the State's proffered evidence. However, under the limited function of a preliminary hearing, such evidence defeats probable cause only if it would render the State's evidence incapable of supporting a reasonable inference that Defendant committed the charged offenses. Absent such a showing, the Court may not resolve competing credibility determinations or weigh conflicting inferences against the State.

Even assuming Defendant successfully elicited the anticipated impeachment evidence regarding bias, immunity, motive, or inconsistent statements, the Court cannot conclude on the present record that the State's proffer would become wholly lacking or incapable of supporting a reasonable inference of probable cause under the standards governing preliminary hearings.

The Court recognizes that impeachment evidence may, in an appropriate case, undermine probable cause where it demonstrates that the State's evidence is so unreliable, internally inconsistent, or otherwise deficient that no reasonable inference supporting probable cause remains. In such circumstances, impeachment evidence may do more than merely challenge credibility; it may negate the evidentiary foundation necessary to support bindover. Defendant has not made that showing here. The anticipated examination concerns matters that would generate competing credibility inferences rather than eliminate the reasonable inferences supporting the State's showing.

Nothing in this ruling should be understood as creating a categorical prohibition against subpoenas directed to non-victim witnesses at preliminary hearings. The Court concludes only that Defendant's present proffer does not identify testimony reasonably likely to negate probable cause under the circumstances presently before the Court.

The Court also notes that Defendant seeks compulsory process through the interstate witness-certification procedure, which imposes burdens upon a nonresident witness and a sister-state court. While not dispositive, those considerations further inform the Rule 14 reasonableness analysis.

Under the record presently before the Court, Defendant has identified anticipated impeachment and credibility evidence but has not identified specific testimony reasonably likely to negate probable cause. Given the limited purpose of a preliminary hearing and the State's ability to proceed through reliable hearsay, the Court concludes that enforcement of the subpoena would be

unreasonable under Rule 14(a)(2). This ruling rests on Defendant's present proffer and the record currently before the Court. The Court need not decide whether different circumstances, a different evidentiary showing, or a different category of witness would warrant a different result under Rule 14(a)(2).

The Court's ruling is procedural rather than evidentiary. Nothing in this Decision and Order should be construed as a determination regarding the credibility, reliability, weight, or ultimate admissibility of any witness, statement, or item of evidence that may later be presented. Those matters remain for determination under the governing standards applicable at subsequent stages of the proceedings.

V. FINDINGS

1. The preliminary hearing is limited to determining probable cause and is not a discovery device.
2. The State is constitutionally permitted to rely on reliable hearsay to establish probable cause.
3. The record presently before the Court indicates that the proposed examination is directed primarily toward credibility, bias, reliability, and impeachment rather than toward evidence likely to negate probable cause.
4. Applying Rule 14(a)(2)'s reasonableness requirement in light of the limited purpose of a preliminary hearing and the authorities discussed above, Defendant has failed to identify specific anticipated testimony that is reasonably likely to negate probable cause, as distinguished from anticipated impeachment that would merely create competing credibility inferences.
5. Therefore, enforcement of the subpoena is not warranted on the present record

VI. ORDER

Based on the foregoing Analysis and Findings, the Court issues the following Order:

IT IS HEREBY ORDERED that Defendant's Application for Certificate for Attendance of Out-of-State Witness is respectfully **DENIED**, and the State's Motion to Quash the Subpoena is **GRANTED**.

IT IS FURTHER ORDERED that this denial is **WITHOUT PREJUDICE** subject to renewal. Because probable-cause determinations necessarily depend upon the evidence actually presented, this denial is without prejudice. If the State's presentation materially differs from the proffer presently before the Court, or if Defendant can identify specific testimony reasonably likely to negate probable cause, Defendant may renew the request.

Dated this 22nd day of June, 2026.

BY THE COURT:

Judge Tony F. Graf, Jr.
District Court Judge

CERTIFICATE OF NOTIFICATION

I certify that a copy of the attached document was sent to the following people for case 251403576 by the method and on the date specified.

MANUAL EMAIL: KATHRYN NESTER KATHY@NESTERLEWIS.COM

MANUAL EMAIL: STACI VISSER STACI@BROWNBRADSHAW.COM

MANUAL EMAIL: JEFFREY GRAY DCOURT@UTAHCOUNTY.GOV

MANUAL EMAIL: CHAD GRUNANDER CHADGR@UTAHCOUNTY.GOV

MANUAL EMAIL: RYAN MCBRIDE RYANM@UTAHCOUNTY.GOV

MANUAL EMAIL: CHRISTOPHER BALLARD CBALLARD@UTAHCOUNTY.GOV

06/22/2026 /s/ SHIRLEY MOLINA

Date: _____ _____

Signature