

IN THE CIRCUIT COURT OF MAYCOMB COUNTY, ALABAMA

STATE OF ALABAMA,

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v.

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Case No. CC-00-0000

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JOE CLIENT.

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**MOTION TO PROHIBIT BROADCASTING,  
RECORDING, OR PHOTOGRAPHING OF THE PROCEEDINGS**

Joe Client respectfully moves this Court for an order prohibiting all broadcasting, recording, and photographing of the court proceedings in this case. In support of this motion, Mr. Client submits the following:

1. On June 7, 2016, the State indicted Mr. Client for the capital murder of Victor Victim and David Deceased. The State is seeking the death penalty.

2. In addition to Mr. Client, the State indicted two other men for this crime: Karl Kodefendant and Paul Plead. Mr. Plead pleaded guilty to the lesser crime of murder, which carries a sentence of twenty-five years to life, in exchange for his testimony against Mr. Kodefendant and Mr. Client. In January 2017, the State tried Mr. Kodefendant in Maycomb County. A jury convicted him of capital murder and this Court sentenced him to death.

3. As detailed in Mr. Client's motions for change of venue and to close pretrial proceedings, the proceedings in this case have received widespread publicity, much of which has been inaccurate, false, speculative, and inflammatory. See Motion for Change of Venue and Motion to Prohibit Trial Participants from Commenting on or Releasing Information about the Case to the Media (incorporated herein by reference).

4. To ensure a fair trial and reliable sentencing proceeding in this context, where the media has sought at every stage of these proceedings to turn Mr. Client's trial into a public spectacle, it is necessary that none of the court proceedings in this case be recorded, photographed, or broadcast in any way.

5. The Supreme Court has recognized that trial courts have the authority and duty to control media coverage of a criminal trial. Sheppard v. Maxwell, 384 U.S. 333, 358 (1966) (“[T]he presence of the press at judicial proceedings must be limited when it is apparent that the accused might otherwise be prejudiced or disadvantaged”). Specifically, the Court has recognized that televised coverage of trial proceedings can have an adverse

impact on jurors, witnesses, and other trial participants and can impair the truth seeking function of criminal trials. Estes v. Texas, 381 U.S. 532, 544-51 (1965); see also Chandler v. Florida, 449 U.S. 560, 575-78 (1981).

6. The Eleventh Circuit has recognized that a trial court has authority to prohibit electronic coverage of a criminal trial in order to protect a criminal defendant's fair trial interests as well as the judiciary's institutional interests in preserving courtroom order and procedures necessary to preserve the truth seeking function of trial. United States v. Hastings, 695 F.2d 1278, 1282 (11th Cir. 1983).

7. Similarly, Alabama law recognizes that trial courts have a duty to ensure that the photographing, recording, or broadcasting of trial proceedings does not interfere with a fair and impartial trial. See McGowan v. State, 990 So. 2d 931, 965 (court properly issued order prohibiting videotaping of court proceedings); Ala. R. Crim. P. 9.4 ("The taking of television pictures or other photographs in or of the courtroom during the progress of judicial proceedings or the radio broadcasting of judicial proceedings may be permitted as provided in Canon 3(A)(7) and (7B), Canons of Judicial Ethics, promulgated by the Alabama Supreme Court, or as otherwise may be permitted by law or other rule of court."); Ala. Canons of Jud. Ethics 3(A)(7B).

8. Alabama law prohibits photographing, recording, or broadcasting criminal proceedings unless the accused and the prosecutor affirmatively give written consent. Ala. Canons of Jud. Ethics 3 (A)(7B). Alabama law further requires the trial court to "immediately suspend or stop any photographing, recording or broadcasting by television or radio at any time that a witness who is testifying, the parent or guardian of any testifying witness who is a minor, or a juror, party or attorney expressly objects to the photographing, recording or broadcasting by television or radio." Ala. Canons of Jud. Ethics 3 (A)(7A).

9. In the context of a trial in which the death penalty is sought, the need for effective protective measures is critical. The Supreme Court has repeatedly recognized that the death penalty is unique in its finality and severity and that "extraordinary measures" must be taken to ensure that a death sentence is not imposed "out of whim, passion, prejudice, or mistake." Eddings v. Oklahoma, 455 U.S. 104, 118 (1982) (O'Connor, J., concurring); see also Ex parte Monk, 557 So. 2d 832, 836-37 (Ala. 1989) (hovering death penalty is special circumstance justifying special measures in capital cases). This case has already produced unprecedented publicity and unbridled hostility toward a defendant on trial for his life. This Court must act to ensure that a fair and reliable trial and sentencing determination are not compromised by further prejudicial publicity.

10. To date, photographic coverage and televised re-enactments of the crime have portrayed the case in a sensationalized manner and in gruesome detail. In light of this demonstrated effort to dramatize the case, photographic and electronic coverage of the court proceedings will further prejudice Mr. Client's rights to present a defense, confrontation, due process, a fair trial, and a reliable sentencing determination as guaranteed by the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and Alabama law.

For these reasons, Mr. Client requests that this Court enter orders prohibiting the broadcasting, recording, and photographing of all pretrial and trial proceedings in this case.

Respectfully submitted,

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[CERTIFICATE OF SERVICE]

[MOTION UPDATED ON 10/04/17]