

**SUPERIOR COURT, STATE OF ARIZONA, In and for the County of Cochise**

<p><b>STATE OF ARIZONA,</b></p> <p style="text-align: center;"><b>Plaintiff,</b></p> <p><b>vs.</b></p> <p><b>ROGER DELANE WILSON,</b></p> <p style="text-align: center;"><b>Defendant,</b></p> <p><b>DAVID MORGAN and</b> <b>TERRI JO NEFF,</b></p> <p style="text-align: center;"><b>Intervenors.</b></p>	<p style="text-align: center;"><b>Case No. CR201700516</b></p> <p style="text-align: center;"><b>ORDER CONCERNING ACCESS BY REPORTERS DURING THE TRIAL IN THIS MATER</b></p>	
<p><b>HONORABLE TIMOTHY B. DICKERSON</b> <b>DIVISION FOUR</b></p>		<p style="text-align: right;"><b>By: Aileen Contapay</b> <b>Judicial Administrative Assistant</b></p>

The court has considered intervenors' motion and finds as follows:

1. Trial in this case begins at 8:15 a.m. tomorrow, September 15, 2020. The motion was filed at noon today and the court read an emailed copy of the motion shortly before noon. There is not time for a hearing without disrupting the trial.
2. Two felony jury trials were recently conducted in Division V of this court under the same policy concerning access by reporters as this court intends to follow. Intervenors are aware of how these trials were conducted.
3. The trial in this case has been scheduled for several months.
4. The motion could have been filed more in advance of the trial which may have allowed time for a full hearing and participation by the state and defendant.
5. Intervenors have requested an order concerning the rules applicable to reporters which will be in effect during this trial. An order and brief explanation are provided below.

**IT IS ORDERED** as follows.

1. The motion to intervene is granted for the purpose of issuing this order.

2. Reporters will not be allowed in the courtroom at any time during the trial, including times when the jury is not present and during breaks or recesses. This policy complies with Arizona Supreme Court Administrative Order 2020-143 (“Order”). The Supreme Court could have easily included reporters in the list of persons who must be allowed in the courtroom. It did not include reporters therefore this court concludes that the question of allowing reporters in the courtroom is left to the discretion of the court. The court’s primary consideration is the safety of the jurors, who are compelled to attend the trial. The exclusion of reporters includes times when the jury is not present because the virus is spread by air and this means that the presence of additional parties in the room, even when the jury is not present, increases the risk of air borne contamination. It is important to maintain the courtroom within a protective bubble to the extent possible to both reduce the actual risk and to promote confidence that the court is protecting jurors.
3. A live video feed of the proceedings is not feasible. The court has discussed the matter with court IT. The necessary equipment and software are not readily available. Another obstacle is that the camera controls are on the bench and must be operated by the judge.
4. Reporters may listen to the trial by live audio, by telephone. Intervenors have the telephone number or may obtain it. The court has taken steps to ensure as good a quality audio feed as possible. Callers must mute their telephones and are not permitted to identify themselves when they call in or to use the telephone line to communicate with each other or with persons in the courtroom. The audio recording of the trial will also be available to the public at <https://www.youtube.com/channel/UCMEGJ1ojlBoahlvwHahUeWg/videos>.
5. The combination of a live audio feed and the audio recording comply with the requirement of the Order that the court “provide public access by video or audio to civil and criminal court proceedings.”

6. Reporters will not be allowed to examine exhibits during the trial. Such access causes at least two problems: 1) it would require allowing reporters in the courtroom, which as noted above goes against protecting jurors and other from contact with unnecessary persons, and 2) it would disrupt the work of court staff. The only time the courtroom clerk could make the exhibits available would be when the court is on a break and this is also his or her break. The exhibits are not public records until admitted into evidence and then the obligation of the court is to make the record available within a reasonable time after a request, which does not mean immediately.
7. Reporters may enter the court building and may bring in their electronic devices. The normal rules apply, i.e., wear a mask, maintain social distancing, no audio or video recording.
8. Reporters may not use the law library as a place to sit during jury selection because the room will be used as part of the process. Once a jury is seated, reporters may use the law library if there is enough room with social distancing considered. The primary purpose of the law library remains to serve the public and the public has priority. Reporters will be asked to leave if the room becomes too full.
9. The names of jurors, both potential and those selected to serve, will not be released. The court does not see a conflict between A.R.S. § 21-312(b), which states that “all records that contain juror biographical information are closed to the public,” and Arizona Supreme Court Rule 123(e) (10), which states “[t]he home and work telephone numbers and addresses of jurors, and all other information obtained by special screening questionnaires or in voir dire proceedings that personally identifies jurors summoned for service, except the names of jurors on the master jury list, are confidential, unless disclosed in open court or otherwise opened by order of the court.” A.R.S. § 21-312(b) prohibits release of juror names and Rule 123(e) (10) does not require the court to disclose the names. Further Rule 123(e) (10) applies to the “master jury

list,” which is the large list of individuals who may be summoned for jury service and intervenors are requesting the names of the persons who are summoned and selected for this trial. If the two provisions do conflict, the court would follow the prohibition in A.R.S. § 21-312(b) as it is on point.

10. This order only is in effect during the trial in this case commencing September 15, 2020 and it is not binding on other judges of this court.

SEP 14 2020  
DATED: \_\_\_\_\_



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HONORABLE TIMOTHY B DICKERSON  
JUDGE OF THE SUPERIOR COURT

mailed/distributed:

9/14/20 - AC - email

xc: Lori Zucco, Chief Criminal Deputy County Attorney  
Chris Kimminau, Esq., 4337 W. Plantation St., Tucson, AZ 85741  
Gregg Leslie, Esq., First Amendment Clinic, 111 E. Taylor St., Mail Code 8820, Phoenix, AZ 85004  
Robert Coronado, Court Security