

NO. 1873328

THE STATE OF TEXAS,

vs.

JOHAN JOSE MARTINEZ-RANGEL

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

232ND JUDICIAL DISTRICT

ORDER

This Court has a duty to preserve the parties' right to a fair and impartial process as well as the defendant's, Johan Jose Martinez-Rangel, right to a fair and impartial jury trial. In addition, the Court has a duty to ensure that jurors will not be prejudiced by pretrial and/or in-trial publicity. The Court also notes that the attorneys have a duty to refrain from making any "extrajudicial statement[s] that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicatory proceeding."¹ These extrajudicial statements include, but are not limited to, statements referring to:

1. the character, credibility, reputation or criminal record of a party [...] or witness; or the expected testimony of a party or witness;
2. [...] the possibility of a plea of guilty to the offense; the existence or contents of any confession, admission, or statement given by a defendant [...]; or that person's refusal or failure to make a statement;
3. the performance, refusal to perform, or results of any examination or test; the refusal or failure of a person to allow or submit to an examination or test; or the identity or nature of physical evidence expected to be presented;
4. any opinion as to the guilt or innocence of [the] defendant [...]; or

¹ TEX. RULES DISCIPLINARY P. R. 3.07(a)

5. information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and would if disclosed create a substantial risk of prejudicing an impartial trial.²

The Court believes these duties are extended to include any staff or employee(s) of that attorney and/or office.

In addition, the prosecution shall “exercise reasonable care to prevent persons employed or controlled by the prosecutor [...] from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.07.”³

The Court is also mindful of the First Amendment rights of the parties, counsel for the parties, the media, as well as the Open Courts Provision of the Texas Constitution. In efforts to balance these competing interests, courts have found that prior restraint may be imposed if there is the threat of harm. Accordingly, before issuing such an order, a court must find that extensive media coverage will harm the judicial process. The Court further finds that the Defendant in the instant case has specifically requested that a protective order be granted prohibiting the dissemination of extrajudicial statements.

This Court takes judicial notice of

- 1) The high profile of the allegations of the offense;
- 2) The willingness of one or both parties to give interviews and/or public attention to this matter via the media and other means; and
- 3) The extensive media and social media coverage already generated by this case, both locally and nationally.

The Court FINDS that there is a substantial probability that continued interviews, public speaking, media and social media articles, postings, and/or comments on this case will likely prejudice one or both parties’ right to a fair process and the defendant’s right to a fair trial.

² TEX. RULES DISCIPLINARY P. R. 3.07(b)

³ TEX. RULES DISCIPLINARY P. R. 3.09(e)

The Court FINDS that one or both parties' willingness to give interviews, conduct press conferences, have press releases and/or independently post case events to any media outlet, including social media, only serve to increase the volume of pre-trial and in-trial publicity.

The Court FINDS that no less restrictive alternative means exists to treat the specific threat to the judicial process generated by this publicity.

The Court FURTHER FINDS that an order restricting extra-judicial commentary by counsel for the parties is necessary to preserve all venue options.

Nothing in this Order serves to restrict the media from attending the proceedings or reporting on the proceedings.

Accordingly, in its sound discretion and in light of the relevant facts and circumstances of this particular case, the Court ORDERS, that prior to and during the trial of this case:

1. All attorneys, their respective offices, staff, employees, and interns of their offices, involved in this case shall strictly adhere to the letter and spirit of the provisions of the Texas Code of Professional Responsibility governing comments to the media. Specifically, all attorneys shall refrain from making "extrajudicial statement[s] that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicatory proceeding." TEX. RULES DISCIPLINARY P. R. 3.07(a), *reprinted in* TEX. GOV'T CODE, tit. 2, subtit. G app. A (TEX. STATE BAR R. art 10 §9).
2. The parties, witnesses involved in this case, all attorneys, including associates, partners, their staff/employees and their interns, shall not, prior to and during the trial of this case, discuss the following aspects of this case in any public forum, with the media, or independently post, tweet, or otherwise digitally disseminate on their, others', or any professional or personal social media accounts about:
 - a. the character, credibility, reputation or criminal record of a party or witness; or the expected testimony of a party or witness;

- b. the possibility of a plea of guilty to the offense; the existence or contents of any confession, admission, or statement given by the defendant; or that person's refusal or failure to make a statement;
- c. the performance, refusal to perform, or results of any examination or test; the refusal or failure of a person to allow or submit to an examination or test; or the identity or nature of physical evidence expected to be presented;
- d. any opinion as to the guilt or innocence of the defendant; or
- e. information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and would if disclosed create a substantial risk of prejudicing an impartial trial; and/or
TEX. RULES DISCIPLINARY P. R. 3.07(b)
- f. the identity or nature of evidence expected to be presented, or the absence of such evidence; TEX. RULES DISCIPLINARY P. R. 3.07(c)(8); and/or
- g. any information that is substantially likely to materially prejudice the trial.

See TEX. RULES DISCIPLINARY P. R. 3.07(a), 3.09(e) and Comments 1 & 6.

3. The prosecution shall exercise reasonable care to prevent persons employed or controlled by the prosecutor from making any extrajudicial statements that the prosecutor would be prohibited from making under Rule 3.07. TEX. RULES DISCIPLINARY P. R. 3.09(e).
4. This Order shall not be interpreted to prohibit attorneys from communicating with the parties in order to prepare for trial; nor shall it be interpreted to prohibit the third parties from attending any live sessions before the Court unless otherwise prohibited by TEX. R. EVID. 614. The term "third parties" includes any person or organization, not a party, not an attorney for a party, or not a person employed by the parties or attorneys for the parties for the purpose of assisting in this litigation.
5. This Order does not prohibit any individual from stating without elaboration or characterization:
 - a. The general nature of the criminal justice process or procedures;
 - b. the information contained in a public record;

- c. that an investigation of the matter is in progress, including the general scope of the investigation, the offense, claim or defense involved;
- d. except when prohibited by law, the identity of the persons involved in the matter;
- e. the scheduling or result of any step-in litigation;
- f. a request for assistance in obtaining evidence, and information necessary thereto.

This Court shall entertain reasonable requests to modify this Order as the need arises.

Order entered September 11, 2024



Judge of the 232nd District Court
Harris County, Texas