


COUNTY COURT EAGLE COUNTY, COLORADO 885 E. Chambers Road P.O. Box 597 Eagle, Colorado 81631	FILED IN THE COMBINED CLERKS OFF. EAGLE COUNTY, CO JUL 24 2003 BY  σ COURT USE ONLY σ
Plaintiff: PEOPLE OF THE STATE OF COLORADO. Defendant: KOBE BEAN BRYANT.	
	Case Number: 03 CR 204 Div.: 1
ORDER RE PRETRIAL PUBLICITY	

THIS MATTER comes before the Court, *sua sponte*, in response to the intense interest of the media in this matter and the amount of publicity which has resulted. The Court is concerned that the extensive participant and public comment will disrupt the processes by which a fair trial may be preserved. "The Courts must take such steps by rule and regulation that will protect their processes from prejudicial outside interferences. Neither prosecutors, counsel for the defense, the accused, witnesses, court staff nor enforcement officers coming under the jurisdiction of the court should be permitted to frustrate its function." *Sheppard v. Maxwell*, 86 S.Ct. 1507, 1522 (1966). "[T]he cure lies in those remedial measures that will prevent the prejudice at its inception." *Sheppard*, 86 S.Ct. at 1522.

In a criminal case the trial judge has a duty and obligation to attempt to protect the right of the defendants to a fair trial, free of adverse publicity.

Where the case is a notorious one, that burden on the court is heavy. The most practical and recommended procedure to insure against dissemination of prejudicial information is the entry of an order directing that attorneys, court personnel, enforcement officers and witnesses refrain from releasing any information which might interfere with the right of the defendant to a fair trial. *U.S. v. Davis*, 904 F. Supp. 564, 569 (E.D. La. 1995)(citation omitted).

The Court does recognize that certain matters concerning extrajudicial statements and disclosures may require consideration of the specific facts, the opportunity for an evidentiary hearing and argument; consideration of less restrictive alternatives and consideration of the scope

of the restrictions. Therefore, this Order shall be entered as a preliminary order, based on existing standards and relevant legal authority, in order to advise and remind those interested in this matter of the applicable restrictions. However, this order is subject to reconsideration upon proper motion and/or request for hearing which may be filed within 15 days of the date of this Order. Pursuant to the Colorado Rules of Professional Conduct and the American Bar Association *Standards for Criminal Justice*¹, the Court **HEREBY ORDERS** as follows.

1. Lawyers and Law Enforcement Agencies and Officers

A. Lawyer conduct is governed by Colorado Rule of Professional Conduct 3.6. Pursuant to Standard 8-2.1, the provisions of Standard 8-1.1, which also governs lawyer conduct and is substantially similar to Colorado Rule of Professional Conduct 3.6, are also applicable to the release of information to the public by law enforcement agencies and officers. *See also Gentile v. State Bar of Nevada*, 111 S.Ct. 2720 (1991).

B. A lawyer or law enforcement agency or officer who is participating or has participated in the investigation or litigation of this matter shall not make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer or law enforcement agency or officer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.

C. Notwithstanding paragraph B, a lawyer or law enforcement agency or officer may state (1) the claim, offense or defense involved and except when prohibited by law, the identity of the persons involved; (2) information contained in a public record; (3) that an investigation of the matter is in progress; (4) the scheduling or result of any step in litigation; (5) a request for assistance in obtaining evidence and information necessary thereto; (6) a warning of danger concerning the behavior of a person involved when there is reason to believe that there exists the likelihood of substantial harm to the individual or to the public interest; (7) the identity, residence, occupation and family status of the accused; (8) the fact, time and place of arrest; and (9) the identity of investigating and arresting officers or agencies and the length of the investigation.

D. Notwithstanding paragraphs B and C, 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.

E. No lawyer associated in a firm or government agency with a lawyer subject to the preceding paragraphs shall make a statement prohibited by the preceding paragraphs.

F. Lawyers and law enforcement agencies and officers are further advised to review and refer to the comments following Colorado Rule of Professional Conduct 3.6 and Standard 8-1.1 for guidance as to what constitutes appropriate conduct. Matters considered more likely than

¹ All references to a Standard are to the Standards of the American Bar Association *Standards for Criminal Justice*.

not to have a material prejudicial effect relate to (1) the character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness, 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 or the existence or contents of any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement; (3) the performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented; (4) any opinion as to the guilt or innocence of a defendant or suspect in a criminal case, the merits of the case and the merits of the evidence in the case; and (5) information that the lawyer or law enforcement agency or officer knows or reasonably should know is likely to be inadmissible as evidence in a trial and that would, if disclosed, create a substantial risk of prejudicing an impartial trial.

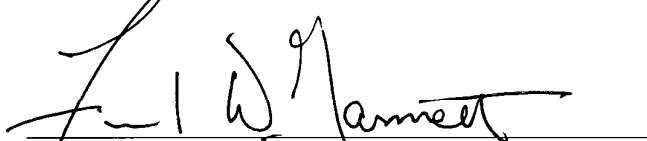
G. Pursuant to Colorado Rule of Professional Conduct 3.8(e), the District Attorney shall exercise reasonable care to prevent investigators, law enforcement personnel, employees or others assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Colorado Rule of Professional Conduct 3.6.

2. Court Personnel

Pursuant to Standard 8-2.2, court personnel shall not disclose, to any unauthorized person, information relating to this matter that is not part of the public records of the Court and that may be prejudicial to the right of the prosecution or the defense to a fair trial.

DATED THIS 24 DAY OF July, 2003.

BY THE COURT:



County Court Judge

CERTIFICATE OF MAILING

I hereby certify that I have, on this 24th day of July, 2003, mailed and/or (faxed) a true and correct copy of the foregoing ORDER by U.S. Mail, postage prepaid, to the following:

Mark Hurlbert
District Attorney
Fifth Judicial District
P.O. Box 295
Eagle, Colorado 81631
Fax: 970-328-1016

Pamela Robillard Mackey, Esq.
Haddon, Morgan, Mueller, Jordan, Mackey & Foreman, PC
150 East Tenth Avenue
Denver, CO 80203
Fax: 303-832-2628

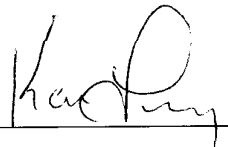
Thomas B. Kelley, Esq.
FAEGRE & BENSON LLP
3200 Wells Fargo Center
1700 Lincoln Street
Denver, Colorado 80202
Fax: 303-607-3600

Rohn Robbins, Esq.
Law Offices of Rohn K. Robbins
P.O. Box 6133
Vail, Colorado 81658
Fax: 970-926-4471

Acting Chief Gary Ward
Town of Eagle Police Department
P.O. Box 609
Eagle, Colorado 81631
Fax: 970-328-5203

Chief Dwight Henninger
Town of Vail Police Department
75 S. Frontage Road West
Vail, Colorado 81657
Fax: 970-479-2138

Sheriff Joe Hoy
Eagle County Sheriff's Office
P.O. Box 359
Eagle, Colorado 81631
Fax: 970-328-8592



 *** TX REPORT ***

TRANSMISSION OK

TX/RX NO 4106
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 SUB-ADDRESS
 CONNECTION ID
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 RESULT OK

<p>COUNTY COURT EAGLE COUNTY, COLORADO 885 E. Chambers Road P.O. Box 597 Eagle, Colorado 81631</p>	<p style="text-align: center;">σ COURT USE ONLY σ</p>
<p>Plaintiff: PEOPLE OF THE STATE OF COLORADO.</p> <p>Defendant: KOBE BEAN BRYANT.</p>	
	<p>Casc Number: 03 CR 204 Div.: 1</p>
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In a criminal case the trial judge has a duty and obligation to attempt to protect the right of the defendants to a fair trial, free of adverse publicity.

 *** TX REPORT ***

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<p>COUNTY COURT EAGLE COUNTY, COLORADO 885 E. Chambers Road P.O. Box 597 Eagle, Colorado 81631</p>	<p style="text-align: center;">σ COURT USE ONLY σ</p>
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 *** TX REPORT ***

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 *** TX REPORT ***

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 *** TX REPORT ***

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 *** ERROR TX REPORT ***

TX FUNCTION WAS NOT COMPLETED

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 RESULT OK

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