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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MOHAVE

HONORABLE KENNETH L. GREGORY  
COURT COMMISSIONER  
DATE: SEPTEMBER 17, 2014

VIRGINIA BYNELL  
SUPERIOR COURT CLERK  
\*wap

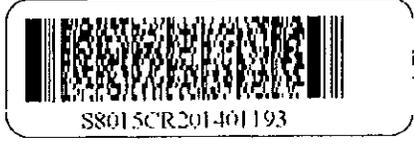
ORDER

STATE OF ARIZONA,  
  
Plaintiff,  
  
vs.  
  
JUSTIN JAMES RECTOR,  
  
Defendant.

NO. CR-2014-1193

This matter has been assigned to this Commissioner for the limited purpose of arraigning the Defendant at the courtroom in the Mohave County Jail on Friday, September 19, 2014, at 1:30 p.m. The court acknowledges a request, filed with the Clerk of Court by Marina Belisle on September 15, 2014, seeking media access "to record [the Defendant's] court appearance for KVVU Fox 5 news in Las Vegas, NV." The court is also aware of a similar request from local reporter, made via email to the trial judge assigned this matter, Hon. Lee F. Jantzen, as memorialized by Judge Jantzen's Ruling dated September 15, 2014, and filed into the court's record in this matter.

Requests for media access to court proceedings are governed by Rule 122, Rules of the Supreme Court of Arizona. The Rule requires a judge handling a particular proceeding to consider timely-submitted requests for media access. Rule 122(c)(2). For all court proceedings that are not trials, a request is timely if it is submitted no less than 48 hours before the proceeding. Rule 122(C)(2)(B). The Rule defines a "judge" as the "judicial officer . . . presiding over the proceeding" and a "proceeding" as "an event concerning a court case that takes place in a courtroom." Rule 122(b)(4),(7). To the extent the press seeks coverage of the upcoming arraignment at the Mohave County Jail, as the judicial officer presiding over that proceeding, the Commissioner believes he has a duty independent of the trial judge to rule on the requests.



The Commissioner notes there are substantial amendments to Rule 122 that took effect on January 1, 2014. Under the former Rule, a judge was required to hold a hearing on these types of media requests only upon receiving an objection. See, Former Rule 122(g); see also, Star Publishing Co. v. Bernini, 228 Ariz. 490 (App. Div. 2 2012). The new Rule expresses a policy preference, "A properly submitted request for coverage should generally be approved . . ." Rule 122(d). The new Rule also requires a judge to hold a hearing "if the judge intends to deny the request or a portion of the request, or if a party objects to a request." Rule 122(c)(3).

In light of the recent amendments to Rule 122, the Commissioner believes he would be in error to proceed with the arraignment without the benefit of a hearing on the requests for press coverage. There are numerous and competing constitutional concerns in these matters, including the abridgment of the freedom of press, and the accused person's rights to a "public" trial and an "impartial" jury. It was aptly stated in Richmond Newspapers, Inc. v. Virginia, 100 S.Ct. 2814, 2825 (1980), "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."

The Commissioner respects and is mindful of the Ruling of Judge Jantzen, and has many of the same concerns, particularly with regard to the adequacy of the facilities to accommodate media coverage and camera crews. The courtroom at the Mohave County Jail is small in comparison to most throughout the county. There is limited room in its confines to accommodate people and equipment. There is also a security factor, especially if the press is admitted beyond the viewing gallery and into the courtroom. On the other hand, a courtroom is a public facility - a showroom of our nation's highest ideals - and no courtroom should exist that cannot make its proceedings sufficiently and meaningfully "public". The court is required to weigh all of the factors of Rule 122(d)(1) in order to determine if reasonable and appropriate press coverage may be accommodated. The adequacy of physical facilities of the court is but one of several factors for the court to consider.

The Court is also concerned about fairness to the Defendant and State, and the impact camera coverage may have on future proceedings. The Commissioner believes a hearing would at least provide the parties with an opportunity to be heard as to their respective positions on those issues. Good cause appearing therefor,

**THE COURT FINDS** it is likely to deny the requested media access (with video recording devices) inasmuch as it relates to Friday's arraignment proceeding.

**IT IS ORDERED** setting a hearing on this matter on **Thursday, September 18, 2014 at 1:30 p.m.** before Commissioner Kenneth L. Gregory at Courtroom E, Mohave County Courthouse, 401 E. Spring Street, Kingman, Arizona. The court allocates one hour for the hearing. In the interest of public safety and economy of resources, the Defendant and his attorney are ordered to appear by video from Courtroom J at the Mohave County Jail, if there are any arguments they would like to present. The State may appear from Courtroom J, or in person at Courtroom E. The State is encouraged to ascertain the views of the victim's family members or relevant witnesses. The subject matter of the hearing will be limited to the media requests, which are available to the parties on the court's website at:

[www.mohavecourts.com/highprofile/highprofileRector.htm](http://www.mohavecourts.com/highprofile/highprofileRector.htm)

This will not be an evidentiary hearing. The parties are granted 20 minutes per side for argument on the requests. At their option, the parties may submit appropriate briefs on their positions prior to the hearing.

**IT IS FURTHER ORDERED** legal counsel for the Mohave County Jail may file an appropriate amicus curiae brief with the court, at its option, no later than the time of the hearing, if it wants the court to consider its position with regard to the adequacy of the jail courtroom to accommodate the press, and any related security issues.

cc:

Matthew J. Smith\*  
Mohave County Attorney

Mohave County Public Defender\*

Mohave County Probation\*

Mohave County Jail\*

Doug McMurdo\*  
Kingman Daily Miner

Marina Belisle  
25 TV5 Drive  
Henderson, NV 89014

Jim McCabe\*  
Mohave County Sheriff

Bob Lawless, Security Coordinator\*  
Mohave County Superior Court

Kip Anderson, Court Administrator\*  
Mohave County Superior Court

Virlynn Tinnell\*  
Clerk of Superior Court

Honorable Charles W. Gurtler, Jr.\*  
Presiding Judge of Superior Court

Honorable Steven F. Conn\*  
Presiding Criminal Judge

Honorable Lee F. Jantzen\*  
Division IV

Kenneth L. Gregory  
Court Commissioner