

STATE OF WYOMING)
) ss.
COUNTY OF LARAMIE)

IN THE DISTRICT COURT
FIRST JUDICIAL DISTRICT

THE STATE OF WYOMING)

Plaintiff)

vs.)

WYATT LAMB,)

Defendant)

Docket No. 2021-CR-35-584

FILED
MAY 19 2022

DIANE SANCHEZ
CLERK OF THE DISTRICT COURT

MOTION TO CLOSE HEARING ON MOTION FOR GAG ORDER

COMES NOW the Defendant, by and through counsel, Diane M. Lozano, State Public Defender and Brandon T. Booth, Chief Trial Counsel, and respectfully requests this Court to close the hearing on the Defendant's Motion for a Gag Order. The reasons for this request are as follow:

1. The Defendant has contemporaneously filed a Motion for Gag Order due to extrajudicial statements made by the District Attorney to the Wyoming Tribune Eagle about this case in an interview published on May 11, 2022. The request for the gag ordered is premised on the belief that the statements within the article are inflammatory and judgmental and, thereby, prejudicially impact the Defendant's right to a fair trial. Filing the Motion for Gag Order in the public record and further arguing the facts necessitating the aforementioned motion in a public setting will only further the harm of the improper extrajudicial statements. The defendant has requested that the Motion for Gag Order (and another motion) be filed in the confidential file pending the determination of the issue, but said motion was denied. The defendant has,

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information. Such circumstances should be rare and the balancing act should be handled with caution. "The presumption of openness may be overcome only by an overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest. The interest is to be articulated along with findings specific enough that a reviewing court can determine whether the closure order was properly entered." *Press-Enterprise Co. v. Superior Court of California*, 464 U.S., at 510, 104 S.Ct. 819, at 824; *Waller v. Georgia*, 467 U.S. 39, 45, 104 S. Ct. 2210, 2215, 81 L. Ed. 2d 31 (1984).

5. In terms of whether this Court can close the hearing to the public, the Wyoming Supreme Court has allowed a closure of a hearing and sealing of the record for such when "(i) the dissemination of the information from a pretrial proceeding and its record would create a clear and present danger to the fairness of the trial, and (ii) the prejudicial effect of such information on trial fairness cannot be avoided by any reasonable alternative means." *Ex. Rel. Feeney v. Dist. Ct. of 7th Judicial District*, 607 P.2d 1259, 1264-1265.

6. In this instance, the Defendant's ability to freely discuss the problematic extrajudicial statements in support of his Motion for the Gag Order will be inhibited by the concern that restating the statements in open court will further harm the Defendant. Further disseminating the statements in a public hearing will create a clear and present danger to his right to a fair trial before an impartial tribunal.

7. In addition, this Motion for Closure should be closed as well. The Court can release the record of this hearing to the public if it denies the Defendant's motion for a closed hearing.

THEREFORE Defendant respectfully requests this Court to close the Motion for Gag Order Hearing to the public.