

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

OUR NEVADA JUDGES, INC., A  
NEVADA NON-PROFIT  
CORPORATION,

Petitioner,

vs.

THE SECOND JUDICIAL  
DISTRICT COURT OF THE STATE  
OF NEVADA IN AND FOR THE  
COUNTY OF WASHOE; AND THE  
HONORABLE KATHLEEN A.  
SIGURDSON, DISTRICT JUDGE,

Respondents,

and

COUNTY OF WASHOE; AND  
ROBERT A CONRAD,

Real Parties in Interest.

Supreme Court No. 88483

District Court No. CV24-00231  
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**RESPONDENTS' ANSWER TO PETITION FOR WRIT OF  
MANDAMUS**

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The Second Judicial District Court of the State of Nevada in and for the County of Washoe and the Honorable Kathleen A. Sigurdson, District Judge, by and through counsel, hereby submit this Answer in accordance with the Court's Order Directing Answer.

### **INTRODUCTION**

Our Nevada Judges, Inc.'s (ONJ) Petition for Writ of Mandamus should be denied. Judge Sigurdson did not abuse her discretion in denying ONJ's request to provide electronic coverage pursuant to Supreme Court Rule (SCR) 230.

First, the extraordinary relief of a writ is available "to compel the performance of an act which the law especially enjoins as a duty resulting from an office, trust or station." NRS 34.160. Rule 230 does not impose a duty on judicial officials to grant electronic coverage requests.

Second, although there is a presumption under the Supreme Court Rules "that all courtroom proceedings that are open to the public are subject to electronic coverage" (SCR 230(2)) that presumption is not absolute. Courts have judicial discretion and, after considering the factors identified in Rule 230, may grant or deny a request for electronic

coverage. *Falconi v. Eighth Jud. Dist. Ct. in & for Cnty. of Clark* does not mandate a different result. *Id.*, 140 Nev. Adv. Op. 8, 543 P.3d 92 (2024).

Third, neither the omission of a Rule 230 factors analysis in the order nor the alleged absence of notice of the request constitute reversible error to warrant the issuance of the extraordinary relief of a writ.

### **FACTS**

The underlying matter, *Robert A. Conrad v. Washoe County*, Case No. CV24-00231, concerns a dispute involving Real Party in Interest Robert Conrad's (RPI Conrad) ex parte request for records of the Washoe County Sheriff's Office. The records relate to the Sheriff's Office's response to a domestic disturbance call involving a husband and wife, who are the parents of four minor children. RPI Conrad was not a party to the disturbance nor present during the Sheriff's Office's response to the call.

Body cam footage of the response depicts the individuals involved in the disturbance and their residence. It also captures discussions by the individuals of intimate details of their relationship and other personal matters. Further, the Sheriff's Office's records include a video of the reporting individual in a state of nudity, photographs of her in various

stages of undress, and reports describing intimate details of the individuals' marriage and relationship.

ONJ submitted a request to Respondents to provide electronic coverage at a hearing in the underlying matter pursuant to SCR 230. Judge Sigurdson issued an order denying the request and the instant Petition for Writ of Mandamus ensued.

## ARGUMENT

### **I. Judge Sigurdson did not abuse her discretion in denying Petitioner's media request pursuant to SCR 230**

An abuse of discretion occurs when a “decision is arbitrary or capricious or if it exceeds the bounds of law or reason.” *Coleman v. State*, 130 Nev. 229, 239, 321 P.3d 901, 908 (2014) (internal citations omitted); *see also* ABUSE OF DISCRETION, Black's Law Dictionary (11th ed. 2019) (“An appellate court's standard for reviewing a decision that is asserted to be grossly unsound, unreasonable, illegal, or unsupported by the evidence.”).

Judge Sigurdson did not abuse her discretion by denying ONJ's request. First, Judge Sigurdson has no duty to permit electronic coverage under SCR 230. Second, the presumption under SCR 230(2) is not absolute. Third, the failure to include in the order the analysis of the

electronic coverage factors outlined in section (2) of Rule 230 or to provide notice of the media request to the parties was harmless. For these reasons, ONJ's petition must be denied.

**A. Judge Sigurdson does not have a duty to permit electronic coverage pursuant to SCR 230**

A writ of mandamus may issue “to compel the performance of an act which the law especially enjoins as a **duty** resulting from an office, trust or station.” NRS 34.160 (emphasis added). It is only available “where there is not a plain, speedy and adequate remedy in the ordinary course of law.” NRS 34.170. Further, a petitioner has the burden of demonstrating that the extraordinary remedy of writ relief is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Judicial officials have broad discretion in adjudicating matters that come before them. Their “discretionary power is subject only to the test of reasonableness, [which] requires a determination of whether there is logic and justification for the result.” *Imperial Credit v. Eighth Jud. Dist. Ct.*, 130 Nev. 558, 563, 331 P.3d 862, 866 (2014) (internal citations omitted). Only when an exercise of discretion is founded on prejudice or preference rather than reason is it arbitrary. *Badger v. Eighth Jud. Dist.*

*Ct.*, 132 Nev. 396, 402, 373 P.3d 89, 93 (2016). And it is capricious only when contrary to evidence or established rules of law. *Id.*

Although the Supreme Court Rules recognize writ petitions as a means for news reporters to seek relief concerning media access issues (*see* SCR 243), the rules do not impose a **duty** on judicial officials to grant electronic coverage requests under SCR 230. To conclude otherwise would nullify the broad discretion afforded judicial officers and make application of the 6 factors identified in SCR 230(2) to assess an electronic coverage request superfluous.

**B. The presumption that courtroom proceedings are subject to electronic coverage under SCR 230(2) did not preclude Judge Sigurdson from denying ONJ's request**

Rule 230 recognizes a presumption under the Supreme Court Rules that all courtroom proceedings that are open to the public are subject to electronic coverage. SCR 230(2). The presumption is qualified by the following factors:

- (a) The impact of coverage upon the right of any party to a fair trial;
- (b) The impact of coverage upon the right of privacy of any party or witness;
- (c) The impact of coverage upon the safety and well-being of any party, witness or juror;

- (d) The likelihood that coverage would distract participants or would detract from the dignity of the proceedings;
- (e) The adequacy of the physical facilities of the court for coverage; and
- (f) Any other factor affecting the fair administration of justice.

SCR 230(2).

Applying those factors to this matter overcomes the presumption in favor of electronic coverage.

As previously discussed, the underlying matter concerns a dispute involving RPI Conrad's ex parte request for records of the Washoe County Sheriff's Office from its response to a domestic disturbance call. RPI Conrad was not a party to the disturbance call. Body cam footage identifies the individuals involved in the disturbance and their residence. It also captured discussions by the individuals of intimate details. Further, the records include a video of the reporting individual nude, photographs of her in various stages of undress, and reports describing intimate details of the individuals' marriage.

“[P]ersonal privacy interests encompass a broad range of concerns relating to an individual's control of information concerning his or her person, and an interest in keeping personal facts away from the public

eye.” *Voice of San Diego v. Naval Criminal Investigative Serv.*, 22-CV-834 TWR (DEB), 2023 WL 8704727, at \*8 (S.D. Cal. Dec. 15, 2023) (quotations and citations omitted). The electronic coverage of this information would (1) infringe upon a party’s right to privacy (SCR 230(2)(b)), (2) impact the well-being of the reporting individual with the possible disclosure of intimate videos and photos (SCR 230(2)(c)), (3) likely distract from the dignity of the proceedings by focusing on potentially salacious materials (SCR 230(2)(d)), and (4) negatively affect the fair administration of justice by deterring domestic violence calls for fear of public disclosure of intimate matters (SCR 230(2)(f)). These factors substantiate Judge Sigurdson’s denial of the request for electronic coverage.

**1. *Falconi* does not mandate that a judicial official permit electronic coverage under SCR 230**

ONJ relies on *Falconi v. Eighth Judicial District Court in and for County of Clark* to posit that the media’s right to access court proceedings trumps an individual’s privacy interest. *Id.*, 140 Nev. Adv. Op. 8, 543 P.3d 92 (2024). *Falconi* did not analyze SCR 230. *See id.* at 100, n. 8. Rather, it addressed a First Amendment challenge to local rules enacted

pursuant to a state statute<sup>1</sup> that automatically closed child custody matters and provided for the closure of family court proceedings at the request of either party. *Id.*, 543 P.3d at 94. *Falconi* held that the challenged provisions were unconstitutional because they permitted closed proceedings without the exercise of judicial discretion in making the determination. *Id.*, at 100. Under SCR 230, however, judicial discretion is exercised by consideration of the enumerated factors in deciding whether or not to grant the request. SCR 230(2).

**C. A failure to analyze SCR 230 factors in a written order or provide notice of the request to litigants constitutes harmless error**

Errors that do not affect substantial rights are reviewed for harmless error. *See* NRS 178.598. And where the error is harmless, the extraordinary relief of a writ is not warranted.

ONJ contends that Judge Sigurdson abused her discretion by summarily denying its request without explanation. Petition, Dkt. 88483 at 5. It also asserts that the parties did not receive notice of its request. *Id.* In *Kaplan v. State*, the Court rejected a similar argument. *Id.*, 2019 WL 2341216 at \*1 (Nev. 2019) (unpublished). While acknowledging that

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<sup>1</sup> *See* EDCR 5.207, EDCR 5.212, and NRS 125.080.

the district court erred by failing to analyze the Rule 230(2) factors in a written order, the Court held that the error was harmless. *Id.* The same reasoning applies here.

Further, although Rule 230 provides that the clerk or court administrator will notify counsel of a request for electronic coverage, the consent of participants to coverage is not required. *See* SCR 240(1). The preceding omissions simply do not justify a writ ordering Judge Sigurdson to vacate her order or grant ONJ's request.

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## CONCLUSION

For the reasons discussed, Judge Sigurdson did not abuse her discretion in denying ONJ's request to provide electronic coverage. She did not have a duty under SCR 230 to grant the request. A consideration of the factors in section 2 of the rule support Judge Sigurdson's decision. And since the omission of an analysis of the factors in a written order or notice to the parties was harmless, the Court should deny ONJ's petition.

Dated this 20th day of May, 2024.

AARON D. FORD  
Attorney General

By: /s/ Sabrena K. Clinton  
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and the Honorable Kathleen A.  
Sigurdson, District Judge*

## CERTIFICATE OF COMPLIANCE

1. I hereby certify that this answer complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:

This answer has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in 14 pt. font and Century Schoolbook; or

This brief has been prepared in a monospaced typeface using [state name and version of word processing program] with [state number of characters per inch and name of type style].

2. I further certify that this brief complies with the page- or type volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is either:

Proportionately spaced, has a typeface of 14 points or more and contains 1,777 words; or

Monospaced, has 10.5 or fewer characters per inch, and contains \_\_\_ words or \_\_\_ lines of text; or

Does not exceed \_\_\_ pages.

3. Finally, I hereby certify that I have read this appellate brief, and

to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 20th day of May, 2024.

AARON D. FORD  
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Washoe and the Honorable Kathleen A.  
Sigurdson, District Judge*

## CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of the Court by using the electronic filing system on the 20th day of May, 2024, and e-served the same on all parties listed on the Court's Master Service List.

*/s/ Jeny M. Beesley*

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Jeny M. Beesley, an employee of  
the office of the Nevada Attorney General