

1 CODE 3880  
2 Christopher J. Hicks  
3 #7747  
4 One South Sierra Street  
5 Reno, NV 89501  
6 districtattorney@da.washoecounty.us  
7 (775) 328-3200  
8 Attorney for Plaintiff

9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
10 IN AND FOR THE COUNTY OF WASHOE.

11 \* \* \*

12 THE STATE OF NEVADA,

13 Plaintiff,

Case No: CR19-1535

14 v.

Dept: D08

15 ROGER EUGENE HILLYGUS (A)  
16 and  
17 STEWART EVANS HANDTE (B),

18 Defendants.  
19 \_\_\_\_\_/

20 RESPONSE TO MOTION TO INTERVENE

21 COMES NOW, the State of Nevada, by and through CHRISTOPHER  
22 HICKS, District Attorney of Washoe County and AMOS STEGE, Deputy  
23 District Attorney, and files this Response to Defendant's Motion for  
24 Limited Intervention to Provide Electronic Coverage Under SCR 230,  
25 filed on November 4, 2021.

26 This Response is made and based on the memorandum of Points  
and Authorities submitted herewith.

///

///

///

1 **POINTS AND AUTHORITIES**

2 The Court should deny the motion to intervene. Initially, it  
3 appeared that Falconi had not provided evidence of a proper request.  
4 However, upon contact with counsel, evidence of the request was filed  
5 as a supplement. It appears that the Court was unaware of the first  
6 request thus no ruling was ever entered.

7 Request

8 Rule 230(1) requires any "news reporters" seeking electronic  
9 coverage of a proceeding to file a written request at least 24 hours  
10 before the proceeding. Falconi's request was filed within 24 hours. At  
11 the October 28 hearing Defendant Hillygus raised the issue of lack of  
12 media coverage. The Court indicated that it was unaware of any media  
13 request. To be clear any right of the press to provide electronic  
14 coverage does not belong to a criminal defendant.

15 Rule 230(1) requires that attorneys of record be notified of the  
16 filing of a media request. Rule 230(1) ("The attorneys of record shall  
17 be notified by the court administrator or by the clerk of the court of  
18 the filing of any such request by a news reporter")<sup>1</sup>. That did not  
19 occur.

20 Ability to Intervene

21 While it is true that "the public and the press have the right to  
22 seek limited intervention in a criminal case to advance or argue  
23 constitutional claims concerning access to court proceedings," the  
24 current situation does not call for intervention because the instant  
25 situation is likely attributable to a rare and singular oversight.

26 \_\_\_\_\_  
<sup>1</sup> The State has not been notified of any media requests as to future hearings. Cf. Falconi Exhibit 3.

1 Stephens Media, LLC v. Eighth Judicial Dist. Court of State ex rel.  
2 County of Clark, 125 Nev. 849, 860, 221 P.3d 1240, 1248 (2009). A more  
3 appropriate example for intervention would be a court's denial of access  
4 to jury questionnaires (Id.) or other court records (e.g. In re  
5 Associated Press, 162 F.3d 503, 510 (7th Cir. 1998); see also Nixon v.  
6 Warner Communications, Inc., 98 S. Ct. 1306, 1312 (1978) ("[T]he...right  
7 to inspect and copy judicial records is not absolute"). Going forward,  
8 so long as Falconi complies with the procedural requirements of SCR  
9 Part IV, intervenor status is not necessary.

#### 10 Future Hearings

11 The Court should proceed to the requests contained in Exhibit 3  
12 by scheduling a hearing.<sup>2</sup> The Court accepts email requests as written  
13 requests. See [https://www.washoecourts.com/AttendingCourt/](https://www.washoecourts.com/AttendingCourt/MediaCoverage)  
14 MediaCoverage (directing that media requests be emailed to Ms. Lerud,  
15 Ms. Greco, and the Department administrative assistant). The Rule  
16 contemplates a per proceeding analysis so blanket future permission  
17 is improper. Rule 230(1) (Reporters must request permission to  
18 "provide electronic coverage of a proceeding..."). Since the factors to  
19 be considered by the court can vary over time, the Court should  
20 consider an application for each date (with the exception of trial)  
21 independently.

22 For the future hearings, the State would like to present evidence  
23 and argument regarding Rule 230 and Rule 240.

---

24  
25 <sup>2</sup> The State notes that it has not been notified, per rule, by the Court  
26 Administrator of the request. "A central tenet of our legal system is the concept  
of notice and hearing". Clark County Sports Enterprises, Inc. v. Kaighn, 93 Nev.  
395, 396, 566 P.2d 411, 412 (1977).

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 12th day of November, 2021.

CHRISTOPHER J. HICKS  
District Attorney  
Washoe County, Nevada

By       /s/ Amos Stege        
AMOS STEGE  
9200  
DEPUTY DISTRICT ATTORNEY

1 CERTIFICATE OF SERVICE BY E-FILING

2 Pursuant to NRCP 5(b), I certify that I am an employee of  
3 the Washoe County District Attorney's Office and that, on this date,  
4 I electronically filed the foregoing with the Clerk of the Court. A  
5 notice will be sent electronically to the following:

6  
7 Tom Pitaro, Esq.

8 Luke Busby, Esq.

9 Roger Hillygus