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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.	**REPLY IN SUPPORT OF MOTION TO CLASSIFY APPLICATION FOR CERTIFICATE TO SECURE OUT- OF-STATE WITNESS** Case No. 251403576 Honorable Tony F. Graf, Jr.

Defendant, Tyler James Robinson, by and through undersigned counsel hereby files this reply in support of his *Motion to Classify Application for Certificate to Secure Out-Of-State Witness* seeking to classify the transcript of the witnesses' 1102 statement provided in support of the request for an order permitting Mr. Robinson to subpoena an out-of-state subpoena. Dkt 592. Where the State did not object to Mr. Robinson's motion, Mr. Robinson's reply largely responds to the issues raised in the *News Media's Memorandum Opposing Motion to Classify Application*.

I. The State's "Mooting" of the Witness Identity Safety and Security Concern by Publicly Revealing Information Currently Classified as Private Should Not Be Tolerated.

The Court has provided a process, consistent with the Utah Rules of Judicial Administration, to consider the interests of the parties and others impacted by the classification of court records and the information within them. This process was provided to the parties in an order in December of 2025. *See* Dkt 267; *also* Dkt 417 (amending opposition deadline).

As to the present motion to classify, care was taken by the defense to protect the identity and location of an important witness in this highly publicized capital case by privately filing Mr. Robinson's pleading seeking to procure an order from this Court to begin the process of subpoenaing the witness to the preliminary hearing. Such care was taken because the Utah Rules of Judicial Administration note the "not exhaustive" list of interests served by non-public court records include: protecting personal privacy, Utah R. Jud. Admin. 4-202(2)(A); protecting personal and public safety, *id*. 4-202(2)(B); and protecting "non-parties participating in the court process, such as victims, witnesses," *id*. 4-202(2)(E).

Despite the existing classification of the application and its attachments as private, even if ultimately a temporary classification, the State chose to file a public opposition to the application identifying the witness. *See* Dkt 605. In this pleading, the State also described some

portions of the witness's statements that were attached to the defense pleading and, again, classified as private pursuant to Utah Rule of Judicial Administration 4-202.04(3)(A) (when a motion to classify is filed the "court must deny access to the record until the court enters an order"). Effectively, the State subverted the Court's order regarding classification issues, short-cutting due process and removing the ability of this Court to determine, after weighing the interests (in this case, the safety and privacy interests of a witness), if certain information should remain private.

This was entirely inappropriate and such a practice should be discouraged. This Court's orders apply to the parties equally and the State may disagree with a motion to classify filed by the defense, as it has in the past, by filing an objection to the motion. *See* Dkt 267, 417. This Court should admonish the State that such conduct will not be tolerated.

In light of what cannot be undone, Mr. Robinson asks this Court for relief in the alternative, that the defense be permitted to redact the potential location information for the witness from the application and exhibits.

As discussed further herein, Mr. Robinson also maintains his request to classify Exhibit A to counsel's declaration in support of the application (i.e. the 1102 interview transcript) as private and also asks this Court to permit redaction of any descriptions of specific statements made by the witness in the interview in the application and other attachments.

II. This Court Should Maintain the Classification of the 1102 Interview Transcript and References Thereto in the Filing as Private.

The News Media's Opposition to Mr. Robinson's request to classify the 1102 interview transcript seeks to parse the language from *State v. Archuleta*, 857 P.2d 234, 241 (Utah 1993) regarding the physical handling and copying of exhibits to limit the case holding to only what physically happens to an exhibit in the courtroom.

However, the News Media's reading of *Archuleta* is not consistent with the realities of a Utah courtroom in 2026. Notably, *Archuleta* was decided a full twenty years before the Utah Supreme Court Rules Committee adopted Utah Rule of Judicial Administration 4-401.01 in 2013, allowing electronic media coverage in Utah courtrooms. At the time of *Archuleta*, the concept of "copying" an exhibit was a literal, physical process whereby the exhibit would need to be handled by the public or media. Now, such handling is not necessary—all it takes is a live feed or a click of a camera to reproduce an exhibit to millions of individuals worldwide. The "copying" in *Archuleta* occurs in myriad ways in the digital age, as this Court likely recognized when prohibiting electronic devices at the preliminary hearing in its *Minute Entry Order Re: Electronic Devices in Courtroom Prohibited During Preliminary Hearing* (Dkt 632).

Further, the reasoning underlying *Archuleta* is what should inform the Court's decision here, not the literalities promoted by the News Media. As *Archuleta* reasoned:

> The Press is certainly entitled to attend preliminary hearings in appropriate circumstances and to report all that occurs there. However, allowing blanket inspection of exhibits that must be preserved for a later trial if the defendant is bound over to the district court will hinder, not further, the interests of the criminal process.

857 P.2d at 242. Allowing access to one of the State's exhibits will hinder the criminal process.

The News Media's argument that the 1102 interview became "something other than" a preliminary hearing exhibit when it was necessary to file it in support of Mr. Robinson's application to secure an out-of-state subpoena fails for the same reason. The filing of the interview prior to the preliminary hearing does not change what it is (the State's proposed preliminary hearing exhibit) and importantly, it does not change the interests involved—protecting the integrity of the proceedings, preventing the circulation of evidence supporting elements of the offenses at this stage that will categorically not be admissible at trial, and overall jeopardizing Mr. Robinson's

right to a fair trial. *See id*. These interests, paramount in a capital criminal proceeding, overcome the public interest. This is particularly true where the public interest will be satisfied by the testimony and discussion of the exhibit in the preliminary hearing process. *See id*.

Mr. Robinson recognizes that the classification of the 1102 interview transcript may depend, in part, on this Court's determination regarding the publication of the exhibit during the preliminary hearing pursuant to the Court's *Ruling and Order on Defendant's Objections to Electronic Media Requests*. Dkt 664, at 11. As such, Mr. Robinson asks that, at a minimum, the Court reserve ruling on this issue until the publication determination is made when the State offers the interview as an exhibit during the preliminary hearing and the Court has had the opportunity to conduct the individualized assessment it has indicated it intends to do.

CONCLUSION

Based upon the foregoing, Mr. Robinson maintains his request to classify portions of the application and attachments as private.

RESPECTFULLY SUBMITTED this 2nd day of July, 2026.

/s/ Kathryn N. Nester
Kathryn N. Nester

/s/Richard G. Novak
Richard G. Novak

/s/ Michael N. Burt
Michael N. Burt

/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 2nd day of July, 2026, which served all attorneys of record.

Further, undersigned certifies that a copy of this pleading was served by email on the same date upon counsel for the media entities previously identified as *Deseret News, et al.*, see Docket Entry 150, namely:

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And by email upon counsel for the media entities identified as *The Salt Lake Tribune, et al.*, see Docket Entry 164, namely:

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/s/ Staci Visser
Staci Visser