

**ORIGINAL**

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STATE OF IDAHO }  
COUNTY OF KOOTENAI } SS  
FILED:

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CLERK DISTRICT COURT  
*[Signature]*  
DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
V. )  
)  
JONATHAN DANIEL RENFRO, )  
)  
)  
Defendant. )  
)

**CASE NUMBER CR-15-6589  
Fel**

**MOTION FOR NONDISSEMINATION  
ORDER**

Jonathan Daniel Renfro, by and through his attorney, John M. Adams, Public Defender, hereby moves this honorable Court for an Order barring parties, their attorneys, investigators, law enforcement personnel, and potential witnesses from discussing this matter with any public communications media.

This Motion is based on the Sixth Amendment and the defendant's right to a fair trial under both the Idaho and U.S. Constitution. This Court has both a constitutional duty and the inherent authority to "minimize the effects of prejudicial pretrial publicity" and "to ensure the efficacious administration of justice." *Gannett Co. v. DePasquale*, 443 U.S. 368, 377 (1979); *Hall v. State*, 151 Idaho 42, 46 (2011).

Attorney speech may be regulated under a less demanding standard than that of the media. *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1073 (1991). The Idaho State Bar has adopted a “substantial likelihood” standard similar to the standard upheld in *Gentile*. See I.R.P.C. 3.8(f). The bar prohibits prosecutors from “making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused.” *Id.*

Moreover, the bar requires that prosecutors “exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case from making extrajudicial statements that the prosecutor would be prohibited from making under Rule 3.6 or [Rule 3.8].” Thus, Idaho joins other jurisdictions that have applied the “substantial likelihood” standard to parties and witnesses. See *U.S. v. Brown*, 218 F.3d 415, 427 (2000); *In re Russell*, 726 F.2d 1007, 1010 (4th Cir.1984); *U.S. v. Tijerina*, 412 F.2d 661, 666–67 (10th Cir.1969).

As this Court is aware, this case involves matters that in and of themselves invoke the passions and inflammatory reactions of many in the public. Law enforcement officers investigating the above entitled matter have already commented on the character, credibility, reputation and criminal record of Jonathan Renfro as well as expressed opinions on his guilt to the media at televised press conferences. The United States Supreme Court has identified nondissemination orders as being properly narrowly tailored as well as the least restrictive means to ensure a fair trial in view of First Amendment protections. *Nebraska Press Ass’n v. Stuart*, 427 U.S. 539 (1976); *Sheppard v. Maxwell*, 384 U.S. 333, 361 (1966).

Therefore this Court should order that the parties, witnesses, investigators, law enforcement personnel, and attorneys in this matter be barred from making extrajudicial statements that have a substantial likelihood of heightening public condemnation of the accused.

Counsel requests that this motion be set for hearing in order to present oral argument, evidence and/or testimony in support thereof. Requested time is 10 minutes.

DATED this 10 day of May, 2015.

THE LAW OFFICE OF THE PUBLIC  
DEFENDER OF KOOTENAI COUNTY

BY:

  
\_\_\_\_\_  
JOHN M. ADAMS  
PUBLIC DEFENDER

### CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 10 day of May, 2015, addressed to:

Kootenai County Prosecuting Attorney

Via Fax

Interoffice Mail

  
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