IN THE FOURTH JUDICIAL DISTRICT COURT
UTAH COUNTY - STATE OF UTAH

STATE OF UTAH, *Plaintiff,* vs. TYLER JAMES ROBINSON, *Defendant.*	**RULING AND ORDER ON DEFENDANT'S OPPOSITION TO ELECTRONIC MEDIA COVERAGE REQUEST FOR OCTOBER 23, 2026 HEARING (DKT. 756)** Case No. 251403576 Honorable Tony F. Graf, Jr.

INTRODUCTION

Before the court are the defendant Tyler James Robinson's opposition (Dkt. 758) and reply (Dkt. 766) challenging the October 2, 2026 authorization of Deseret News' October 1 request for electronic media coverage (EMC) (Dkt. 756). The request seeks newspaper still photography of the October 23, 2026 trial-setting hearing at 1 p.m. in Courtroom 4B.

On October 12, 2026, the defendant filed his Opposition (Dkt. 758), requesting that this court deny the EMC request in its entirety. The defendant asserts that electronic media coverage of the upcoming proceeding threatens his constitutional rights to a fair trial, due process of law, and a reliable penalty determination under the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 12 of the Utah Constitution. The defendant further reiterates his continuing procedural objection to the EMC challenge framework established in the court's May 8, 2026 order (Dkt. 535).

On October 14, 2026, the court issued a Notice Re: EMC Coverage of October 23, 2026 Hearing (Dkt. 760), clarifying that the pending EMC Request is limited strictly to still photography by a single pool photographer and does not seek live video streaming or audio recording. On October 16, 2026, a broad coalition of news organizations (News

Media)—including the Deseret News, Deseret Digital Media, KUTV 2News, KSL-TV, KSL NewsRadio, Radio Television Digital News Association, Utah Headliners Chapter of SPJ, The Salt Lake Tribune, Associated Press, Fox13 News, and other media entities—filed a Consolidated Response (Dkt. 763), urging the court to reject the defendant's Opposition and maintain permission for pool still photography under rule 4-401.01 of the Utah Code of Judicial Administration. On October 18, 2026, the defendant filed his Reply (Dkt. 766), expressly maintaining his objection to still photography. No formal State position on this request appears in the October filings before the court.

Having carefully considered the parties' written submissions, the incorporated evidentiary record, the governing administrative rules, and controlling state and federal constitutional authorities, the court OVERRULES the defendant's procedural due process objections, OVERRULES the defendant's substantive objections to photography, and CONFIRMS the existing authorization subject to the requirements identified below. The court also grants Mr. Burt's request to attend remotely and permits remote attendance by Ms. Erika Kirk, the victim's representative, her attorney, or both, as set out in section III and paragraph 7 below.

BACKGROUND

The defendant is charged with aggravated murder, a capital offense under Utah Code section 76-5-202, for which the State of Utah is seeking the death penalty. Because of the gravity of the offense, the capital posture, and the prominent profiles of the individuals involved, this prosecution has attracted extensive, continuous local and national publicity.

To manage media access while safeguarding courtroom decorum and constitutional rights, the court has issued several administrative orders. On May 8, 2026, the court entered an order (Dkt. 535) establishing procedural guidelines for resolving challenges to electronic media requests, including a four-page filing limitation for objections, written submission requirements, and a streamlined adjudication timeline. On June 30, 2026, the court issued a comprehensive Ruling and Order (Dkt. 664) sustaining the untimeliness objection to July 6 still photography, overruling other coverage objections, and reserving exhibit-capture objections for the July preliminary hearing. That ruling does not decide later coverage. *See*

June 30 order at 2, 4, 11–12. Following a closure hearing under rule 4-202.04 of the Utah Code of Judicial Administration, the court's September 1, 2026 order (Dkt. 737) denied the motion to classify unredacted filings (Dkt. 715) and permitted KUTV livestreaming and pooled still photography by The Salt Lake Tribune for the bindover legal argument.

In support of his current Opposition, the defendant incorporates the record developed on his prior Motion to Exclude Still Photographers, TV Cameras and Microphones (Dkts. 305, 399). As summarized in the May 8 and June 30 orders, Dr. Bryan Edelman reported a survey of 200 Utah County residents in which 99% recognized the case and 64% expressed an opinion that the defendant was guilty. Those orders also summarize Dr. Christine Ruva's testimony concerning source primacy, emotional responses to audiovisual material, and the limits of questionnaires in identifying implicit bias. *See* May 8 order at 1–4; June 30 order at 5–6. These summaries identify the source and substance of the incorporated evidence; they do not supply a new assessment of the survey's methodology or establish a numerical probability of prejudice from the October 23 still photographs. The reported percentages concern survey respondents, not actual bias in an empaneled jury.

The incorporated record also describes objections to online prediction and betting markets, which hosted active betting pools. The defendant argues that commercialized online speculation commodifies capital litigation and that broadcasting legal proceedings exacerbates public gambling and jury contamination.

In his Opposition to the pending EMC Request (Dkt. 758), the defendant raises three primary objections: (1) a continuing procedural objection to the May 8, 2026 challenge framework (Dkt. 535), contending that the four-page limit, prohibition on oral argument, and lack of an evidentiary hearing deprive the parties of due process; (2) a substantive objection under rule 4-401.01(2)(B)(i), arguing that electronic media coverage of the October 23 trial-setting hearing threatens his fair trial rights by perpetuating bias, inhibiting candid exchanges between court and counsel regarding scheduling and defense preparation, and exposing defense resource discussions to public cost-based scrutiny; and (3) a participant privacy and safety objection under rule 4-401.01(2)(B)(ii) and (iv).

In response (Dkt. 763), the News Media contends that the defendant's procedural claims are repetitive and unfounded, noting that rule 4-401.01(3)(A) requires only one day's advance notice and no formal hearing. Substantively, the News Media emphasizes that the pending request is strictly for still photography, rendering the defendant's arguments regarding live video broadcasts or recorded audio snippets inapplicable. The News Media asserts that public interest in defense costs funded by taxpayers is legitimate and favors coverage under rule 4-401.01(2)(B)(vii) and (viii), and notes that no witnesses will testify at the scheduling hearing, making witness privacy concerns inapplicable.

In his Reply (Dkt. 766), the defendant expressly objects to still photography, citing *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555 (1980) and *Nixon v. Warner Communications, Inc.*, 435 U.S. 589 (1978) for the proposition that the First Amendment guarantees public access to attend trials, not a constitutional right for media to photograph them. The defendant argues that still photography captures momentary gestures and facial expressions out of context, which commentators analyze for perceived character traits, compounding prejudice without adding substantive news value to an administrative case-management hearing.

LEGAL STANDARD

The public and the press enjoy a presumptive, common-law, and constitutional right of access to criminal court proceedings under the First and Fourteenth Amendments to the United States Constitution and article I, section 15 of the Utah Constitution. *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 572 (1980); *Press-Enter. Co. v. Superior Ct.*, 478 U.S. 1, 7 (1986); *Kearns-Tribune Corp. v. Lewis*, 685 P.2d 515, 521–22 (Utah 1984); *State v. Archuleta*, 857 P.2d 234, 237 (Utah 1993). This presumption of openness ensures public accountability, transparency, and confidence in the administration of justice.

Electronic media coverage in Utah courts is governed by rule 4-401.01 of the Utah Code of Judicial Administration. Rule 4-401.01(2)(A) establishes a rule-based presumption in favor of electronic media coverage for public proceedings:

There is a presumption that electronic media coverage by a news reporter shall be permitted in public proceedings where the predominant purpose of the electronic media coverage request is journalism or dissemination of news to the public. The judge may prohibit or restrict electronic media coverage in those cases only if the judge finds that the reasons for doing so are sufficiently compelling to outweigh the presumption.

When evaluating whether the presumption of electronic media coverage has been overcome, rule 4-401.01(2)(B) directs the court to consider some or all of the following factors: (i) whether there is a reasonable likelihood that electronic media coverage will prejudice the right of the parties to a fair proceeding; (ii) whether there is a reasonable likelihood that coverage will jeopardize the safety or well-being of any individual; (iii) whether there is a reasonable likelihood that coverage will jeopardize the interests or well-being of a minor; (iv) whether there is a reasonable likelihood that coverage will constitute an unwarranted invasion of personal privacy of any person; (v) whether coverage creates adverse effects greater than media coverage without recording; (vi) the adequacy of physical facilities; (vii) the public interest in and newsworthiness of the proceeding; (viii) potentially beneficial effects of allowing public observation through electronic media coverage; and (ix) any other factor affecting the fair administration of justice.

Under rule 4-401.01(2)(C) and (D), any decision to prohibit or restrict coverage must be supported by particularized oral or written findings on the record relating to the specific circumstances of the proceeding rather than generalized views or preferences.

The court's evaluation under rule 4-401.01 operates alongside its affirmative, independent constitutional duty to safeguard the defendant's rights to due process, an impartial jury, effective assistance of counsel, and a reliable penalty determination under the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 12 of the Utah Constitution. *Sheppard v. Maxwell*, 384 U.S. 333, 362–63 (1966); *Chandler v. Florida*, 449 U.S. 560, 574 (1981); *Skilling v. United States*, 561 U.S. 358, 377–80 (2010). As the United States Supreme Court articulated in *Sheppard v. Maxwell*, "[d]ue process requires that the accused receive a trial by an impartial jury free from outside

influences." 384 U.S. at 362. Nevertheless, the presence of cameras is not a per se constitutional violation, and trial courts must protect fair-trial rights and prevent distraction. *Chandler*, 449 U.S. at 574–75. *Allgier* concerned access to a court record and discussed jury-selection safeguards in that setting. *State v. Allgier*, 2011 UT 47, ¶¶ 19–20, 258 P.3d 589. *Arguelles* applied an earlier photography rule and found any Sixth Amendment error harmless on the completed penalty-phase record; it cautioned trial judges to maintain a quiet, nondistracting environment, especially in capital proceedings. *State v. Arguelles*, 2003 UT 1, ¶¶ 99–102, 63 P.3d 731. Neither decision displaces the prospective inquiry required by current rule 4-401.01.

Finally, procedural due process is a flexible concept that calls for such procedural protections as the particular situation demands. *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972).

ANALYSIS

I. Procedural Due Process

The defendant reiterates his continuing objection to the EMC challenge procedure set forth in the court's May 8, 2026 order (Dkt. 535). Specifically, the defendant contends that the four-page limitation for objections, the prohibition on oral argument, the lack of an evidentiary hearing, and the inability to seek immediate appellate review deprive him of a meaningful opportunity to be heard in violation of state and federal due process guarantees. *See* U.S. Const. amend. XIV; Utah Const. art. I, § 7; *Coleman v. Alabama*, 377 U.S. 129, 129–33 (1964); *Chandler v. Florida*, 449 U.S. 560, 577 (1981).

The court concludes that the defendant has not demonstrated a procedural due process deprivation. Due process does not impose rigid, universal evidentiary hearing requirements for every interlocutory administrative ruling. Rather, due process requires "such procedural protections as the particular situation demands." *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972). Under rule 4-401.01(3)(A), a news reporter must file a written request for electronic media coverage at least one business day before a proceeding. The rule contains no requirement for formal evidentiary hearings or oral argument upon every EMC request.

The defendant received notice and filed opposition and reply papers incorporating the prior motion, reply, and April 17 expert evidence. The June 30 order preserved his procedural objection and permitted specific objections for the July hearing. *See* June 30 order at 6, 11–12. Although the standing order bars oral argument, the court has considered the incorporated evidence. The absence of a new proffer does not diminish that evidence or withdraw the preserved objections. *Coleman* involved refusal to receive proof supporting a constitutional claim. 377 U.S. at 132–33. Any identified material proffer, including one previously submitted but not addressed, will be resolved on the record before the affected coverage occurs. If resolution requires additional submissions or a hearing, the court will provide that process. On this record, the procedural objections are OVERRULED. Review available under rule 5 of the Utah Rules of Appellate Procedure remains unaffected.

II. Still Photography

A. Presumption and Balancing

The predominant purpose of Deseret News' request (Dkt. 756) is journalism and news dissemination. The presumption in rule 4-401.01(2)(A) therefore applies. The court applies the standards stated above to the applicable factors and present record.

B. The Scheduling Hearing

The still-photography authorization is limited to the October 23, 2026 hearing's scheduling and case-management agenda: establishing a litigation schedule, setting motion filing deadlines, and coordinating upcoming court appearances. No testimony, exhibits, or substantive merits argument is expected within that agenda. If the agenda changes, the court will reconsider coverage under paragraph 6; the change does not itself expend this authorization. Remote attendance is governed separately by section III and paragraph 7.

The defendant argues under rule 4-401.01(2)(B)(i) that electronic media coverage of this administrative proceeding threatens his fair trial rights because recording and transmission will yield little additional public benefit while compounding pretrial publicity and prejudice. The defendant correctly notes that the First Amendment right of public access guarantees an open courtroom, not an absolute constitutional right for news media

to photograph or broadcast court proceedings. *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 572 (1980); *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 610 (1978).

In addition, under rule 4-401.01(2)(B)(v), the relevant inquiry is whether electronic media coverage will create "adverse effects greater than those caused by media coverage without recording or transmitting images or sound." The October 23 proceeding will remain fully open to the public and print journalists, who are entitled to observe, take notes, and report on all scheduling discussions. That comparison informs factor (v); it does not replace the separate inquiry under factor (i) into the reasonable likelihood of prejudice to a fair proceeding. The court weighs both considerations, together with the other applicable factors, under subsection (2)(A).

C. Still Photography and Defense Cost Reporting

In his Opposition (Dkt. 758), the defendant centers much of his argument on the risks of "electronic recording and transmission," asserting that broadcasting counsel's exchanges regarding scheduling, defense preparation, and resource needs will expose defense costs to public scrutiny and social media criticism, compounding bias against the defendant.

As clarified in the court's October 14, 2026 Notice (Dkt. 760), the pending request is limited strictly to still photography by a single pool photographer (Charles Wing/Deseret News). Still photography involves no audio recording and no live video streaming. Consequently, verbal exchanges among court and counsel regarding scheduling, motion preparation, or defense resources will not be recorded or transmitted by the authorized still camera.

Reporters may describe public scheduling discussions whether or not photographs are permitted. That public interest does not justify exposing privileged preparation. The court recognizes that a camera may affect participants even without audio. Paragraphs 57 and 60 of the Amended Standing Decorum Order (Dkt. 730) (Decorum Order) address decipherable lip images during counsel conferences and nonpublic documents. On this

record, the court concludes that the defense-cost concern does not warrant exclusion; the overall publicity balance is addressed below.

D. Facial Expressions and Prejudice

In his Reply (Dkt. 761), the defendant emphasizes that still photography captures momentary facial expressions and gestures out of context, which media commentators routinely analyze for purported character traits, reinforcing prejudicial perceptions without informing the public about the legal substance of the proceeding.

The incorporated expert materials support the existence of visual-image prejudice and the limits of voir dire; the present submissions also raise the risk of algorithmic repetition. The court considers those risks without treating the prior summaries as a numerical prediction about this hearing. *See* Dkt. 305, Ex. 2, ¶¶ 20–24, 33–36; Dr. Edelman's April 6 Notice of Expert (Dkt. 482) ¶¶ 21–24. Under rule 4-401.01(2)(B)(v), the court weighs the risk of repeated dissemination and out-of-context interpretation of photographs as a potential adverse effect beyond written reporting. The existing restrictions on standing and restraint images do not eliminate that risk. The court does not infer harmlessness from the absence of a study of this precise hearing or assume that voir dire will cure implicit bias. No still-photography-specific experiment or more-probable-than-not showing is required. *Cf. State v. James*, 767 P.2d 549, 552 (Utah 1989) (venue). A scheduling agenda does not prevent a facial expression from being misinterpreted, and the existing exclusions address distinct harms. The court nevertheless gives the agenda weight because no presentation of evidence, witness-credibility assessment, or substantive merits argument is expected to furnish a case-specific context in which an expression might be portrayed as a response to incriminating material. That is a limited inference about this proceeding, not an empirical finding that facial-expression prejudice occurs only during merits proceedings. The court credits the identified mechanisms of harm but concludes that the present record, considered with the limited agenda and the protections addressing other forms of prejudicial imagery, does not establish a reasonable likelihood of prejudice to a fair proceeding under factor (i). Photographs provide a visual record, to which the court gives modest weight under factors (vii) and (viii). Weighing that benefit against the acknowledged adverse effects under factor

(v) and applying the independent fair-trial duty stated above, the court finds no sufficiently compelling reasons under subsection (2)(A) to exclude all still photography. Paragraph 6 governs reconsideration if the agenda or circumstances change.

The photographer's operating requirements and image exclusions are governed by the existing orders identified in numbered paragraphs 4 and 5 below. Decorum Order paragraphs 55–56 apply to video; they do not impose additional still-photography framing or image-editing limits.

E. Safety and Privacy

Under rule 4-401.01(2)(B)(ii), (iv), (vi), and subsection (6), the court must safeguard participant privacy, safety, and courtroom dignity. Although no testimony is expected, safety and privacy interests of attendees remain relevant, and the absence of minor witnesses does not establish the absence of minor observers. Rule 4-401.01(6)(B) and the existing restrictions on minors remain controlling. The family-image exclusions continue the October 2 authorization; their prior entry does not itself satisfy the requirement for particularized reasons. Family status alone does not establish a specific threat or an unwarranted invasion of privacy. Ms. Kirk's participation does not itself waive an exclusion applicable to her. Paragraph 5 addresses the scope of that protection and the findings or tailored modification required before affected coverage occurs. An affected person or the pool representative may request a tailored modification upon a specific showing. Decorum Order ¶¶ 40, 48–50 protect staff and the defendant. The defendant's reliance on *Lauro v. Charles*, 219 F.3d 202, 211–13 (2d Cir. 2000), does not establish that the requested coverage must be excluded. That case addressed a custodial display staged solely for the press.

Considering the identified safety and privacy interests under rule 4-401.01(2)(B)(ii) and (iv), the other applicable factors, and the existing image exclusions and protections, the court concludes that the record does not establish sufficiently compelling reasons under subsection (2)(A) to exclude all still photography at this hearing.

The operative provisions below identify the existing applicable requirements without imposing additional photographer conditions.

III. Remote Participation and Victim Access

The court grants defense counsel Mr. Burt's request to attend the October 23, 2026 hearing remotely. Under rule 17.5(b) of the Utah Rules of Criminal Procedure, the limited scheduling agenda and the absence of anticipated testimony or exhibits support remote participation. The connection must permit him to hear and be heard and to confer confidentially with the defendant and defense team. This permission does not change the manner of appearance for any other participant. *See* rule 17.5(d)(3).

Ms. Erika Kirk is the victim's representative, as designated in the court's December 11, 2025 minute entry. Ms. Kirk, her attorney, or both may attend this hearing remotely. Article I, section 28(1)(b) of the Utah Constitution protects, upon request, a victim's rights to notice, presence, and an opportunity to be heard at important criminal justice hearings, as defined by law, in person or through a lawful representative. Utah Code section 77-38-4(1)(a) and (b) implements the rights of presence and to be heard at the specified hearings. Section 77-38-7(1) also requires consideration of the victim's speedy-resolution interests when setting a trial date. The court will preserve any applicable right of Ms. Kirk to be heard, personally or through her attorney. It need not classify every initial scheduling discussion as an important criminal justice hearing to permit remote access under rule 17.5(b).

Court-provided remote access serves participation in the proceeding and is separate from the media coverage governed by rule 4-401.01. Rule 17.5(a)(1) includes an attorney for a participating victim among participants. Any video connection must use a platform approved under rule 4-401(2) of the Utah Code of Judicial Administration. Paragraph 7 below implements this access; the existing still-photography requirements remain controlling.

CONCLUSION AND ORDER

Based upon the foregoing particularized findings, the procedural record, and the provisions of rule 4-401.01 of the Utah Code of Judicial Administration, **IT IS HEREBY ORDERED** that:

1. The defendant's procedural due process objections to the May 8, 2026 EMC challenge procedure (Dkt. 535) are **OVERRULED** as applied to resolution of this request on the present record. This disposition does not waive the preserved objection, resolve the adequacy of procedures for a later request, or foreclose additional process required to resolve a material proffer under Analysis I before the affected coverage occurs.
2. The October 2, 2026 order granting Deseret News' Request (Dkt. 756) is **CONFIRMED** for the October 23, 2026 trial-setting hearing, subject to the existing requirements identified below. No media video or audio coverage was requested or is authorized by this order. Court-provided remote access under paragraph 7 is separately authorized.
3. Pool still coverage shall be provided by Charles Wing or another approved Deseret News pool photographer under Amended Standing Decorum Order paragraphs 39 and 41–44 and rule 4-401.01(4).
4. The photographer shall comply with the Amended Standing Decorum Order effective August 28, 2026, as applicable to still photography, including paragraphs 40, 48–51, 57, and 60. Placement is subject to approval under paragraph 40, and the photographer must remain seated behind the bar as required by paragraph 40(b).
5. The existing image exclusions in the October 2, 2026 authorization, including its family-image exclusions, remain in effect. Ms. Kirk's remote participation does not waive an exclusion applicable to her, including when her image appears on a courtroom display. Before affected coverage occurs, the court shall identify the supporting record and make the particularized findings required by rule 4-401.01(2)(C)–(D) for any continued family-image restriction beyond the rule's own limitations, or enter a tailored modification. The Amended Standing Decorum Order continues to govern still photography as applicable.
6. Violations remain subject to the Amended Standing Decorum Order and rule 4-401.01(5); any contempt sanction remains subject to applicable law and required process. The still-photography authorization applies only to the October 23 scheduling hearing. Specific objections may be raised before or during the hearing,

with protection considered before capture where practicable. If the agenda changes or a protected interest is implicated, the court will consider appropriate coverage under rule 4-401.01(2)(B). Any suspension or termination must satisfy the particularized-findings requirements of rule 4-401.01(2)(C)–(D) and (3)(B).

7. Remote attendance at the October 23, 2026 hearing is authorized as follows:
   a. Mr. Burt's request is GRANTED. He must be able to hear and be heard and to confer confidentially with the defendant and defense team.
   b. Ms. Erika Kirk, the victim's representative, her attorney, or both may attend remotely. Ms. Kirk may be heard personally or through her attorney to the extent provided by applicable law and relevant to the matter before the court.
   c. Before the hearing, court staff shall provide connection information to Mr. Burt, Ms. Kirk, and her participating attorney. Any video connection shall use a Judicial Council-approved platform under rule 4-401(2).
   d. Before deciding a matter requiring Mr. Burt's participation or implicating an applicable victim's right to be heard, the court shall address any reported connection failure on the record and determine an appropriate means of proceeding.
   e. This remote-access authorization does not permit media broadcasting or recording. All other participants' manner of appearance remains unchanged.

IT IS SO ORDERED.

DATED October 20, 2026.

ORIGINAL IF IN RED INK
STATE OF UTAH
FOURTH DIST. COURT • UTAH COUNTY

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.

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10/20/2026 /s/ JAUZLYN TEMPLIN

Date: _____ _____

Signature