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IN THE FOURTH JUDICIAL DISTRICT COURT, PROVO DEPARTMENT  
IN AND FOR THE COUNTY OF UTAH, STATE OF UTAH

<p>STATE OF UTAH,</p> <p>Plaintiff,</p> <p>vs.</p> <p>TYLER JAMES ROBINSON,</p> <p>Defendant.</p>	<p><b>DEFENDANT TYLER JAMES ROBINSON'S NOTICE OF OBJECTION TO THE STATE OF UTAH'S PROPOSED EXHIBIT 4.1; MEMORANDUM OF POINTS AND AUTHORITIES</b></p> <p>Case No. 251403576</p> <p>Honorable Tony F. Graf, Jr.</p> <p>Hearing Date: February 3, 2026</p>
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Defendant, Tyler James Robinson, by and through his counsel of record, hereby provides this Honorable Court, and the State of Utah through its counsel of record, with notice of his objection to admission into evidence and the publication of the State's proposed Exhibit 4.1 during, after, or in connection with the evidentiary hearing on his motion to disqualify the Utah County Attorney's Office from representing the State of Utah in this matter.

This objection is based upon Rules 401, 402, and 403 of the Utah Rules of Evidence, as well as Mr. Robinson's right to a fair trial under art. I, § 12 of the Utah Constitution and the Sixth Amendment to the United States Constitution, as set forth in the attached memorandum of points and authorities.

RESPECTFULLY SUBMITTED this 27<sup>th</sup> of January, 2026.

/s/ Kathryn N. Nester  
Kathryn N. Nester

/s/Richard G. Novak  
Richard G. Novak

/s/ Michael N. Burt  
Michael N. Burt

/s/ Staci Visser  
Staci Visser

*Attorneys for Defendant, Tyler James Robinson*

## MEMORANDUM OF POINTS AND AUTHOTITIES

### Introduction

As the Supreme Court of Utah explained in *State v. James*:

This is a capital case. Not only will a jury be required to determine the guilt or innocence of defendant, but if guilt is found, the jury will probably be urged by the prosecution to impose the death penalty. In deciding whether to impose the death penalty, the jury must weigh aggravating circumstances against mitigating circumstances. This is the most momentous judgment a jury can be asked to make. The judgment should be made in an atmosphere as free from any taint of bias or prejudice as is reasonably possible.

767 P.2d 549, 555 (1989).

“Here, the impact of the alleged crime reached deeply into the community. [R]esidents [were] exposed to media information on almost a daily basis[.]” *Id.*

As the highly biased traditional local and national media and *nouveau* international social media coverage of this case demonstrates, every in-court statement by attorneys representing the State, whether under oath or not, every statement by counsel for Mr. Robinson, and every observation and ruling by this Court are under a microscope and subject to micro-surgery by journalists, bloggers, media “experts,” and others. To make matters worse, those media entities which now purport to refer to themselves as “litigants” in this prosecution, in complete disregard of this Court’s admonition to the contrary, seek to ensure that every single pleading filed in and statement to this Court is available for widespread public dissemination long before a neutral, untainted, and reliably unbiased jury is ever impaneled, undoubtedly undermining the ability of this Court and the *two* litigants to do so. As the last two hearings demonstrate, repeated violations of this Court’s decorum order which, not coincidentally, arise from improper, prohibited telescopic views of Mr. Robinson and his counsel conferring at counsel table and result in absurd but widely published opinions from putative “lip readers” and others who seek

fame and future from interpreting facial expressions or the lack thereof, are brushed off by the media's in-court representatives as unintentional mistakes that will not be repeated, again. This is, alas, the context in which the present hearing and the present objection must be viewed.

Pending before this Court is Mr. Robinson's wholly proper and timely-brought motion to disqualify the Utah County Attorney's Office because of a conflict of interest arising from a family member of a member of the prosecution team personally witnessing the events at Utah Valley University on September 10, 2025.<sup>1</sup>

Mr. Robinsons objects, here, to the admission into evidence in connection with this motion of the State's proposed Exhibit 4.1, a close-up color video, with audio, of the shooting of Mr. Kirk. This proposed exhibit is clearly inadmissible. If admitted, which would be in contravention of the Utah Rules of Evidence, it should remain sealed until it is admitted into evidence, if it is, at trial.

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<sup>1</sup> Mr. Gray characterized Mr. Robinson's verbal request on January 16, 2026, for this Court to refer the motion to disqualify to the Attorney General's Office pursuant to Utah Code § 17-68-304 so that it can represent the State's interests, which, here, are not the same as those of the County Attorney's, as frivolous and for the purposes of delay. This characterization by Mr. Gray is belied by the fact that the Utah County Attorney's Office knew as early as October 2025 that it needed to disclose the facts which, in Mr. Robinson's view, create *at a minimum* an obvious appearance of a conflict of interest. In fact, Mr. Robinson's intention to bring this issue to the Court's attention was clearly stated at an earlier hearing, without any claim by the State at that time that it was frivolous or for the purpose of delay. So far, Mr. Gray has acknowledged that he has not sought guidance from any clearly neutral prosecutor or other ethics advisor within Utah or elsewhere, let alone from the Utah Attorney General. Moreover, as Mr. Gray well knows, defense counsel in a capital case have their own ethical duty to consider, investigate, and assert all legal claims potentially available "as forcefully as possible." American Bar Association, *Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases* § 10.8 (2003), available at [https://www.americanbar.org/content/dam/aba/administrative/death\\_penalty\\_representation/2003\\_guidelines.pdf](https://www.americanbar.org/content/dam/aba/administrative/death_penalty_representation/2003_guidelines.pdf). His *ad hominem* attack on Mr. Robinson's *counsel* served no purpose other than to prejudice Mr. Robinson's right to a fair trial, as the easily anticipated post-hearing media repetition of Mr. Gray's comments demonstrates.

Mr. Robinson objects to its admission into evidence on the bases that it not admissible within the meaning of Rules 401 and 402 of the Utah Rules of Evidence. Rule 401 provides that “[e]vidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action. Utah R. Evid. 401. Rule 402 provides that “irrelevant evidence is not admissible.”

Mr. Robinson also objects to its admission under Rule 403 *if* this Court intends to permit the State to publish this exhibit in open court, or if this Court intends to provide the public with access to this exhibit before it is admitted into evidence *at trial*, if it ever is. Rule 403 provides that “[t]he court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence. Utah R. Evid. 403. Here, of course, the deep concern is with the leading grounds for excluding evidence that is of a limited probative value: “unfair prejudice” and “confusing the issues”.

Mr. Robinson’s objection under Rule 403 is inextricably intertwined with and therefore also based upon his right to a fair trial under the Utah and United States Constitutions. In *State v. Archuleta*, the Supreme Court of Utah held that a trial court is well within its authority to deny access to public documents and exhibits received into evidence in a preliminary hearing, a ruling based in part on the defendant’s constitutional right to a fair trial. 857 P.2d 234, 239 (1993). “Providing public access to the exhibits requested would not serve the administration of justice and, as the trial court concluded, could very well jeopardize defendants' right to a fair trial.” *Id.* at 242.

### **Exhibit 4.1**

Prior to the hearing on January 16, 2026, the State produced Exhibit 4.1 to the defense, presumably in anticipation of introducing it in support of its Opposition to Mr. Robinson's Motion to Disqualify the Utah County Attorney's Office. Dkt. 289. The defense anticipates that the State intends to attempt to move Exhibit 4.1 into evidence at the hearing currently scheduled for February 3, 2026. Exhibit 4.1 is a video clip of the shooting of Mr. Charlie Kirk. The video is in color and from a distance of only a few feet away from Mr. Kirk. There is audio contained within the video clip capturing sounds, including unidentified voices, immediately before, during, and after the shooting.

### **Exhibit 4.1 Is of No Probative Value To Any Material Issue Surrounding The Motion To Disqualify**

The motion at issue here is not focused on the cause of Mr. Kirk's death, but on the propriety of the Utah County Attorney's Office representing the State in this prosecution. The two questions before this Court is whether a legal conflict of interest or an appearance of the same exists in this case sufficient to disqualify one of the members of the prosecution team and if that conflict of interest likewise disqualifies the Utah County Attorney's Office. Nothing about the motion or the State's opposition necessitates the viewing of the moments just before or the moment of Mr. Kirk's death and the captured audio in order to reach a legal conclusion about the existence of that actual or apparent and unwaivable conflict of interest. The video of Mr. Kirk's death has no tendency to make any fact relating to the motion to disqualify more or less probable than it would be without the introduction of the video. The State has submitted still photos and diagrams, none of which Mr. Robinson objects to, showing Mr. Kirk's location and proximity to the audience and the believed location of the family member of a member of the prosecution team, which are wholly sufficient to impart the *relevant* information that the State believes

should be considered by this Court. Pursuant to Rules 401 and 402 of the Utah Rules of Evidence, Exhibit 4.1 is not relevant and should not be admitted into evidence in connection with this motion.

**Any Alleged Probative Value Is Substantially Outweighed By a Danger Of Unfair Prejudice And Negatively Impacts Mr. Robinson's Right To a Fair Trial**

While Mr. Robinson has lodged with this Court a separate motion to prohibit videography, still camera images, and audio broadcasting of the courtroom proceedings in this case, this Court has not yet ruled on that motion.<sup>2</sup> Assuming that the hearing scheduled for February 3, 2026 will be televised, any video exhibit played at the hearing would be subject to immediate publication nationwide and internationally, absent a proactive decision by this Court to seal the exhibit, which is well within its authority, as explained by the Supreme Court of Utah in *State v. Archuleta*, 857 P.2d at 239. “Providing public access to the exhibits requested would not serve the administration of justice and, as the trial court concluded, could very well jeopardize defendants' right to a fair trial.” *Id.* at 242.

Exhibit 4.1 is graphic and likely highly disturbing to any person who views it, negatively impacting Mr. Robinson's constitutional right to a fair trial. Exhibit 4.1 is also needlessly cumulative in light of other still photos and diagrams included in the State's proposed exhibits. The prejudice certain to follow the public dissemination of Exhibit 4.1 substantially outweighs

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<sup>2</sup> At the outset of the hearing on February 3, 2026, Mr. Robinson will, again, move this Court to prohibit both the videographer and the still photographer from capturing close-up images of Mr. Robinson while he is seated at counsel table. Widespread publication of these images has served no legitimate purpose and merely fuels rampant unfounded speculation about Mr. Robinson's state of mind during these proceedings. In the absence of judicial intervention to bring an end to this highly prejudicial pre-trial imagery and the resulting discourse in the media, Mr. Robinson is faced with choosing between his constitutional right to a fair trial and his constitutional right to be personally present at all critical stages of these proceedings. Neither the Utah Constitution nor the United States Constitution contemplate a defendant having to make such an election under these circumstances.

any possible probative value the State may assert it possesses. Therefore, pursuant to Rule 403 of the Utah Rules of Evidence and Mr. Robinson's right to a fair trial under the Utah Constitution and the United States Constitution, Exhibit 4.1 should not be admitted into evidence, should not be publicly displayed and, if admitted into evidence, must remain under seal.

**Conclusion**

Exhibit 4.1 has no proper role in the instant hearing. It should be excluded, should not be publicly presented, and should remain under seal if the Court concludes otherwise.

RESPECTFULLY SUBMITTED this 27<sup>th</sup> of January, 2026.

/s/ Kathryn N. Nester  
Kathryn N. Nester

/s/Richard G. Novak  
Richard G. Novak

/s/ Michael N. Burt  
Michael N. Burt

/s/ Staci Visser  
Staci Visser

*Attorneys for Defendant, Tyler James Robinson*



### **CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing was served via the Court's electronic filing system on the 27th day of January, 2026, which served all attorneys of record.

/s/ Staci Visser