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| DISTRICT COURT<br>ALAMOSA COUNTY, COLOARDO<br>8955 Independence Way; Alamosa, CO 81101<br><hr/> THE PEOPLE OF THE STATE OF COLORADO<br><br>v.<br><br>BARRY MORPHEW | <br><br><br><br><br><br><br><br><br><br>Δ COURT USE ONLY Δ |
|                                                                                                                                                                    | Case Number: 2025CR128<br><br>Division: C                  |
| <b>ORDER GRANTING DEFENDANT'S UNOPPOSED MOTION TO CEASE UNMONITORED LIVESTREAM OF COURT PROCEEDINGS (D-009)</b>                                                    |                                                            |

THIS MATTER came before me on the Defendant's *Unopposed Motion to Cease Unmonitored Livestream of Court Proceedings (D-009)* ("Motion D-009") filed on September 19, 2025. The Defendant's Motion D-009 attempts to address violations of Colorado statute and Chief Justice Directive 23-02 concerning the recording of livestreamed criminal proceedings. For the following reasons, Motion D-009 is hereby GRANTED.

Both this case and the prior one against Barry Morphey have garnered an unbelievable amount of local, state, national, and international attention. If you enter Mr. Morphey's name into any internet search engine, many thousands of results return. This is perhaps not surprising considering the explosion of interest in the "true crime" genre with the development of podcasts and streaming television in the last decade. There are more than 20,000 true crime podcasts in existence and available on free podcast services like Apple Podcasts and Spotify. Several podcasts have already covered the case against Mr. Morphey in some capacity. But this level of interest has also increased the level of difficulty

a court such as mine has in protecting the right to a fair trial and the safety of those involved in these sorts of cases.

There have been two court dates in this matter since the Grand Jury returned an indictment against Mr. Morpew on June 18, 2025. Both have been available to the public via the state's livestreaming service.

Following the September 2, 2025 status conference, it came to my attention that an individual with a YouTube channel called "JLR Investigates" posted a recording of the status conference, including the admonition that there shall be no recording made. JLR Investigates' unlawful recording included comments from some of the 17,000 plus people who viewed the unlawful recording.<sup>1</sup> Some of the commentary, including from JLR, takes issue with the constitutional requirement that the Defendant is presumed innocent until proven otherwise, propounds several conspiracy theories concerning this case, and threatens violence against me, attorneys for both sides, and others including several victims. But JLR Investigates is not the only YouTube channel that unlawfully recorded and then posted livestreamed hearings in this matter.<sup>2</sup>

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<sup>1</sup> Both the content of the screenshots of the unlawful recordings and the commentary by viewers was redacted in the publicly-available version of Motion D-009 and will not be repeated here in this publicly-available Order to prevent further harm coming from this behavior. The unredacted version of the Defendant's motion will remain available for appellate court review.

<sup>2</sup> The Defendant's motion also discussed the conduct of another YouTube channel that similarly displayed unlawfully recorded livestreamed proceedings and channels that recorded other concerning behavior related to this case. I took these to be examples of the most egregious behavior that unfolded after the September 2, 2025 hearing, not an exhaustive list. These individuals, including JLR Investigates, will hereafter be referred to as the "offending observers." The names of these additional offending observers are being excluded to prevent further traffic to their channels thus compounding the problem they created.

**I. Pausing the availability of the public's access to livestreaming does not run afoul of the constitutional right to a public trial.**

Defendants accused of criminal conduct are entitled to a public trial by both the United States and Colorado constitutions. "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial[.]" U.S. Const. amend XI; Colo. Const. art. II, § 16 ("In all criminal prosecutions the accused shall have the right [to] a speedy public trial[.]").

The right to a public trial belongs largely to the accused. *People v. Jones*, 464 P.3d 735, 739 (Colo. 2020). This is so that "[the] public may see [the defendant] is fairly dealt with and not unjustly condemned, and that the presence of interested spectators may keep his triers keenly alive to a sense of their responsibility and to the importance of their functions." *Id.* (quoting *Waller v. Georgia*, 467 U.S. 39, 46 (1984)); *see also*, *Rios v. People*, 572 P.3d 113, 118 (Colo. 2025)(citing *In re Oliver*, 333 U.S. 257, 270 (1948)). Contrary to the purposes for which the offending observers have used it, the right to a public trial exists for the purposes of preserving an accused's right to the presumption of innocence and in ensuring legal professionals provide the best, most competent service possible to the communities we serve.

The right to a public trial is not without its parameters or limitations and it can be waived. Even constitutional rights can be waived although I should indulge every reasonable presumption against such a waiver. *Phillips v. People*, 443 P.3d 1016, 1022 (Colo. 2019)(quoting *United States v. Olano*, 507 U.S. 725, 733 (1993) and *People v. Rediger*, 416 P.3d 893, 902 (Colo. 2018)). I do not find that, in making a request to disallow livestreaming of the proceedings, the Defendant is waiving his right to a public trial generally but he is volunteering to have a limitation placed on that right.

Public trials do not only belong to the accused. *Rios, supra*. “Public access to criminal trials permits the public to participate in and serve as a check upon the judicial process – an essential component in our structure of government.” *Id.* (quoting *Globe Newspaper Co. v. Superior Ct.*, 457 U.S. 596, 606 (1982)). The benefits to the public of access to criminal proceedings include:

- Allowing the public to see that the accused is fairly dealt with;
- Ensuring that judges and prosecutors discharge their duties responsibly;
- Encouraging witnesses to come forward;
- Discouraging perjury; and
- Allowing victims and the community to know that offenders are being brought to justice.

*Rios*, 572 P.3d at 118. These laudable purposes cease to exist, however, when some members of the public exploit access to criminal proceedings for purposes antithetical to these goals.

Not every restriction on the public’s access to criminal matters results in a constitutional violation. *Rios*, 572 P.3d at 119. There is a four-part test, announced in *Waller, supra.*, to determine if a courtroom closure complies with the Sixth Amendment. *Id.*

- Has the party seeking to close the courtroom advanced an overriding interest that is likely to be prejudiced?
- Is the closure no broader than is necessary to protect that interest?
- Are there reasonable alternatives to closing the proceeding? and
- Have I made findings adequate to support the closure?

*Id.* The Sixth Amendment guarantees a right to “a trial that is open to the public, meaning that the public has a reasonable opportunity to be *physically present* to observe the proceedings.” *Id.* at 120. Nothing in my ruling will prevent that opportunity.

In contrast, if I do not pause the unfettered livestreaming of hearings in this case, at best, the unlawful recordings and “venomous” commentary may affect both or either party’s right to a fair trial by tainting the small jury pool through the prevalence of factual inaccuracies and the court of public opinion. While the impact of outside commentary is not an uncommon concern in a high profile case, what is occurring because of the behavior of the offending observers rises to a level of seriousness beyond that which something like a change of venue could resolve. At worst, the calls for and acts of violence against the parties and legal professionals will lead to someone being physically hurt.

## **II. Both the Colorado statute on livestreaming and concomitant judicial policies allow for the suspension of access to livestreamed court proceedings.**

In 2023, the Colorado Legislature mandated that criminal proceedings in open court be made available for remote public viewing and listening in real time. C.R.S. § 13-1-132(3.5)(a). There are several reasons for limiting this process including that:

- The courtroom does not have sufficient technological capabilities;
- Members of the public have been excluded from the criminal proceeding by order of the court;
- Technology, staffing, or internet issues limit or prevent remote observation;
- After a request by a party, witness, or victim, or on the court’s own motion, the court makes findings on the record based on the particular facts and circumstances of the case that:

- There is a reasonable likelihood remote observation of live proceedings risks compromising the safety of any person (including risks to physical and emotional safety, intimidation, and harassment); the defendant's right to a fair trial, including violations of sequestration orders; or the victims' rights pursuant to the [Victim's Rights Act]; and
- There is no less restrictive alternative that preserves the public's interest in remote observation while mitigating the identified risk [including] allowing remote audio-only observation while disabling video observation or turning off remote observation [at particular times].

*Id.* at §§ (3.5)(a)(I) through (3.5)(b).

The statute requires that the court ensure there is no audio or visual recording without the permission of the court and gives examples of what "reasonable steps" must be taken in the same vein. C.R.S. § 13-1-132(3.5)(c). The Colorado Judicial Department has already taken those steps which it can, including several warnings that recording is prohibited; additional measures are not possible in this situation, as explained below.

The statute also allows the supreme court to prescribe rules of procedure in implementing the statute. C.R.S. § 13-1-132(4). The supreme court has done so via Chief Justice Directive ("CJD") *23-02 Livestreaming Criminal Trial Court Proceedings*. The CJD provides a list of considerations that must be made before limiting livestreaming:

- Whether there is a reasonable likelihood that live streaming would interfere with the rights of the parties to a fair trial;

- Whether there is a reasonable likelihood that livestreaming would create any adverse consequence to a party, attorney, victim, or witness;
- Whether there is reasonable likelihood that livestreaming would unduly detract from the solemnity, decorum, and dignity of the court;
- Whether any prior violations of this directive or other rules of the court have occurred in the same matter;
- The level of public interest in the case;
- Consideration of the Victim Rights Act, whereby the victim has the right to be present in person, by phone, virtually by audio or video, or similar technology for all critical stages of the criminal justice process; and
- Consideration of the Americans with Disabilities Act, whereby deaf, hard of hearing, and deafblind individuals may request communication access services by completing the standard judicial ADA request form.

CJD 23-02 at ¶ (IV)(B). Furthermore, livestreaming shall only occur when viewers conduct themselves in a manner consistent with the solemnity, decorum, and dignity of the courtroom. *Id.* at ¶ (IV)(D)(ii). The CJD further confirms that there shall be no recording of any livestreamed proceeding but that nothing in the CJD modifies the process for expanded media coverage. *Id.* at ¶¶ (IV)(D)(iii) and (iv).

The actions of the offending observers meet the criteria necessary to restrict livestreaming in this case under both the statute and the CJD.

First, the offending observers and some commenting on their unlawful recordings have advocated and outright threatened harm against me, attorneys for both sides, the Defendant, and, most disturbingly, the victims of this matter. While these types of threats

towards those involved in the justice system are unfortunately no longer uncommon, individuals who are either followers of and/or like-minded to the offending observers have taken it steps further by doing things like “doxxing” the former judge on this matter, sending threatening letters to the home and work addresses of attorneys involved in the case, and leaving a dead fox on the front porch of one of the attorney’s homes. That is beyond the pale of simple commentary on their work to hold them accountable or disagreement with my decisions or the course of the case. These are terrifying, unlawful attempts at intimidation and harassment that have no place in our justice system.

Second, Alamosa County has a comparatively small jury pool. While I would never prevent general publicity of any case that is of interest to the community, that publicity will likely prevent at least some in our small jury pool from being fair and impartial jurors on this matter. The actions of the offending observers threaten to exacerbate the problem by showing parts of the proceedings and its participants that the credentialed media, for good reason, are prevented from showing and by making statements purporting to have some sort of “inside information” that would not ever be provided to the jury (because it is not real or an actual fact).

Any less restrictive remedies would prove fruitless. The Colorado Judicial Department has posted, in several places, admonitions against precisely the type of behavior which has occurred – recording livestreaming. Those warnings were ignored and even included in the unlawfully reproduced material. Switching to an audio-only format would not prevent threats and harassment towards the parties or the victims. Even if the audio is not reproduced, descriptions of the individuals involved in the case and the threatening behavior towards them are unlikely to cease. The Colorado Judicial



Department does not have the technological capability to monitor participation in livestreaming, let alone the staff to then check various social media outlets to ensure no violations of the admonition against recording have occurred. It would not be judicially economical to proceed with citations for contempt of court against all of the offending observers, even if the true identities of each could be ascertained, which is unlikely. And it would be unfair and perhaps unconstitutional to proceed with citations for contempt of court against only those individuals, like JLR Investigates, whose true identities can be known.

Finally, nothing in this Order prevents the credentialed media from reporting on this case pursuant to the *Order Preemptively Granting Requests for Expanded Media Coverage*, which will be amended to accommodate credentialed media who previously used the livestream. Furthermore, the public is welcome to observe the proceedings in person.

### **III. Orders**

THEREFORE, the Defendant's *Unopposed Motion to Cease Unmonitored Livestream of Court Proceedings (D-009)* is hereby GRANTED.

Nothing in this Order changes the manner in which any victim, the Defendant's family, or the staff of the respective attorneys' offices may access this proceeding.

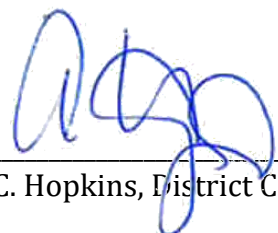
Credentialed media may access and report on the proceedings as outlined in the *Amended Order Preemptively Granting Requests for Expanded Media Coverage*.

Members of the general public may attend the proceedings held in open court in person, subject to the following conditions:

- Only so many people will be permitted to enter the courtroom as can safely fit in the public gallery less accommodations for the victims, the Defendant's family, and the row reserved for the credentialed media;
- Members of the public will not be permitted to bring into the courthouse any cellphone, laptop, tablet, or any other electronic device capable of recording;
- Members of the public must comply with all verbal and written instructions given by security or law enforcement;
- Any person (including members of the public, credentialed media, a victim, a member of the Defendant's family, or a member of an attorney's staff) who records, photographs, or otherwise behaves in contradiction of this Order will be removed from the courtroom, will not be permitted to attend future proceedings, and may receive a citation for contempt of court.
- As this case continues, I may reinstate the ability to view certain proceedings via livestreaming depending on the circumstances of the particular hearing.

DONE AND SIGNED THIS 27th DAY OF OCTOBER, 2025.

By the Court:



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Amanda C. Hopkins, District Court Judge