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IN THE UTAH SUPREME COURT

TYLER JAMES ROBINSON, Petitioner/Defendant, vs. STATE OF UTAH, Respondent/Plaintiff.	**MOTION TO EXPEDITE REVIEW OF PETITION FOR PERMISSION TO APPEAL FROM TWO INTERLOCUTORY ORDERS** Case No. 20260695 Trial Court Case No. 251403576

Petitioner, Tyler James Robinson, by and through his counsel of record, hereby files this motion to expedite review of his *Petition for Permission to Appeal from Two Interlocutory Orders*, lodged with the Court concurrent with this filing.

RELIEF SOUGHT: Mr. Robinson respectfully requests that this Court expedite the review of his petition and any order for response issued under Rule 5(f). Given that the impending preliminary examination in the District Court is set to begin on July 6, 2026, there is good cause for this Court to expedite review of the petition. Should this Court order a response, Mr. Robinson requests that this Court shorten the normal timeframe for the State of Utah to file any opposition or concurrence.

FACTUAL GROUNDS: Mr. Robinson is charged in the Fourth District Court, the Honorable Tony F. Graf, Jr. presiding, with Aggravated Murder and six other offenses. Dkt 1. The State of Utah has filed notice of its intention to seek the death penalty against Mr. Robinson if convicted at trial. Dkt 10.

The preliminary examination in this case is scheduled to begin on July 6, 2026. The State intends to call up to six law enforcement witnesses and present approximately forty exhibits utilizing Utah Cons., art. I, § 12 and URE 1102 to make a largely hearsay-based showing. *See* Dkt 523. Mr. Robinson has three forensic witnesses located outside of Utah that have been authorized by the federal government to testify.

In light of Utah's unique preliminary hearing procedures and Mr. Robinson's rights as a capital defendant, he filed a *Motion in Limine to Preclude the Utilization of Article I, Section 12 of the Utah Constitution and Rule 1102 of the Utah Rules of*

Evidence to Sanction the Admissibility of Hearsay Evidence to Establish Probable Cause at the Preliminary Hearing. *See* Dkt 525. Therein, Mr. Robinson placed squarely before the district court the constitutionality of Utah's current preliminary hearing procedures that allow a capital defendant to be bound over on a capital charge, as to which the State has already signaled it intends to pursue a sentence of death, based upon hearsay that the Utah Legislature (as opposed to the court) has deemed "reliable". Mr. Robinson argued in that motion this procedure violates his rights under the Fourth Amendment, the Sixth Amendment, and the Fourteenth Amendment. It also conflicts with the constitutional requirement of heightened reliability in capital proceedings under the Eighth Amendment, and, finally, the separate of powers provision in Utah Const. art. I, § 12 by removing replacing judicial decision making concerning the reliability of evidence with a presumption that shifts the burden of proof to the defendant.

The District Court denied Mr. Robinson's motion on June 22, 2026. The District Court made fundamental errors in the ruling by failing to address all of the constitutional claims and by construing Utah Const. art. I, § 12 and URE 1102 in a manner which is in conflict with the United States Constitution. Dkt 631.These errors will pervade the preliminary hearing, allowing the State to present only hearsay evidence to support the elements of the charged capital offense, other offenses, and alleged enhancements.

To compound the problem created by the ruling described above, the District Court also improperly rejected Mr. Robinson's effort to secure the attendance of an immunized out-of-state witness who is, perhaps, the most critical witness in this entire case, a witness who, importantly, is not a victim. Dkt 593 (PRIVATE). In so doing, the

District Court failed to comply with Utah's *Uniform Act to Secure the Attendance of Witnesses from Without a State in a Criminal Proceeding*, Utah Code § 77-21, *et seq*. with respect to the issue of materiality. *See* Dkt 625 (no mention of materiality). Instead, at the State's urging, it adopted an unworkable standard derived from this Court's decision in *State v. Lopez*, 2020 UT 61, examining Utah Rule of Criminal Procedure 14(a)(2) in the context of a defendant subpoenaing an alleged victim of sex offenses to testify at preliminary hearing. Dkt 625. It is the district court's view that Mr. Robinson may only obtain a certificate to subpoena a material out-of-state witness if he shows in advance that the evidence he intends to elicit from the witness would defeat probable cause.

The combination of these rulings will imminently deprive Mr. Robinson of his constitutional rights to the effective assistance of counsel, compulsory process, due process and equal protection, and protections under the Eighth Amendment at the preliminary hearing that is nearly upon us.

POINTS AND AUTHORITIES: Mr. Robinson seeks expedited review of his *Petition for Permission to Appeal from Two Interlocutory Orders* in light of the fact that the preliminary hearing will begin July 6, 2026. Rule 23C(a) permits a party to "request expedited review on any pending motion, petition, or appeal by filing a motion with the appellate court."

This Court has noted in prior cases that the timing of proceedings may justify the use of appellate procedures that expedite review. For example, in *League of Women Voters v. Utah State Legislature*, this Court found the defendants properly invoked Utah

Rule of Appellate Procedure 19(a) allowing the filing of a petition for extraordinary relief when there is no other speedy or adequate relief, as opposed to filing a petition for interlocutory review under Rule 5, due to time pressures. 2025 UT 39, ¶ 26.[1] This Court found the timing justified a deviation from the normal review process for interlocutory orders in that case. *Id*. ¶ 25.

This case presents a similar circumstance. With the preliminary examination set to begin in approximately ten calendar days and the District Court's decisions impacting the entirety of the preliminary hearing presentation, proceeding with the normal litigation schedule for the petition (review and 14 days for a response if permitted) is "impractical." *See* Utah R. App. P. 23(b)-(c).

CONCLUSION

Mr. Robinson respectfully requests that this Court expedite review of the Petition and order an expedited response consistent with this request.

RESPECTFULLY SUBMITTED this 26th day of June, 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

[1] Given the scope of review requested in the petition, the limited purview of URCivP 65B(d) is not sufficient to address the substantive issues (as opposed to authoritative issues) presented in the petition. For this reason, Mr. Robinson seeks Rule 5 based review.

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 26th day of June, 2026, which served all attorneys of record. A courtesy copy was also sent the Utah Attorney General's Office at: criminalappeals@agutah.gov.

/s/ Staci Visser
Staci Visser