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**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff,

V.

BRYAN C. KOHBERGER,

Defendant.

CASE NUMBER CR01-24-31665

REDACTED

**OPPOSITION TO MOTION TO
VACATE NONDISSEMINATION
ORDER**

COMES NOW, Bryan C. Kohberger, by and through his attorneys of record, and hereby requests the Court for an Order to maintain the Revised Amended Nondissemination Order issued on June 23, 2023 until sentencing.

Mr. Kohberger's request regarding the Order is based on the 1) the language of the order, that had not previously been challenged by the media; 2) the ongoing publicity regarding the case and threats to Mr. Kohberger's safety; and 3) [REDACTED] and the hold order for all witnesses issued by this Court.

I. The language of the Revised Amended Nondissemination Order issued on June 23, 2023, specifically ran through sentencing.

In response to significant litigation and an Idaho Supreme Court ruling¹ on this issue in this case, the Court issued a Revised Amended Nondissemination Order on June 23, 2023. By its terms, the Order was to "remain in full force and effect until the conclusion of a trial and any sentencing proceedings that may follow unless ordered by this court" (Order at pg 3). After this order was issued, the Interested Parties (hereinafter the Media), raised no further objections to the Revised Order.

The Revised Order recognized that Mr. Kohberger's rights extend beyond the question of guilt or innocence to his right to a fair sentencing proceeding, regardless of whether that proceeding is reached via a jury verdict or a plea.

The motion filed by the Media to vacate the Revised Order asserts that once a guilty plea is entered, that his right to a fair trial under the Sixth Amendment, is extinguished. (Motion to Vacate at pg 4). What the Media fails to recognize is that Mr. Kohberger retains his rights to a fair sentencing proceeding guaranteed under the Fourteenth Amendment (*See, State v. Morgan*, (1985) 109 Idaho 1040, 1042-43) and his right to effective assistance of counsel under the Sixth Amendment and the Idaho Constitution, Art. 1, Sec. 13 (*See, Estrada v. State* (2006) 143 Idaho

¹ On March 24, 2023, the Idaho Supreme Court denied the Media's Petition for Writ of Mandamus or Writ of Prohibition. *In Re: Petition for Writ of Mandamus or Writ of Prohibition*, 529 P.3d 1259, 2023 WL 3050829 (2023). In response, the Media filed a motion to Vacate the Amended Nondissemination Order which resulted in the Revised Amended Nondissemination Order attached to the Declaration of Olson, as Exhibit A.

558, 560-61) [A defendant’s right to effective assistance of counsel “extends to all critical stages of the prosecution where his substantial rights may be affected, and sentencing is one such stage.”] *State v. Wood* (1996) 132 Idaho 88, 95).

In this case, substantial dangers of prejudice to Mr. Kohberger exist up to and through sentencing. As this Court is well aware, there have been numerous leaks of confidential information to the press and the avalanche of publicity continues with the release of the Peacock documentary “The Idaho Student Murders,”² the Amazon Prime series on July 11, 2025³ and the book by James Patterson on July 14, 2025.⁴ Lifting the Revised Order now, this close to the sentencing would only increase the media frenzy and publicity around the case.

II. The ongoing publicity in the case threatens Mr. Kohberger’s safety

As set forth above in Sec. I, the amount of publicity coming before sentencing, even with the Revised Order in place, is massive. Further release would only serve to gin up the anger and violent rhetoric already at a fever pitch. Again, this Court is well aware of the threats posed not only to Mr. Kohberger, but to his family and to Court staff.

At this point, the press has access to every witness who is not an agent of either party. As the Court noted in its denial of the Motion to Vacate the Amended Nondissemination Order in 2023, the Media is not being restrained, only the parties are restrained, and those restraints are reasonable. Both parties had no objection and indeed sought to have the Revised Order remain in place at least until sentencing. (*See*, Court Minutes, July 2, 2025 at 11:58 a.m.)

² https://www.peacocktv.com/stream-tv/the-idaho-student-murders?irclidid=SfM3WYSc9xyKRRRX6aRjAyNQUKsSA6Ql10ip2g0&irgwc=1&utm_source=pk_vrs_imra&utm_medium=pd_aff_acq_psdlnk&utm_term=Wildfire%20Systems&utm_content=851570&cid=2201affiliateevgnpkpdaff4393&utm_campaign=2201affiliateevgn

³ https://www.youtube.com/watch?v=Ro_qTgaXCPk

⁴ <https://www.jamespatterson.com/titles/james-patterson/the-idaho-four/9780316572859/>

Court security resources were at maximum capacity on July 2, 2025. The sentencing hearing, scheduled for two days, promises to be even more taxing on those resources. Lifting the Nondissemination Order now, is likely to change the atmosphere near the courthouse and may well push security needs beyond capacity.

III. The Court has issued a records hold order [REDACTED]

After the release of the May 9, 2025 Dateline special on this case, the Court issued Hold Orders to both parties (Documents and Records Hold Order, May 15, 2025). [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

In its response to the Media motion, the State now “withdraws its request” for the nondissemination order to be continued until sentencing. The State cites “further reflection” and continues that...

out of respect for the integrity of the judicial process and the privacy of the victims and their families as they consider their rights to provide victim impact statements at sentencing, the *prosecution team*⁵ does not intend to make any public statements about this case until after sentencing has concluded.

(State Response to Media Motion, filed July 14, 2025, at 2 [emphasis added]). The State’s promise rings hollow given the previous leaks from sources “close to law enforcement.”

⁵ From the language, who is “promising” not to speak to the press is vague. Does this mean the attorneys, staff members of the prosecutor’s office, and/or all of the 150 law enforcement officers involved in this investigation? On July 2, 2025 an entire row in the courtroom galley was occupied by law enforcement who were watching the proceedings. Will a third of the courtroom now be allocated to law enforcement, free to provide media interviews as they enter and exit the courthouse?

CONCLUSION

Mr. Kohberger requests the Court deny the Media request to vacate the Revised Order ahead of sentencing. In order to maintain the integrity of the process, and the security and safety of all of the parties involved including the families, court staff and attorney, the Revised Order should remain in effect. The Revised Order is reasonable in scope and does not impinge on the Media's ability to investigate and report on this case and maintaining the Revised Order will minimize the media frenzy leading up to the sentencing.

DATED this 15 day of July, 2025.



ANNE C. TAYLOR
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CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served as indicated below on the 15 day of July, 2025 addressed to:

Latah County Prosecuting Attorney –via Email: paservice@latahcountyid.gov
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