

IN THE SUPERIOR COURT OF GLYNN COUNTY
STATE OF GEORGIA

STATE OF GEORGIA)
)
 v.) Warrant Nos. 20-00287; 20-00288
)
 WILLIAM RODERICK BRYAN,)
)
 Defendant.)

**MOTION TO INTERVENE FOR LIMITED PURPOSE OF RESPONDING TO
DEFENDANT'S MOTION FOR RELIEF FROM PREJUDICIAL AND
INFLAMMATORY STATEMENTS MADE BY INDIVIDUALS PURPORTING TO
SPEAK FOR THE VICTIM AND HIS FAMILY AND FOR OTHER RELIEF**

COMES NOW, WSB-TV, The Atlanta Journal-Constitution, and Action News Jax and hereby move to intervene for the limited purpose of responding to Defendant's Motion for Relief from Prejudicial and Inflammatory Statements Made by Individuals Purporting to Speak for the Victim and his Family and For Other Relief.

Pursuant to Uniform Superior Court Rule 6.1, a memorandum in support of this motion is submitted herewith.

FILED
GLYNN COUNTY CLERK'S OFFICE
2020 JUL 16 A 11:09
Roxelle M. Adams
CLERK SUPERIOR COURT

Dated this the 13th day of July, 2020

Respectfully submitted,

FOR: KILPATRICK TOWNSEND & STOCKTON LLP



Thomas M. Clyde

Georgia State Bar No.: 170955
tclyde@kilpatricktownsend.com

Lesli N. Gaither

Georgia State Bar No.: 621501
lgaither@kilpatricktownsend.com
Suite 2800, 1100 Peachtree Street, N.E.
Atlanta, Georgia 30309
Phone: (404) 815-6500

Rachel E. Fugate,

pro hac vice application forthcoming
rfugate@shullmanfugate.com
SHULLMAN FUGATE PLLC
Florida Bar No. 0144029
100 South Ashley Drive, Suite 600
Tampa, FL 33602
Phone: (844) 554-1354

Attorneys for Interveners

2020 JUL 16 A 11:10

Ronelle M. Adams
CLERK SUPERIOR COURT

IN THE SUPERIOR COURT OF GLYNN COUNTY
STATE OF GEORGIA

STATE OF GEORGIA)	
)	
v.)	Warrant Nos. 20-00287; 20-00288
)	
WILLIAM RODERICK BRYAN,)	
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Defendant.)	
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**MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE
FOR LIMITED PURPOSE OF RESPONDING TO DEFENDANT’S MOTION FOR
RELIEF FROM PREJUDICIAL AND INFLAMMATORY STATEMENTS MADE BY
INDIVIDUALS PURPORTING TO SPEAK FOR THE VICTIM AND HIS FAMILY
AND FOR OTHER RELIEF**

WSB-TV, The Atlanta Journal-Constitution, and Action News Jax hereby respectfully submit this memorandum of law in support of their motion to intervene for the limited purpose of responding to Defendant’s Motion for Relief From Prejudicial and Inflammatory Statements Made By Individuals Purporting to Speak for the Victim and His Family and For Other Relief (the “Motion”).

INTRODUCTION

Defendant William “Roddie” Bryan is being prosecuted for felony murder and criminal intent to commit false imprisonment in connection with the death of Ahmaud Arbery. Given the nature of the allegations, it is undeniably, and unsurprisingly, a matter of great public interest.

On May 27, 2020, Defendant filed his Motion alleging that “individuals claiming to either speak for Ahmaud Arbery or his family, or to represent the family of Ahmaud Arbery, continue to make malicious, prejudicial, and inflammatory statements to the national medial about Roddie Bryan” and that information and facts have been “leaked to the news media.” Motion at 1-2. In connection therewith, Defendant asks this Court to treat these unidentified

individuals as parties, make their statements attributable to the State, require the District Attorney to force them to sign non-disclosure agreements while discussing their contact with the media, and maintain a log documenting their meetings.

Such an order would constitute an impermissible gag order under well-established constitutional law. The Court should deny the Motion.

ARGUMENT

I. GEORGIA LAW IS CLEAR THAT THE MEDIA HAS A RIGHT TO INTERVENE WHERE ACCESS TO GOVERNMENTAL AND JUDICIAL PROCEEDINGS AND RECORDS ARE AT ISSUE.

The right of the media to intervene in legal actions where, as here, their newsgathering rights could be burdened by court orders is well established. See, e.g., WXIA-TV v. State, 303 Ga. 428, 433 (2018) (finding media has standing to intervene and challenge gag order entered in criminal proceeding); R.W. Page Corp. v. Lumpkin, 249 Ga. 576 (1982) (recognizing right of the press to challenge order excluding the public and press from criminal proceedings and instituting procedure where the news media must be provided notice and an opportunity to be heard prior to consideration of motions seeking restrictions on access to court proceedings); Atlanta Journal-Constitution v. State, No. A03A0695 (January 29, 2003) (Georgia Court of Appeals reversing its initial dismissal of an appeal by media intervenors challenging a gag order and finding that The Atlanta Journal-Constitution and WSB-TV had standing to challenge a gag order entered against trial participants and witnesses in House of Prayer child abuse case: “they in fact have standing under both Georgia law and persuasive federal precedent”) (citing Page, *supra*).

II. THE GUARANTEES OF PUBLIC ACCESS TO THE JUDICIAL SYSTEM IS A CENTRAL FEATURE OF THE FIRST AMENDMENT AND OF THE GEORGIA CONSTITUTION, INCLUDING WITH RESPECT TO LIMITATIONS IMPOSED BY ORDERS RESTRICTING SPEECH.

Operating the judicial branch of government in an open and public manner is fundamental to our system of justice as a matter of both federal and state constitutional law.

The United States Supreme Court has repeatedly recognized that public access to the judicial system is not only deeply ingrained in the history of our system, but is an “indispensable attribute” of our judicial system protected by the First Amendment to the United States Constitution. See, e.g., Richmond Newspapers, Inc. v. Virginia, 448 U.S. 555, 573 (1980) (“From this unbroken, uncontradicted history, supported by reasons as valid today as in centuries past, we are bound to conclude that a presumption of openness inheres in the very nature of a criminal trial under our system of justice.”). As the Court recognized in Richmond Newspapers, public scrutiny of the court system is essential to its institutional well-being for numerous reasons, including because it is vital to obtaining the public’s trust. “People in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing.” 448 U.S. at 572.

In addition to the protections afforded by the First Amendment, the Georgia Supreme Court has held that the Georgia Constitution independently requires our judicial system to operate in an open and public manner.

This court has sought to open the doors of Georgia’s courtrooms to the public and to attract public interest in all courtroom proceedings because it is believed that open courtrooms are a *sine qua non* of an effective and respected judicial system which, in turn, is one of the principal cornerstones of a free society.

R.W. Page Corp. v. Lumpkin, 249 Ga 576 (1982). Indeed, Page makes clear that Georgia law is “more protective of the concept of open courtrooms than federal law.” 249 Ga. at 578.

It is also well-established that protection of an open court system is not limited to allowing the public and press inside the physical confines of the courthouse, but also encompasses a freedom to discuss, report, and comment on court proceedings.

The First Amendment, in conjunction with the Fourteenth, prohibits government from abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances. These expressly guaranteed freedoms share a common core purpose of assuring freedom of communication on matters relating to the functioning of government. Plainly, it would be difficult to single out any aspect of government of higher concern and importance to the people than the manner in which criminal trials are conducted.

Richmond Newspapers, 448 U.S. at 575. Indeed, the United States Supreme Court has repeatedly demonstrated a special solicitude for speech about the court system. See, e.g., Cox Broadcasting Corp. v. Cohn, 420 U.S. 469, 492 (1975) (“With respect to judicial proceedings in particular, the functioning of the press serves to guarantee the fairness of trials and to bring to bear the effects of public scrutiny upon the administration of justice); In re Oliver, 333 U.S. 257, 270 (1948) (“The knowledge that every criminal trial is subject to contemporaneous review in the forum of public opinion is an effective restraint on the possible abuse of judicial power.”).

It is for this reason that the law requires that a demanding standard be met before a trial court enters an order that restricts the ability of the media to report on court proceedings, either directly by expressly enjoining publication of certain information, or indirectly by restricting the right of persons with knowledge about the case from speaking to the news media. See WXIA-TV v. State, 303 Ga. 428 (2018) (reversing gag order restricting speech of attorneys and certain law enforcement personnel). In Nebraska Press Ass’n. v. Stuart, 427 U.S. 539, 558 (1976), the United States Supreme Court held that an order directly restraining the news media from

reporting certain evidence in a criminal case was a form of “prior restraint,” which carried a “heavy presumption” against its constitutional validity. After discussing a series of prior restraint cases beginning with Near v. Minnesota, 283 U.S. 697 (1931), the Court concluded: “The thread running through all these cases is that prior restraints on speech and publication are the most serious and least tolerable infringement on First Amendment rights.” Nebraska Press, 427 U.S. at 559. The Court emphasized that the First Amendment provides especially forceful protection to the rights of individuals and the press to speak and publish about criminal proceedings, “whether the crime in question is a single isolated act or a pattern of criminal conduct.” Id. at 559. As the Court noted, “A responsible press has always been regarded as the handmaiden of effective judicial administration, especially in the criminal field....The press does not simply publish information about trials but guards against the miscarriage of justice by subjecting the police, prosecutors, and judicial processes to extensive public criticism.” Id. at 559-60 (quoting Sheppard v. Maxwell, 384 U.S. 333, 350 (1966)). Moreover, the Court added, if the press is to fulfill its function as the “handmaiden of judicial administration,” coverage of court proceedings must be timely, and not – as occurs with gag orders – after “[d]elays imposed by government authority.” Id. at 560.

Even if an order does not directly restrain the press and public, but instead restrains only “trial participants,” it nonetheless faces substantial constitutional barriers. In WXIA v. State, 303 Ga. 428 (2018) the Georgia Supreme Court reversed a gag order entered in a high profile murder prosecution involving the death of Tara Grinstead. While making clear that a “gag order is a prior restraint of those to whom it applies” that is “presumptively unconstitutional,” id. at 434, the Court found that the gag order at issue did not even meet the lesser, “reasonable

likelihood of prejudice” standard to the extent it indirectly burdened the news media’s First Amendment rights. Id. at 439.

A reasonable likelihood of prejudice sufficient to justify a gag order cannot simply be inferred from the mere fact that there has been significant media interest in a case. After all, “pretrial publicity—even pervasive, adverse publicity—does not inevitably lead to an unfair trial,” Nebraska Press, 427 U.S. at 554 (IV), 96 S.Ct. 2791, and “[i]n the overwhelming majority of criminal trials, pretrial publicity presents few unmanageable threats to [the right to trial by an impartial jury].” Id. at 551 (IV), 96 S.Ct. 2791. See also Rockdale Citizen Publishing Co. v. State of Ga., 266 Ga. 579, 581, 468 S.E.2d 764 (1996).

WXIA, 303 Ga. at 439.

Similarly, in Atlanta Journal-Constitution v. State, 266 Ga. App. 168, 170 (2004), the Georgia Court of Appeals reversed a gag order entered in a high profile case involving the prosecution the Reverend Arthur Allen of the House of Prayer Church and emphasized that “[a] conclusory representation that publicity might hamper a defendant’s right to a fair trial is insufficient to overcome the protections of the First Amendment.” Atlanta Journal-Constitution v. State, 266 Ga. App. 168, 170 (2004) (quoting United States v. Noriega, 917 F.2d 1543, 1549 (11th Cir.)). In Atlanta Journal-Constitution, the Court of Appeals explained that a narrowly drawn gag order confined to “trial participants” could potentially be entered on a finding that extrajudicial statements “*will* have a *substantial* likelihood of materially prejudicing the trial,” but to meet this standard the following thresholds would have to be met:

- 1) There would need to be “specific findings of fact based on evidence of record” regarding the possible impact of extrajudicial statements upon the forthcoming trial. Id. at 170.
- 2) The order would have to permit non-prejudicial statements of the type articulated in Rules 3.6 and 3.8 of the Georgia Rules of Professional Conduct. Id.

- 3) Any restrictions imposed on “nonlawyers” should be entered with particular care because there is significant risk that such an order will be “overbroad.” See id. (questioning “whether the preindictment publicity justified restraining the non lawyers, i.e. the parties, experts, witnesses, and investigators”).

The gag orders struck down in WXIA-TV and Atlanta Journal-Constitution involved criminal cases of significant public interest and entered in the midst of enormous local and national publicity. Defendant has not and cannot offer any evidentiary basis to support the extraordinary relief he seeks here. Indeed, trial courts throughout Georgia have consistently refused to impose gag orders in even the most controversial cases, including in the prosecutions of Brian Nichols and Justin Ross Harris. See, e.g., State v. Harris, Case No. 14-9-3124-28 (Sup. Ct. Cobb County April 7, 2015), attached hereto as Exhibit A. Instead, where necessary, courts have reminded trial participants of their obligations (and their rights) pursuant to the State Bar of Georgia Rules of Professional Conduct with respect to extra-judicial statements. See, e.g. State v. Hill, Case No. 2012CR00116-5 (Sup. Ct. of Clayton County March 12, 2012) (refusing to impose gag order but reminding attorneys of their professional responsibilities), attached hereto as Exhibit B; State v. Sneiderman, No. 12CR4394-5 (Sup. Ct. of DeKalb County Aug. 22, 2012 (entering order directing compliance with Rules of Professional Conduct), attached hereto as Exhibit C.

III. DEFENDANT’S MOTION CONTAINS NO EVIDENCE OF PREJUDICE NECESSARY TO SUPPORT THE REQUESTED RESTRICTIONS.

It is well-established that publicity alone is not a basis for a trial court to take the extraordinary step of trying to stifle informed public discussion or reporting on a case. See, e.g., Rockdale Citizen Publ’g Co. v. State, 266 Ga. 579, 581 (1996) (“Pretrial publicity – even pervasive, adverse publicity – does not inevitably lead to an unfair trial.”) (quoting Nebraska

Press Assn. v. Stuart, 427 U.S. 539, 554, 96 S. Ct. 2791, 2800 (1976)). Indeed, the Georgia Supreme Court has recognized that the vast majority of cases do not garner public attention, so public understanding of and faith in the court system depends on the system's continued openness in those proceedings that do capture public interest. See R.W. Page v. Lumpkin, 249 Ga. 576, 576 n.1. (1982). As the Court has repeatedly emphasized, the issue a trial court must consider with respect to a defendant's rights to a fair trial is not publicity, but prejudice. See generally, WXIA-TV, 303 Ga. at 439.

In this case, the Motion does not offer the Court any actual evidence of prejudice. As a fundamental matter, speculation of future prejudice is simply insufficient under the law. See, e.g., In re Atlanta Journal-Constitution, 271 Ga. 436, 438 (1999) (“[I]t is not sufficient for the trial court to forego making findings of fact and simply state that the public's interest in access to court records is clearly outweighed by potential harm to the parties' privacy”); Rockdale Citizen Pub. Co., 266 Ga. at 580 (“Assumptions and speculation [about the impact of future media coverage on a fair trial] can never justify the infringement of First Amendment rights which the closure of criminal proceedings creates.”); see also Miller, 275 Ga. at 735 (“Even in cases of widespread pretrial publicity, situations where such publicity has rendered a trial setting inherently prejudicial are extremely rare... we are inclined to agree with those prospective jurors who reported during voir dire that the pretrial publicity they had seen tended to make them feel empathy for both appellant and [the victim].”).

For this reason alone, the Court should reject Defendant's Motion.

IV. THE RELIEF REQUESTED IS OVERLY BROAD AND SUBJECT TO MISINTERPRETATION.

Courts have repeatedly recognized that the terms of a restrictive order must themselves survive constitutional scrutiny. See, e.g., Nebraska Press Ass'n v. Stuart, 427 U.S. 539, 562

(1976) (“The precise terms of the restraining order are also important.”). Accordingly, courts have vacated orders that sweep too broadly in silencing speech. See, e.g., Atlanta Journal-Constitution, 266 Ga. App. at 170 (finding proposed gag order overbroad as it restricted more than what was allowed by the Rules of Professional Conduct); CBS Inc. v. Young, 522 F.2d 234, 239-40 (6th Cir. 1975) (invalidating as overly broad order that by “its literal terms [permitted] no discussions whatever about the case . . . whether prejudicial or innocuous, whether subjective or objective, whether reportorial or interpretive”). Similarly, courts have rejected orders that fail to precisely define the persons to whom they apply. See, e.g., News-Journal Corp. v. Foxman, 539 So.2d 1227, 1228 (Fla. Dist. Ct. App. 1990) (gag order imposed on “all person[s] affiliated” with trial stricken for vagueness); State, ex rel. The Cincinnati Post v. Court of Common Pleas, 570 N.E.2d 1101, 1104 (Ohio Sup. Ct. 1991) (order prohibiting “everyone” from contacting jurors about deliberations invalid as overly broad).

Here, the Motion, rather than being narrowly tailored, is overbroad on its face. It covers potentially countless unspecified individuals who may be connected to Mr. Arbery or his family. It takes the unprecedented step of asking the Court to make their statements attributable to the State, regardless of what is said or in what manner, in a way that will undoubtedly require the District Attorney to ask them to restrict themselves. It lasts “until the conclusion of criminal proceedings in this matter,” so presumably through trial and any and all appeals. The breadth of the request is staggering.

As noted above, Georgia courts often address the concerns raised by Defendant by reminding trial counsel of their obligations under the Georgia Rules of Professional Conduct. Rules 3.6 and 3.8 address pretrial publicity and attorney communications. Rule 3.6 specifically governs trial publicity and states:

A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that a person would reasonably believe to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.... Notwithstanding paragraph (a), a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the lawyer's client. A statement made pursuant to this paragraph shall be limited to such information as is necessary to mitigate the recent adverse publicity.

Rule 3.6(a) (c); see also Rule 3.8 (responsibilities of a prosecutor include "except for statements that are necessary to inform the public of the nature and extent of the prosecutor's action and that serve a legitimate law enforcement purpose, refrain[ing] from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused.").

As explained in the comments to Rule 3.6, "there are vital social interests served by the free dissemination of information about events having legal consequences and about legal proceedings themselves. The public has a right to know about threats to its safety and measures aimed at assuring its security. It also has a legitimate interest in the conduct of judicial proceedings, particularly in matters of general public concern. Furthermore, the subject matter of legal proceedings is often of direct significance in debate and deliberation over questions of public policy." Rule 3.6, cmt. 1.

An order enforcing the rules would remind the trial participants of their obligations without encroaching on the First Amendment rights of those seeking to cover the trial and related investigations.

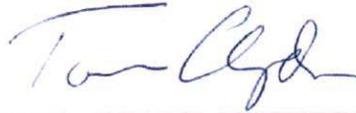
CONCLUSION

For these reasons, Intervenor respectfully request that Defendant's Motion be denied.

Dated this the 13th day of July, 2020

Respectfully submitted,

FOR: KILPATRICK TOWNSEND & STOCKTON LLP



Thomas M. Clyde

Georgia State Bar No.: 170955

tclyde@kilpatricktownsend.com

Lesli N. Gaither

Georgia State Bar No.: 621501

lgaither@kilpatricktownsend.com

Suite 2800, 1100 Peachtree Street, N.E.

Atlanta, Georgia 30309

Phone: (404) 815-6500

Rachel E. Fugate,

pro hac vice application forthcoming

rfugate@shullmanfugate.com

SHULLMAN FUGATE PLLC

Florida Bar No. 0144029

100 South Ashley Drive, Suite 600

Tampa, FL 33602

Phone: (844) 554-1354

Attorneys for Interveners

CERTIFICATE OF SERVICE

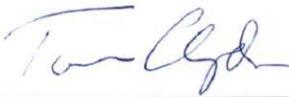
This is to certify that I have this day served the foregoing MOTION TO INTERVENE and MEMORANDUM OF LAW by overnight mail with sufficient first class postage affixed thereto to ensure delivery upon the following:

Joyette Holmes, Esq.
(joyette.holmes@cobbcounty.org)
Jesse Evans, Esq.
(jesse.evans@cobbcounty.org)
Cobb County District Attorney's Office
70 Haynes Street
Marietta, GA 30090

Kevin Gough, Esq.
(kevingough.firm@gmail.com)
904 G. St.
Brunswick, GA 31520

Copies to:
Franklin Hogue, Esq.
(frank@hogueandhogue.com)
Laura Hogue, Esq.
(laura@hogueandhogue.com)
Jason Sheffield, Esq.
(jasonsheffieldattorney@gmail.com)
Bob Rubin, Esq.
(robertrubin@justiceingeorgia.com)

DATED this the 13th day of July, 2020



Thomas M. Clyde

EXHIBIT A

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,

Prosecution,

v.

JUSTIN ROSS HARRIS,
Defendant.

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*

CRIMINAL ACTION

FILE NO. 14-9-3124-28

ORDER

The above-styled case having come before this Court on February 18, 2015 for a hearing on the State's motion for a restrictive order on extrajudicial release of information.

This Court recognizes that the legislative intent of the Georgia Open Records Act encourages a strong presumption that public records should be made available for public inspection and the act shall be broadly construed to allow the inspection of governmental records. O.C.G.A. § 50-18-70. The Court finds that a restrictive order as requested by the State would be overbroad; therefore, the State's motion for restrictive order is denied.

SO ORDERED, this 7 day of April, 2015



Mary E. Staley, Judge
Superior Court of Cobb County
Cobb Judicial Circuit

Court Rules: www.cobbcountyga.com
Clerk of Superior Court
Rebecca Keaton
Cobb County



Filed In Office Apr-08-2015 15:49:41
ID# 2015-0041227-CR
Page 1 of 1

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

CERTIFICATE OF SERVICE

This is to certify that I have this day served the foregoing order (File No. 14-9-3124-28) upon all parties to this matter by sending a true and correct copy (through the Cobb County Mail System) addressed to the following:

Jesse Evans, Esq.
District Attorney's Office
Cobb Judicial Circuit
(Via Interoffice Mail)

H. Maddox Kilgore, Esq.
36 Ayers Avenue
Marietta, Georgia 30060

This 8 day of April, 2015.



Charlotte J. Rooks for
Mary E. Staley, Judge
Superior Court of Cobb County
Cobb Judicial Circuit

EXHIBIT B

COPY

FILED

IN THE SUPERIOR COURT OF CLAYTON COUNTY
STATE OF GEORGIA

JACQUELINE D. WILLS
CLERK SUPERIOR COURT

STATE OF GEORGIA,)
)
vs.)
)
VICTOR KEITH HILL,)
Defendant.)

CASE NO.
2012CR00116-5

**ORDER ON THE STATE OF GEORGIA'S MOTION
FOR IMPOSITION OF ("GAG") ORDER RESTRICTING
EXTRA JUDICIAL STATEMENTS**

The State of Georgia filed a Motion for the Imposition of ("GAG") Order Restricting Extra Judicial Statement by the Prosecution, Counsel for the Defense, Potential Witnesses, and Court Personnel in the above-styled case on January 19, 2012. Counsel for non-party Georgia Television Company d/b/a WSB-TV (WSB-TV) filed a response in opposition to said motion on February 8, 2012. The Court finds that WSB-TV has standing to challenge the instant motion pursuant to Atlanta Journal-Constitution v. State, 266 Ga. App. 168 (2004), and R.W. Page Corporation v. Lumpkin, 249 Ga. 576 (1982). Additionally, the Defendant, through counsel, objected to the State's Motion during a hearing held before the Court on February 29, 2012.

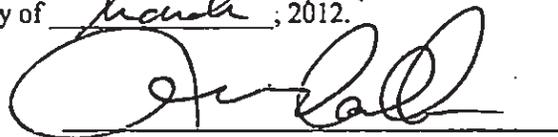
After reviewing the State's Motion, the arguments presented by the parties, and the applicable laws, the Court finds that the law requires that this Court balance the Defendant's Sixth Amendment Right to a fair trial against the First and Fourteenth Amendment Rights that the public has to gain access to hearings in criminal cases. When claiming that the closure of proceedings or restrictions on speech should be placed on parties in a criminal case, the Movant must prove by clear and convincing evidence that restrictions on speech is the only way that the Defendant's right to a fair trial will be protected. R.W. Page Corporation v. Lumpkin, 249 Ga. 576 (1982). In cases

where there is likely to be pretrial publicity, the Court must not place limitations on the volume of the reporting, by imposing restrictions on speech of trial participants, but must guard against prejudicial pretrial publicity so that the Defendant is afforded a fair trial by impartial jurors.

Atlanta Journal-Constitution et al. v. State, 266 Ga. App. 168 (2004).

In this case, the Court FINDS that the State has not met the burden of proving by clear and convincing evidence that the pretrial publicity in this case has had a prejudicial effect on the Defendant's ability to receive a fair trial without the imposition of a restrictive "gag" order on the parties. The attorneys in this case are reminded of their professional responsibilities as set forth in Rule 3.6 of the State Bar of Georgia Rules of Professional Conduct. It is hereby ORDERED that the State's Motion for Imposition of ("GAG") Order Restricting Extra Judicial Statements by Prosecution, Counsel for Defense, Potential Witnesses, and Court Personnel is **DENIED**.

SO RULED THIS the 2nd day of March, 2012.



ALBERT B. COLLIER
Judge, Superior Court
Clayton Judicial Circuit

cc: Ms. Layla Zon, Special Prosecutor for the Clayton County District Attorney's Office
Mr. Musa M. Ghanayem, Attorney for Defendant
Mr. Steven M. Frey, Attorney for Defendant
Ms. Leslie N. Gaither, Attorney for WSB-TV
Clerk's File

CERTIFICATE OF SERVICE

I, LuAnn West, Judicial Assistant for The Honorable Albert B. Collier, do hereby certify that I have this day served the enclosed pleading or document entitled ORDER ON THE STATE OF GEORGIA'S MOTION FOR IMPOSITION OF ("GAG") ORDER RESTRICTING EXTRA JUDICIAL STATEMENTS, Case No. 2012-CR-00116-5, by mailing a copy of same with adequate postage affixed thereto, to:

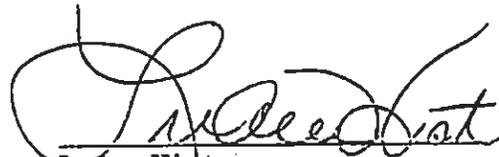
Layla H. Zon, Special Prosecutor
CLAYTON COUNTY DISTRICT ATTORNEY'S OFFICE
9151 Tara Boulevard - 4th Floor
Jonesboro, GA 30236
(via inter-office mail)

Steven M. Frey, Esq.
21 Lee Street
Jonesboro, GA 30236

Musa Ghanayem, Esq.
1936-B North Druid Hills Road
Atlanta, GA 30319

Lesli N. Gaither, Esq.
DOW LOHNES, PLLC
Six Concourse Pkwy., Suite 1800
Atlanta, GA 30328

This 2ND day of March, 2012.



LuAnn West
Judicial Assistant For
The Honorable Albert B. Collier

The Harold R. Banke Justice Center
9151 Tara Boulevard, Room 4JC401
Jonesboro, GA 30236
770/477-3440

EXHIBIT C

the extensive media interest in this case, there is a substantial likelihood that the trial would be materially prejudiced absent an order limiting extrajudicial statements to the media.

Therefore, it is hereby ORDERED:

- A. Until this case is finally determined in the trial court (including sentencing, if applicable) or until further order of the Court to the contrary, all counsel of record shall comply strictly with Rule 3.6. Accordingly, counsel for the State and the defense are prohibited from discussing or disclosing to members of the print, broadcast or internet media the following subjects:
- (1) the character, credibility, reputation or criminal record of the accused or the identity of a witness or the expected testimony of a party or witness;
 - (2) the possibility of a plea of guilty to the offense charged;
 - (3) the existence or contents of any confession, admission or statement given by the accused or her refusal or failure to make a statement;
 - (4) the performance or results of any examination or test or the refusal or failure of the accused to submit to examinations or tests or the identity or nature of physical evidence expected to be presented;
 - (5) any opinion as to the guilt or innocence of the accused; and
 - (6) information that the lawyer knows or reasonably should know is likely to be inadmissible as evidence at trial and that would, if disclosed, create a substantial risk of prejudicing an impartial trial. (See Comment 5A to Rule 3.6)
- B. The attorneys for the State and the defense are allowed to communicate:
- (1) the identity, age, residence, occupation, and family status of the accused;
 - (2) a request for assistance in obtaining evidence;
 - (3) information contained in a public record;
 - (4) the claim, offense or defense involved;
 - (5) the fact, time, and place of arrest;

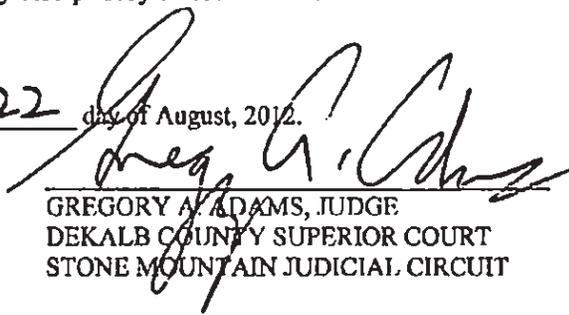
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(6) the identity of investigating and arresting officers or agencies and the length of the investigation; and

(7) the scheduling or result of any step in the judicial proceedings. (See Comment 5B to Rule 3.6)

- C. This order does not apply to members of the media. At this time, the Court does not take any steps that restrict the print or broadcast media from reporting any hearing or the trial in this matter.
- D. Counsel for the State and for the defense shall use reasonable care to ensure that their employees and associates, including all experts and investigators comply with the mandates of this order.
- E. Violations of this order may be punished by contempt of court. Violations may additionally be punishable by disciplinary action of the State Bar of Georgia.

IT IS SO ORDERED, this 22 day of August, 2012.


GREGORY A. ADAMS, JUDGE
DEKALB COUNTY SUPERIOR COURT
STONE MOUNTAIN JUDICIAL CIRCUIT

cc: Robert James
Don Geary
Alejandro Pascual
J. Tom Morgan
John Petrey
Thomas Clegg
Douglas Chalmers

CLERK OF SUPERIOR COURT
DEKALB COUNTY GA

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