OPP

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For Our Nevada Judges

DISTRICT COURT, FAMILY DIVISION
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff, vs. MICHAEL LEE MCDONALD Defendant.	Case No.: C-18-335284-1 Dept No.: 28 Date of Hearing: September 3, 2019 Time of Hearing: 1:00 p.m.

OPPOSITION TO MOTION FOR RECONSIDERATION

COMES NOW, Our Nevada Judges[1], appearing in proper person, and hereby files an opposition to Defendant's *Motion for Reconsideration* filed August 28, 2019. This opposition is based upon the following memorandum of points and authorities and all pleadings on file herein.

DATED this 30 day of August, 2019.

Alexander M. Falconi
Our Nevada Judges
Administrator
Pro Se

[1] This organization is not a business entity; it is a sole proprietorship, owned, operated, and controlled by Alexander M. Falconi.

Memorandum of Points and Authorities

I. Factual Background

On July 10, 2019, this Court entered *Media Request and Order*.

On July 10, 2019, Our Nevada Judges broadcasted the proceedings live, which were ultimately continued.

On July 22, 2019, Our Nevada Judges broadcasted the proceedings live.

On August 26, 2019, this Court entered *Media Request and Order*.

On August 28, 2019, Defendant filed *Motion for Reconsideration* seeking a revocation of media access.

This opposition follows.

II. Argument

Defendant seeks revocation based solely on SCR 230(2)(a), (b), (c), and (d). Defendant cites circumstances virtually identical to a subset of those raised and considered[2] by the Supreme Court of Nevada in *Solid v. Eighth Judicial District Court*, 133 Nev. 118, 393 P. 3d 666 (2017) (contemplating the "[SCR] governing media in the courtroom").

The *Solid* Court thoroughly addressed SCR 230(2) and even more specifically, the notion that Mr. Solid's "right to a fair trial would be jeopardized because his trial counsel will be distracted by the [] cameras in the courtroom." Similarly, Defendant interposes[3] assertions that his conduct in response to the presence of cameras may "detract from the dignity of the proceedings." *Solid* at P. 3d 672. "There is a presumption that all courtroom proceedings that are open to the public are subject to electronic coverage." *Id.* Defendant would "fail[] to overcome the presumption" for the same reasons Mr. Solid failed; namely, that "[t]he record does not

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[2] This opinion published *en banc*, the decision was unanimous.
[3] Namely, that camera presence is tantamount to "bear-baiting", that it will "stress" and "distract[]" Defendant.

support this argument." Like Mr. Solid, Defendant has not "present[ed] evidence showing how [Our Nevada Judges'] cameras affect[s] the fairness of the trial, [or] the dignity of the proceedings[.]" Our Nevada Judges has already twice provided coverage of proceedings to the public in a professional, courteous, and dignified manner.

The *Solid* Court further grappled with ""[t]he line between the informing and the entertaining" of the public by providing media coverage. *Id.* at P. 3d 671. In doing so, it was recognized that coverage, "although potentially entertaining", may nevertheless satisfy the requirement for a broadcast to be used for "informational or educational purposes[.]" Our Nevada Judges, which provides information and statistical analysis on every judicial district and their corresponding judicial departments of this State, back to 1864, was founded in 2014 and has, throughout the entirety of its existence, maintained a fact-intensive focus on the information provided to the public. Coverage of judicial proceedings is an extension of this aim. Public interest in these proceedings is substantial; with analytics indicating 12,900 and 5400 views for YouTube and FaceBook, respectively; and 106,400 watch time minutes for YouTube[4]. Exhibit 1. Exhibit 2. Our Nevada Judges estimates coverage of the trial will garner an absolute minimum of 73,200 views and 425,600 watch time minutes.

III. Conclusion

While it is the SCR that specifically entitle Our Nevada Judges to cover these proceedings, what is truly at stake here is the right of the public to view them. A revocation of media access does little harm to Our Nevada Judges, but would constitute a tremendous disservice to the citizenry of this State.

DATED THIS 30 day of August, 2019.

Alexander M. Falconi
Pro Se

[4] Facebook does not track analytics on watch-time minutes.

Declaration Pursuant to EDCR 5.505

I have read the foregoing opposition, and the factual averments it contains are true and correct to the best of my knowledge, except as to those matters based on information and belief, and as to those matters, I believe them to be true. Those factual averments contained in the referenced filing are incorporated here as if set forth in full.

I declare[5] under penalty of perjury that the foregoing is true and correct.

DATED THIS 30 day of August, 2019.

Alexander M. Falconi

Certificate of Service

I, Alexander M. Falconi, hereby certify that I have placed a true and correct copy of this *Opposition* into a sealed envelope, and mailed it, postage prepaid, via United States Postal Service, addressed as follows:

Clark County District Attorney's Office
200 Lewis Ave. 3rd Floor
Las Vegas, NV 89155

Craig Mueller, Esq.
723 South Seventh St.
Las Vegas, NV 89101

DATED THIS 30 day of August, 2019.

Alexander M. Falconi

[5] NRS 53.045.

Index of Exhibits

EXHIBIT 1

EXHIBIT 1

The State of Nevada vs. Michael Lee McDonald, July 10, 2019

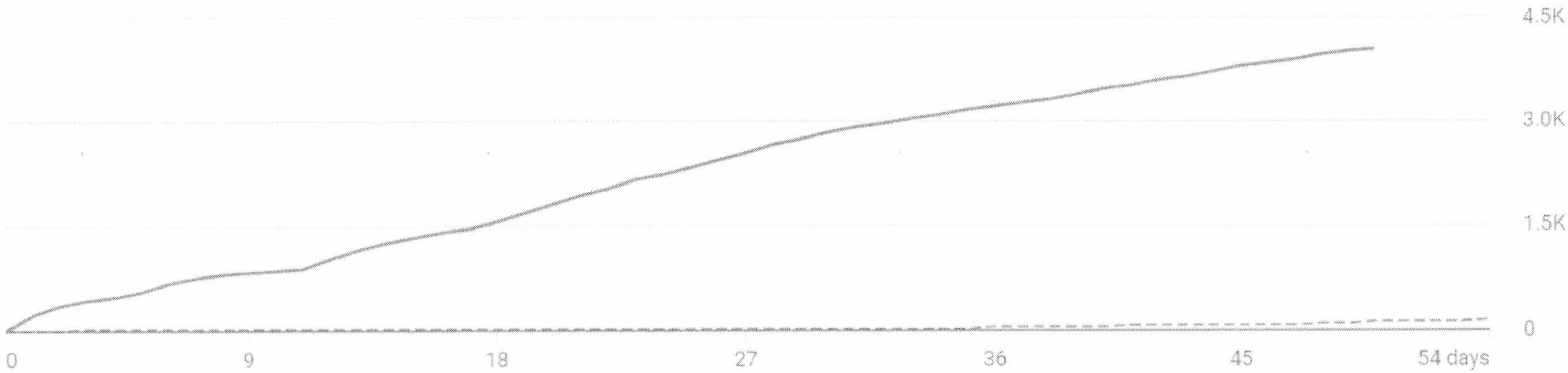
Overview | Reach | Engagement | Audience | Revenue

Jul 11, 2019 – Now
Since published

Views	Watch time (minutes)	Subscribers	Your estimated revenue
4.1K	35.1K	+67	–

Updated Aug 29, 2019, 10:17 PM

Compared to the average of your recent videos



SEE MORE

The State of Nevada vs. Michael Lee McDonald, July 22, 2019

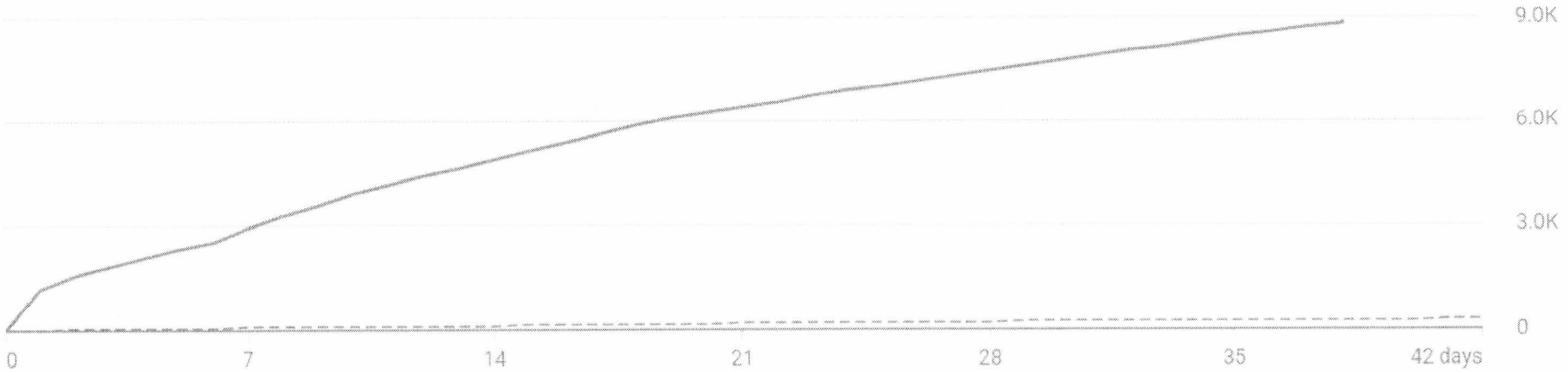
Overview | Reach | Engagement | Audience | Revenue

Jul 22, 2019 – Now
Since published

Views	Watch time (minutes)	Subscribers	Your estimated revenue
8.8K	75.3K	+89	—

Updated Aug 29, 2019, 10:17 PM

Compared to the average of your recent videos



SEE MORE

EXHIBIT 2

EXHIBIT 2

The State of Nevada vs. Michael Lee McDonald, July 10, 2019

Our Nevada Judges
was live — with Clark County District Attorney's Office and 3 others at Clark County District Court-Eighth Judicial.
about a month ago · Las Vegas ·

Following

Eighth Judicial District Court, Department 28, The Honorable Kathy A. Hardcastle presiding in the State of Nevada v. Michael McDonald. Appearing for the State is Deputy District Attorney Karen Mishler. Appearing for the Defense is Attorney Craig Mueller. Mr. Mueller's motion to recuse was denied. Ms. Mishler's motion to remand Defendant into custody was granted. Case No. C-18-335284-1.

3,672
People Reached

1,284
Engagements

View Promotion

25

10 Shares 3.1K View

Like Comment Share

The State of Nevada vs. Michael Lee McDonald, July 22, 2019

Our Nevada Judges
was live — with Michael Mcdonald and 5 others at Courthouse 200 Lewis Ave.
about 2 months ago · Las Vegas ·

Following

Eighth Judicial District Court, Department 28, The Honorable Ronald . Israel presiding in the State of Nevada v. Michael McDonald. Appearing for the State is Deputy District Attorney Karen Mishler. Appearing for the Defense is Attorney Craig Mueller. Case No. C-18-335284-1.

,768
People Reached

917
Engagements

Boost Post

23

10 Shares 1.2K View

Like Comment Share

Comments

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