
**IN THE FOURTH JUDICIAL DISTRICT COURT
UTAH COUNTY - STATE OF UTAH**

STATE OF UTAH,
Plaintiff,

vs.

TYLER JAMES ROBINSON,
Defendant.

**RULING AND ORDER ON
PRELIMINARY HEARING BINDOVER**

Case No: 251403576

Honorable Tony F. Graf, Jr.

Before the Court is the State's motion to bind Defendant Tyler James Robinson over for trial in the District Court on all seven counts charged in the Information. The charges include Count 1, aggravated murder, a capital felony under Utah Code § 76-5-202, together with the State's victim-targeting notice; Count 2, felony discharge of a firearm causing serious bodily injury, a first-degree felony under § 76-11-210(2); Counts 3 and 4, obstruction of justice, second-degree felonies under § 76-8-306(2); Counts 5 and 6, tampering with a witness, third-degree felonies under § 76-8-508; and Count 7, violent offense committed in the presence of a child, a class B misdemeanor under § 76-3-203.10, which the State alleges is reclassified as a class A misdemeanor under § 76-3-203.14.

The Court, acting as magistrate, conducted a five-day preliminary hearing from July 6 to July 10, 2026. The Court received testimony from several witnesses, including Utah State Bureau of Investigations (SBI) Agents Brian Davis and David Hull, FBI Forensic DNA Examiner Amanda Bakker, and Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) Firearm and Toolmark Examiner Samantha Karner. The Court also provisionally admitted and reviewed extensive video and documentary exhibits.

Following the evidentiary hearing, the Court ordered post-hearing briefing. The State filed its Memorandum in Support of Preliminary Hearing Bindover on July 28, 2026. Defendant filed his Preliminary Hearing Briefing on August 11, 2026, and the State filed its Reply Memorandum on August 18, 2026. Oral argument was held on September 1, 2026. Having

considered the parties' written submissions, the evidence admitted at the preliminary hearing, the arguments of counsel, and the governing authorities, the Court enters this ruling and order.

The findings and conclusions in this Ruling and Order are preliminary and apply only under the standards governing a Utah preliminary hearing. They do not determine Defendant's guilt, the ultimate credibility of witnesses, the weight of the evidence, or the admissibility of evidence at trial.

PROCEDURAL AND FACTUAL BACKGROUND

On September 10, 2025, Turning Point USA hosted an event at Utah Valley University in Orem, Utah. State's Ex. 5.1. The event included public discussion of political, social, cultural, and religious issues. *Id.* Charlie Kirk, the founder of Turning Point USA, was the headline speaker and was scheduled to speak to participants and answer their questions. *Id.*; Prelim. Hr'g Tr. 65, July 6, 2026 (hereinafter "Day 1 Tr.").

The event took place in the campus courtyard and outdoor amphitheater located in the middle of several campus buildings. *Id.* at 25, 66. Thousands of participants gathered in the courtyard and surrounding areas, including at least two children. *Id.* at 68; State's Ex. 6. A white canopy tent was set up on the west side of the courtyard adjacent to the Hall of Flags, a raised walkway that runs north-south through campus. *Id.* at 25, 66.

Mr. Kirk entered the courtyard by walking underneath the Hall of Flags to the white tent. *Id.* at 66. At approximately 12:20 p.m., Mr. Kirk was sitting on a raised chair under the middle of the tent behind a u-shaped table. State's Ex. 7. A man standing to the right of and behind Mr. Kirk (southwest) at an unknown distance from Mr. Kirk. *Id.* The man was close enough that his body is positioned underneath the tent. Another man was standing to the left of and in front of Mr. Kirk and the tent (northeast) at an unknown distance from Mr. Kirk. *Id.* Another man was standing to the right of and in front of Mr. Kirk and the tent (southeast).¹ State's Ex. 8. A participant was standing at a microphone positioned in front of the tent (east) at an unknown distance from Mr. Kirk. State's Ex. 7. The front row of the crowd of participants was located east of the microphone at an unknown distance from Mr. Kirk. State's Ex. 8; State's Ex. 7. The

¹ The parties identify the three men referenced as Mr. Kirk's security personnel. The Court will refer to them the same way throughout this Ruling.

participant at the microphone and the crowd were separated from Mr. Kirk's tent by a patch of grass of unknown dimensions and barriers. State's Ex. 8; State's Ex. 7.

At approximately 12:23 that afternoon, Mr. Kirk was answering a question from the participant standing at the microphone. Day 1 Tr. 67. Officer Christopher Bagley with the Utah Valley University campus police heard a rifle shot from the east. He saw Mr. Kirk lean and fall to his left. *Id.* at 68; 70; State's Ex. 8. The man standing to Mr. Kirk's right took more than two steps to reach Mr. Kirk's side. State's Ex. 7; State's Ex. 8. Mr. Kirk's security team carried him out of the courtyard under the Hall of Flags and to the hospital, where he was pronounced dead. State's Ex. 9; Day 1 Tr. 196–97.

Mr. Kirk died by a gunshot wound to his neck. State's Ex. 11. Forensic examination of the bullet fragments found in Mr. Kirk's body revealed the bullet to be a .30 caliber class round. State's Ex. 32; State's Ex. 11. The trajectory of the bullet was anatomically from "front to back, slightly left to right, and downward." State's Ex. 11. The bullet did not exit Mr. Kirk's body, but came to rest in the subcutaneous tissues in his upper back, left of the midline. *Id.*

Officer Bagley searched the roof of the Losee Center, a campus building east of, but not directly adjacent to, the courtyard. Day 1 Tr. 27. The top of the Losee Center is made with two shades of gravel, a dark gray and a lighter gray. *Id.* at 42. It has four stories, including an atrium on the roof. *Id.* at 46. There is a public outside stairway attached to the building that leads to a pathway going east. *Id.* A guardrail protects the roof of the Losee Center from the pathway, but the guardrail is short enough to be jumped over. *Id.* at 47. When a person stands on the southwest corner of the roof of the Losee Center, there is a clear line of sight to the white canopy tent where Charlie Kirk was sitting. *Id.* at 52, 54; State's Ex. 3.2.

Officer Bagley found a red and black screwdriver approximately 10 to 15 feet west of the guardrail on the roof of the Losee Center. Day 1 Tr. 72. He saw disturbances in the rooftop gravel on the southwest corner of the building. *Id.* at 87–88. The disturbances were described by Officer Bagley as consistent with a "sniper pad," meaning a place where a person was lying "in a prone position" with a "line of sight" to where Mr. Kirk had been seated. *Id.* The distance from "the perch area" to the tent was approximately 415 feet, angled downward. Prelim. Hr'g Tr. 91, July 9, 2026 (hereinafter "Day 4 Tr."). The elevation difference between the perch and the tent is 68 feet. *Id.* at 91–92.

Around 6:00 p.m. that day, investigators located a rifle wrapped in a black towel in a wooded area on the north side of Campus Drive, an area to the northeast of the Losee Center. Prelim. Hr'g Tr. 126–27, July 7, 2026 (hereinafter “Day 2 Tr.”). The rifle was a Mauser model 98 bolt-action that had been retrofitted to a .30-06 barrel and was in operable condition. State's Ex. 32; Day 2 Tr. 126. It contained an optical accessory. State's Ex. 32. A bolt-action rifle requires a user to manipulate the bolt to load it, lock it, and extract anything that is in it, including a spent shell casing. Day 4 Tr. 102. When investigators located the rifle, they found one .30-06 fired cartridge casing as well as three unfired cartridges. *Id.* The casing and unfired cartridges had engravings on them. *Id.* The towel, rifle, casing, and cartridges were sent to the FBI for testing. *Id.* at 104.

Further investigation revealed that in the early morning hours on September 10, 2025, Mr. Robinson left his apartment in St. George, Utah, and traveled to Utah Valley University campus in Orem, Utah. State's Ex. 16; State's Ex. 12.4. At 8:30 a.m., a gray or silver Dodge Charger entered the parking garage on campus. Day 2 Tr. 29. The Charger, including its “distinctive” wheels, is consistent with a car owned by Mr. Robinson. *Id.* A person identified as Mr. Robinson exited the Charger and walked on foot out of the parking garage toward the outdoor amphitheater on campus. *Id.*; State's Ex. 12.4. He was wearing a maroon short-sleeved shirt, shorts, a hat, and a backpack. State's Ex. 12.4. He spoke with representatives from Turning Point USA, and then returned to his vehicle at approximately 9:25 a.m. *Id.* at 29–30. He drove out of the parking garage. *Id.* at 30.

Video surveillance captured a person identified as Mr. Robinson returning to campus on foot from the northeast just after 10:00 a.m. *Id.* at 30–31; State's Ex. 12.4. He ate at Chick-fil-A in the Sorensen Center, one of the buildings adjacent to the outdoor amphitheater. *Id.* at 31. He then walked to the northeast of campus to a wooded area on the north side of Campus Drive. *Id.* Just prior to 11:00 a.m., he returned to campus and walked up the exterior stairway of the Losee Center building to the guardrail that, if climbed over, could give access to the roof of the building. *Id.* at 32. He then walked back down the stairs and off campus. *Id.*

At 11:53 a.m. a person identified as Mr. Robinson then returned to campus wearing the same shoes but different clothing: a dark long-sleeved shirt, jeans, and a backpack. *Id.* at 33; State's Ex. 12.4. He walked with a gait or a limp, his right leg stiff. *Id.* at 33; State's Ex. 12.4. He had nothing in his hands. *Id.* Video surveillance just after noon captured a person wearing dark

clothing and a backpack slowly walking and limping down the sidewalk in front of the Losee Center toward the exterior staircase that leads to the roof. *Id.* at 34. At approximately 12:15 p.m., video surveillance captured a person wearing a dark long-sleeved shirt and pants at the top of the exterior staircase of the Losee Center. *Id.* at 34; State's Ex. 12.4. The person climbs or rolls over the guardrail separating the walkway from the roof of the building. *Id.* at 34–35; State's Ex. 12.4.

At approximately 12:22 p.m., the same person is seen running toward the southwest corner of the rooftop of the Losee Center. *Id.* at 35; State's Ex. 12.4. He crouches down, crawls, then stops in a prone position for approximately 45 seconds. *Id.* He then gets up and runs from the southwest corner of the roof to the northeast corner of the roof. *Id.* He is holding a long, skinny, dark object in his hand. *Id.* He lowers himself off of the roof and lands on the grass. *Id.* He walks toward Campus Drive, crosses the street, and enters the wooded area. *Id.* at 36–37; State's Ex. 12.4.

At approximately 11:00 p.m., Mr. Lance Twiggs, Mr. Robinson's roommate whom he had been dating, received a text from Mr. Robinson's phone number. State's Ex. 16. The text told Mr. Twiggs to look under his keyboard. *Id.*; State's Ex. 16.1. Under the keyboard was a note purportedly written by Mr. Robinson explaining that he had left the house that morning "on a mission." State's Ex. 16.3. It states, "I had the opportunity to take out Charlie Kirk, and I took it." *Id.* The note further states, "I wish we could have lived in a world where this did not feel necessary." *Id.* Mr. Twiggs took a picture of the note. State's Ex. 16.

Mr. Twiggs responded to the text from Mr. Robinson's phone and asked, "you're joking right?????" State's Ex. 16.1. The texter explained that he was still in Orem because he left his rifle wrapped in a towel in a bush "where he changed outfits." *Id.* The texter explains, "If I am able to grab my rifle unseen, I will have left no evidence. . . . idek if it had a serial number, but it wouldn't trace to me. I worry about prints[.] . . . I might have to abandon it and hope they dont find prints." *Id.* He continues, "judging from today I'd say grandpas gun does just fine idk . . . I think that was a \$2k scope[.]" *Id.*

When Mr. Twiggs asked, "you weren't the one who did it right?????" *Id.* The texter responded, "I am, I'm sorry[.]" *Id.* When Mr. Twiggs asked why he did it, the texter responded, "I had enough of his hatred. some hate can't be negotiated out[.]" *Id.* When asked how long he had been planning this, the texter responded, "a bit over a week I believe." *Id.*

The texter directed Mr. Twiggs to “delete this exchange.” *Id.* Near the end of the text exchange, the texter directs, “If any police ask you questions ask for a lawyer and stay silent.” The texter also told Mr. Twiggs he was going to willingly turn himself in. *Id.*

At approximately 12:30 a.m. on September 11, 2025, Mr. Robinson had an interaction with Officer Goforth while his vehicle was stopped on Campus Drive. Day 2 Tr. 39. Nest video obtained from a home located on 925 South, Orem, shows a car matching Mr. Robinson’s Dodge Charger parked out front at approximately 12:38 a.m. on September 11. Day 1 Tr. 226–27.

On the morning of September 11, 2025, Mr. Twiggs asked Mr. Robinson in person if what he had said the night before was true. State’s Ex. 16. Mr. Robinson responded that it was and that he wished he had not done it. *Id.* Just before 8:00 p.m. on September 11, a message was sent from Mr. Robinson’s account to his Discord group, stating, “Hey guys, I have bad news for you all. it was me at UVU yesterday. Im sorry for all of this. im surrendering through a sheriff friend in a few moments.” State’s Ex. 16.2.

At approximately 8:30 p.m., a family friend went to pick up Mr. Robinson and take him to the sheriff’s office. State’s Ex. 14. He asked Mr. Robinson if he had any property or clothes that he used during the incident. *Id.* Mr. Robinson responded that he discarded those items. *Id.* At approximately 9:00 p.m., Mr. Robinson arrived at the Washington County Sheriff’s Office. Day 2 Tr. 27. He was wearing a maroon shirt and jeans. State’s Ex. 15.

Investigators searched Mr. Robinson’s home. Day 4 Tr. 109. They collected a Dremel tool, its bits container, two boxes of .30-06 ammunition, some .30-06 cartridge cases, and a burned paper that had markings consistent with the note Mr. Robinson left behind for Mr. Twiggs. *Id.* at 109–10; 121–22. Investigators also found shooting targets in a closet with perforations in them consistent with bullet holes. *Id.* at 115.

The FBI performed DNA testing on the screwdriver, towel, rifle, spent casing, and three unfired cartridges found near the scene. The testing provided support for inclusion of Mr. Robinson’s DNA on each item. State’s Ex. 30; State’s Ex. 31.

EVIDENTIARY STANDARDS AT THE PRELIMINARY HEARING STAGE

“[T]he primary purpose of the preliminary hearing [is the] ‘ferreting out [of] . . . groundless and improvident prosecutions.’” *State v. Clark*, 2001 UT 9, ¶ 16 (quoting *State v. Anderson*, 612 P.2d

778, 783–84 (Utah 1980)). Before a defendant may be bound over for trial in district court, the magistrate must find “probable cause to believe that the crime charged has been committed and that the defendant has committed it.” Utah R. Crim. P. 7B(b). The prosecution’s burden “is light,” *State v. Jones*, 2016 UT 4, ¶ 12, and merely requires the State to produce “believable evidence of all the elements of the crime charged,” *State v. Clark*, 2001 UT 9, ¶ 15. “This is the same standard that applies on review of an arrest warrant.” *Jones*, 2016 UT 4, ¶ 12.

The court “must view all evidence in the light most favorable to the prosecution and must draw all reasonable inferences in favor of the prosecution.” *Id.* ¶ 10. “[M]agistrates may disregard evidence as incredible only where it is ‘so contradictory, inconsistent, or unbelievable that it is unreasonable to base belief of an element of the prosecutor’s claim on that evidence.’” *State v. Schmidt*, 2015 UT 65, ¶ 31 (citing *Virgin*, 2006 UT 29, ¶ 25). “It is not appropriate ‘for a magistrate to weigh credible but conflicting evidence at a preliminary hearing,’ because such a hearing ‘is not a trial on the merits.’ Rather, magistrates ‘must leave all the weighing of credible but conflicting evidence to the trier of fact.’” *Id.* (citing *Virgin*, 2006 UT 29, ¶ 24).

Nevertheless, “magistrates are free to decline bindover where the facts presented by the prosecution provide no more than a basis for speculation—as opposed to providing a basis for a reasonable belief.” *Virgin*, 2006 UT 29, ¶ 21. “To be sure, the line separating ‘speculation’ from ‘reasonable inference’ can at times be faint.” *State v. Prisbrey*, 2020 UT App 172, ¶ 23. “An ‘inference’ is a ‘conclusion reached by considering other facts and deducing a logical consequence from them.’” *Salt Lake City v. Carrera*, 2015 UT 73, ¶ 12 (citing BLACK’S LAW DICTIONARY 847 (9th ed.2009)). “On the other hand, ‘speculation’ is the ‘act or practice of theorizing about matters over which there is no certain knowledge’ at hand.” *Id.* (citing BLACK’S LAW DICTIONARY at 1529). “In short, the difference between an inference and speculation depends

on whether the underlying facts support the conclusion.” *Id.*

CONSTITUTIONAL AND STATUTORY VALIDITY OF HEARSAY EVIDENCE UNDER RULE 1102

A. Governing Constitutional and Rule Provisions

Throughout the preliminary hearing, Defendant Tyler James Robinson raised and maintained a continuing objection to the State’s reliance on out-of-court hearsay statements. Tr. Day 2 at 29:21–32:7; Tr. Day 4 at 61. Specifically, Defendant challenges the constitutional and statutory validity of admitting out-of-court witness statements, medical examiner autopsies, and digital communications under Utah Rule of Evidence 1102. Opposition to Defense Motion at 2. Defendant asserts that the State’s reliance on such hearsay evidence: (1) violates his rights under the Confrontation Clause of the Sixth Amendment to the United States Constitution; (2) deprives him of the effective assistance of counsel under the Sixth Amendment; (3) violates his Fourteenth Amendment due process rights; and (4) infringes upon the separation of powers under the Utah Constitution by delegating judicial authority to define admissible evidence to legislative or rule-based bodies. Opposition to Defense Motion at 2–3, 11. The Court addresses each objection in turn.

The admission of reliable hearsay at a criminal preliminary examination is governed by the plain text of the Utah Constitution and Rule 1102 of the Utah Rules of Evidence. *State v. Timmerman*, 2009 UT 58, ¶ 14. The 1995 Victims’ Rights Amendment to the Utah Constitution expressly provides:

Nothing in this constitution shall preclude the use of reliable hearsay evidence as defined by statute or rule in whole or in part at any preliminary examination to determine probable cause or at any pretrial proceeding with respect to release of the defendant if appropriate discovery is allowed as defined by statute or rule. Utah Const. art. I, § 12.

Pursuant to this explicit constitutional authorization, Utah Rule of Evidence 1102(a) codifies that “reliable hearsay is admissible at criminal preliminary examinations.” Utah R. Evid. 1102(a). Under Rule 1102(b), the law defines specific, structured categories of out-of-court

assertions that constitute reliable hearsay, including “evidence establishing the foundation for or the authenticity of any exhibit” under subsection (b)(3), “medical and autopsy reports and records” under subsection (b)(5), and a declarant’s statement that is written, recorded, or transcribed verbatim and is made under oath or affirmation, or after notification that a false statement is punishable, under subsection (b)(8).

B. Confrontation Clause

Defendant argues that the State’s reliance on testimonial hearsay without an opportunity for cross-examination violates the Sixth Amendment. The Court recognizes the significance of that protection at trial. Under *State v. Timmerman*, 2009 UT 58, however, the federal Confrontation Clause does not apply to a Utah preliminary hearing in the same manner because the proceeding determines probable cause rather than guilt. Accordingly, Defendant’s Confrontation Clause objection does not provide a basis at this stage to exclude hearsay that otherwise satisfies Rule 1102. Nor does *Crawford v. Washington*, 541 U.S. 36 (2004), require a different result. *Timmerman* explains that *Crawford* addresses testimonial hearsay at trial and does not extend the trial-level confrontation right to Utah preliminary examinations. *Timmerman*, 2009 UT 58, ¶¶ 9–10; *see also Peterson v. California*, 604 F.3d 1166, 1169–70 (9th Cir. 2010).

C. Assistance of Counsel and Due Process

Defendant also argues that admitting out-of-court statements without an opportunity to cross-examine the declarants renders his right to counsel ineffective. Opposition to Defense Motion at 19. The Court is not persuaded that the right to counsel provides a broader right to cross-examine an out-of-court declarant when the Confrontation Clause itself does not apply at the preliminary hearing. Defendant was represented by counsel, who challenged the State’s probable-cause showing and cross-examined the witnesses who testified. On this record, the Court finds no independent violation of Defendant’s right to counsel arising from consideration of hearsay that otherwise satisfies Rule 1102. *See Peterson v. California*, 604 F.3d 1166, 1171 n.3 (9th Cir. 2010).

Defendant's due-process argument likewise does not establish a constitutional violation. The admission of reliable hearsay at this stage does not violate the Fourteenth Amendment's Due Process Clause. *Gerstein v. Pugh* holds that a full adversarial proceeding, including cross-examination of adverse witnesses, is not constitutionally required for a pretrial probable-cause determination. 420 U.S. 103, 120 (1975). A Utah preliminary hearing likewise determines whether the State has established probable cause; it does not adjudicate guilt. *State v. Schmidt*, 2015 UT 65, ¶ 17; *State v. Virgin*, 2006 UT 29, ¶ 18. Because Defendant retains the full trial-level protections applicable to the adjudication of guilt, consideration of reliable hearsay at this preliminary stage does not independently violate due process. *Timmerman*, 2009 UT 58, ¶ 16.

D. Separation of Powers and Application to the Evidence

Finally, the Court considers Defendant's separation-of-powers argument and concludes that it does not establish a constitutional violation. Article I, Section 12 expressly permits reliable hearsay at a preliminary examination when that hearsay is defined by statute or rule. Utah Const. art. I, § 12. Rule 1102 implements that constitutional authorization. The rule does not displace the magistrate's judicial function: the Court remains responsible for determining whether the evidence satisfies the governing evidentiary rule and whether the State has established probable cause under Rule 7B. The Court therefore concludes that application of Rule 1102 in this proceeding does not violate the separation of powers. *See Timmerman*, 2009 UT 58, ¶ 16; Utah R. Crim. P. 7B.

Rule 1102 does not render all hearsay admissible. Agents Davis and Hull, Examiner Bakker, and Examiner Karner testified at the preliminary hearing and satisfy the witness requirement of Rule 1102(e) and Rule 7B(d)(2). The medical examiner's report falls within Rule 1102(b)(5), and evidence establishing foundation or authenticity falls within subsection (b)(3). The Twiggs statement may be considered under subsection (b)(8) only to the extent the record establishes that subsection's required predicate. Any other hearsay on which the Court relies must independently satisfy subsection (b)(9), including its reliability requirement. The Court relies only on hearsay satisfying these requirements.

ANALYSIS OF CHARGES AND PROBABLE CAUSE DETERMINATIONS

Having resolved Defendant's threshold constitutional objections, the Court now turns to a count-by-count review of the evidence admitted at the preliminary hearing to determine whether the State has met its burden of establishing probable cause.

Count 1: Aggravated Murder (Capital Felony)

A. Probable Cause for Count 1, Aggravated Murder

To bindover Mr. Robinson for trial for count 1, Aggravated Murder, the State must first present sufficient evidence to sustain a reasonable belief that he intentionally or knowingly caused the death of Charlie Kirk. *See* Utah Code § 76-5-202(2)(a).

"A person engages in conduct . . . [i]ntentionally, or with intent or willfully with respect to . . . a result of his conduct, when it is his conscious objective or desire to . . . cause the result." Utah Code § 76-2-103(1). A "person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result." Utah Code § 76-2-103(2).

To bind Defendant over for trial on Count One, Aggravated Murder, the State must establish probable cause that (1) Defendant; (2) intentionally or knowingly; (3) caused the death of Charlie Kirk; (4) under circumstances in which Defendant "knowingly created a great risk of death to another individual other than Charlie Kirk and the defendant." Utah Code § 76-5-202(2)(a)(iii).

The State's evidence of identity is substantial, combining forensic DNA matching with statements attributed to Defendant admitting responsibility for the shooting.

First, the DNA profiles obtained from the Mauser .30-06 caliber bolt-action rifle (State's Ex. 30)—the suspected murder weapon—provide forensic evidence connecting Defendant to the

firearm. Defendant's DNA was identified as the major contributor on multiple key components of the firearm, including the stock, grips, butt plate, the trigger and trigger guard. This physical evidence is corroborated by the toolmark analysis (State's Ex. 32), which matches the engraving cutter recovered from Defendant's residence to the cartridge casing and live ammunition found within the Mauser rifle. Furthermore, the FBI DNA analysis (State's Exhibit 31) places Defendant's DNA on a screwdriver recovered at the crime scene, with a likelihood ratio exceeding 30 quintillion.

Second, the surveillance tracking evidence provides additional corroboration. Agent Hull's review of campus surveillance footage tracked a suspect matching Defendant's physical attributes, clothing, shoes, and distinctive gait from the parking structure to the rooftop area on the Losee Building associated with the shooting, and then fleeing the scene immediately following the shooting. This physical tracking is reinforced by Mrs. Noble's Ring doorbell camera footage, which captured Defendant's vehicle—identified by its unique wheels and custom styling—parking near the location shortly after midnight on September 11, 2025.

Third, Defendant's own statements provide direct evidence of his alleged responsibility for the shooting. In text messages sent to his roommate, Lance Twiggs, shortly after the shooting, Defendant allegedly stated, "I had the opportunity to take out Charlie Kirk and I took it." He followed this with a second text addressing why he acted: "Why did I do it? ... I had enough of his hatred. Some hate can't be negotiated out." These electronic statements are further corroborated by the alleged in-person confirmation to Twiggs the following morning and the subsequent message from Defendant's Discord account stating, "it was me at UVU yesterday." Viewed in the light most favorable to the prosecution, this evidence is sufficient at this stage to support a reasonable belief

that Defendant is the individual who shot and killed Charlie Kirk. Accordingly, the State has demonstrated probable cause as to the identity and homicide elements of Count One.

B. Legal Framework of the "Great Risk of Death" Aggravating Circumstance under *State v. Sosa-Hurtado*

The central legal dispute concerns the aggravating circumstance alleged under Utah Code § 76-5-202(2)(a)(iii), which requires probable cause that Defendant “knowingly created a great risk of death to another individual other than” the deceased individual and Defendant.

State v. Sosa-Hurtado, 2019 UT 65, 455 P.3d 63, provides the controlling Utah Supreme Court analysis. The court explained that the relevant circumstances are not necessarily confined to the precise act causing death. A risk-creating act occurring within a brief span of time may qualify when it forms part of a sufficiently connected series of events surrounding the murder. *Id.* ¶¶ 26, 35–40.

The court identified several nonexclusive considerations bearing on that inquiry, including the temporal relationship between the murderous act and conduct endangering a third party, the spatial relationship among the defendant, victim, and third party, and whether and to what extent the third party was actually threatened. *Id.* ¶ 39. Those considerations guide the statutory inquiry; they do not replace it. The ultimate question remains whether the circumstances support a reasonable belief that Defendant knowingly created a great risk of death to another individual within the relevant zone of danger—one involving a likelihood or high probability rather than merely a possibility. *Id.* ¶ 38 (quoting *State v. Johnson*, 740 P.2d 1264, 1267 (Utah 1987)).

Unlike *Sosa-Hurtado*, the State does not allege here that Defendant fired a separate shot at a third party immediately before or during the killing. The alleged aggravator therefore depends principally on whether the circumstances of the single shot directed at Mr. Kirk placed at least one

other individual within a zone of danger and whether Defendant knew of the circumstances creating that risk. That factual distinction does not make *Sosa-Hurtado* inapplicable, but it requires application of its governing principles to the evidence presented here rather than treatment of its particular facts as dispositive.

C. Application of the *Sosa-Hurtado* Factors and the Statutory Standard

Defendant emphasizes that *Sosa-Hurtado* involved conduct materially different from the conduct alleged here. There, the defendant fired at a third party shortly before firing the shots that killed the murder victim. Here, by contrast, the State alleges a single shot fired from approximately 415 feet away that struck the intended victim. Defendant argues that because the shot struck Mr. Kirk and no additional shot was fired, the evidence establishes only a theoretical possibility, rather than a high probability, of death to another person.

The distinction is material but not dispositive. *Sosa-Hurtado* does not require a separate shot directed at a third party in every case. At the same time, the statute requires more than the abstract possibility that any discharge of a firearm might injure a bystander. Nor does the Court conclude that firing toward a crowded event, without more, necessarily satisfies § 76-5-202(2)(a)(iii). The Court therefore considers the actual spatial circumstances surrounding the shot, the proximity of other individuals to Mr. Kirk, and the evidence bearing on Defendant's knowledge of those circumstances.

First, the record places several individuals in positions around Mr. Kirk and the canopy when the shot was fired. Mr. Kirk was seated beneath the canopy. One member of his security personnel was sufficiently close that his body was beneath the tent; another was positioned to the left and in front of Mr. Kirk, and another to the right and in front, although the record does not establish their precise distances from him. A participant stood at a microphone east of and in front

of Mr. Kirk, although the precise distance between that participant and Mr. Kirk was likewise not established. The Losee Center was east of the courtyard, and the southwest rooftop area provided a clear line of sight to the canopy where Mr. Kirk was seated. The Court relies on those documented positions rather than assuming measurements not established by the record.

Second, the physical evidence establishes that the shot was fired from an elevated position approximately 415 feet from the canopy and 68 feet above it, and that the bullet traveled anatomically from front to back and downward after striking Mr. Kirk. The projectile did not exit his body. The Court therefore does not assign a quantitative probability to ricochet, overpenetration, or a hypothetical deviation in aim that the evidence does not itself quantify. Rather, the relevant evidence is that Defendant allegedly discharged a .30-06 rifle toward a seated victim while several other individuals occupied positions in and around the canopy area. Viewed favorably to the State, their documented positions in relation to the intended target, considered together with the elevated location and downward direction of the shot, permit a reasonable inference at the preliminary-hearing stage that at least one third party was within the relevant zone of danger and that the risk was more than an abstract possibility.

Third, the State has presented evidence supporting probable cause as to Defendant's knowledge of those circumstances. Defendant was present in and around the event area before the shooting. Earlier that morning he walked through the amphitheater area and interacted with Turning Point USA representatives. He later approached the Losee Center rooftop area before returning shortly before the shooting. The evidence therefore supports an inference that Defendant had opportunities to observe the event area, its configuration, and the gathering attendees.

From the southwest roof area, there was a clear line of sight to Mr. Kirk's canopy. The rifle also contained an optical accessory. Without making findings about the degree of magnification

or precisely what Defendant saw through the optic, these circumstances support a reasonable inference that Defendant was aware that other individuals were positioned near Mr. Kirk when he fired.

The Court distinguishes between the objective circumstances creating the alleged risk and Defendant's knowledge of those circumstances. The State need not establish at this stage that Defendant calculated a particular ballistic probability. It must, however, present evidence permitting a reasonable inference both that another person was exposed to the statutorily required degree of risk and that Defendant was aware of the circumstances giving rise to that risk. The evidence described above is sufficient, under the preliminary-hearing standard, as to both inquiries.

Defendant's contrary argument is substantial: unlike *Sosa-Hurtado*, the evidence described here does not include a separate shot directed at the allegedly endangered third party. The Court therefore does not treat *Sosa-Hurtado* as factually equivalent to this case.

The question at this stage, however, is not whether the State has proved the aggravator beyond a reasonable doubt or whether Defendant's competing interpretation is ultimately more persuasive. It is whether believable evidence and reasonable inferences support probable cause as to each element. Under that limited standard, the State has met its burden.

The Court's determination does not rest on crowd size alone or on an assumed probability of wind, ricochet, overpenetration, or bullet deflection. It rests on the evidence concerning the location and manner of the shot, the documented positions of several individuals in and around the canopy area, Defendant's opportunity to observe those circumstances, and the preliminary-hearing requirement that reasonable inferences be drawn in the State's favor. Whether the State can prove the aggravating circumstance beyond a reasonable doubt remains for trial. Count 1 is bound over for trial. This conclusion is limited to the circumstances reflected in this record and does not

establish a categorical rule that a shooting committed in a populated location necessarily satisfies § 76-5-202(2)(a)(iii).

D. Probable Cause Supporting the Victim Targeting Enhancement

The State also alleges that Defendant intentionally selected Mr. Kirk because of Mr. Kirk's political expression under Utah Code § 76-3-203.14. Defendant disputes whether the evidence establishes the required motive.

For the reasons set forth below in the Court's analysis of the sentencing enhancements, the Court concludes that the State has established probable cause as to the victim-targeting allegation. The Court does not rely on Defendant's political associations, beliefs, or personal relationships standing alone; the relevant inquiry is whether the evidence reasonably supports an inference that Defendant selected Mr. Kirk because of Defendant's perception of Mr. Kirk's protected political expression.

As explained below, § 76-3-203.14 does not expressly identify an additional penalty consequence for a capital-felony conviction. The Court therefore preserves the State's notice without deciding that the allegation independently alters the penalty applicable to Count 1.

Count 2: Felony Discharge of a Firearm Causing Serious Bodily Injury (First-Degree Felony)

To bind Defendant over on Count 2, Felony Discharge of a Firearm Causing Serious Bodily Injury, a first-degree felony under Utah Code § 76-11-210(2) and (3)(c), the State must establish probable cause that Defendant: (1) discharged a firearm; (2) in the direction of Charlie Kirk; (3) knowing or having reason to believe that Charlie Kirk may be endangered by the discharge; and (4) the act caused serious bodily injury to Charlie Kirk.

The evidence described above supports a reasonable belief that Defendant positioned himself on the roof of the Losee Building and discharged a Mauser .30-06 rifle in the direction of Charlie Kirk. The medical examiner determined that Mr. Kirk died from a gunshot wound to the neck and classified the manner of death as homicide. State's Ex. 11. The fatal gunshot wound constitutes serious bodily injury. Accordingly, Count 2 is bound over for trial.

Count 3: Obstruction of Justice (Second-Degree Felony)

To bind Defendant over on Count 3, Obstruction of Justice, a second-degree felony under Utah Code § 76-8-306(2), the State must demonstrate probable cause that Defendant: (1) acted with the intent to hinder, delay, or prevent the investigation, apprehension, prosecution, conviction, or punishment of any person; (2) regarding conduct that constitutes a criminal offense; and (3) concealed or removed the firearm allegedly used in the shooting. Under the statute, the offense is a second-degree felony if the underlying conduct constitutes a capital or first-degree felony. Utah Code § 76-8-306(2)(c).

The underlying charged homicide constitutes a capital or first-degree felony for purposes of § 76-8-306(2)(c). Following the shooting, the Mauser .30-06 rifle was concealed in a dense wooded area on the UVU campus, wrapped inside a dark towel. State's Ex. 10; Day 4 Tr. 133. Defendant's alleged intent to hinder the investigation is supported by the text messages attributed to him, in which he stated that he had concealed his rifle by leaving "it in a bush where [he] changed outfits." State's Ex. 16.1; Day 4 Tr. 61. The alleged concealment of the rifle in a wooded area after the shooting, together with the attributed messages concerning its concealment and possible recovery, supports a reasonable inference that Defendant acted with the intent to conceal physical evidence and hinder his apprehension. Count 3 is bound over for trial.

Count 4: Obstruction of Justice (Second-Degree Felony)

To bind Defendant over on Count 4, Obstruction of Justice, a second-degree felony under Utah Code § 76-8-306(2), the State must establish probable cause that Defendant: (1) acted with the intent to hinder, delay, or prevent the investigation, apprehension, prosecution, conviction, or punishment of any person; (2) regarding conduct that constitutes a criminal offense; and (3) destroyed, concealed, or removed the clothing allegedly worn during the shooting.

The State has presented sufficient evidence to establish probable cause as to Count 4. The UVU surveillance video (State's Ex. 12.4) depicts the shooter wearing a specific outfit as he moved toward the rooftop of the Losee Building. The communications attributed to Defendant state that he changed outfits in the wooded area where the rifle was left. State's Ex. 16.1. The clothing depicted on the alleged shooter was not recovered. Those circumstances, viewed together, support a reasonable inference, for purposes of this preliminary hearing, that Defendant

concealed or destroyed the clothing with the intent required by the statute. Count 4 is bound over for trial.

Count 5: Tampering with a Witness (Third-Degree Felony)

To bind Defendant over on Count 5, Tampering with a Witness, a third-degree felony under Utah Code § 76-8-508, the State must demonstrate probable cause that the Defendant: (1) believed an official proceeding or investigation was pending or about to be instituted, or intended to prevent an official proceeding or investigation; and (2) attempted to induce or otherwise cause another individual to withhold testimony, information, a document, or an item. An instruction to delete communications may constitute an attempt to cause another person to withhold information or a document when made with the intent required by Utah Code § 76-8-508.

After the shooting, Defendant allegedly sent Twiggs text messages in which he stated that he had shot the victim and concealed the rifle. State's Ex. 16.1. At the end of this text exchange, Defendant texted Twiggs: "delete this exchange." State's Ex. 16.1; Day 4 Tr. 61. The surrounding circumstances support an inference that Defendant knew law enforcement was investigating the shooting and searching for the person responsible. The instruction to "delete this exchange," considered in context, supports a reasonable inference that Defendant attempted to cause Twiggs to withhold those communications from investigators by deleting them. Count 5 is bound over for trial.

Count 6: Tampering with a Witness (Third-Degree Felony)

To bind Defendant over on Count 6, Tampering with a Witness, a third-degree felony under Utah Code § 76-8-508, the State must demonstrate probable cause that the Defendant: (1) believed an official proceeding or investigation was pending or about to be instituted, or intended to prevent an official proceeding or investigation; and (2) attempted to induce or otherwise cause another individual to withhold testimony, information, a document, or an item. The State alleges that Defendant committed this offense by directing his roommate to "stay silent if police questioned" him. Information at 3.

The evidence shows that on September 11, 2025, Defendant sent a text message to Lance Twiggs stating: "If any police ask you questions ask for a lawyer and stay silent." State's Ex.

16.1. Defendant argues that Count 6 must be stricken as a matter of law. He contends that his message was merely advising a loved one to exercise constitutional rights to remain silent and seek counsel, which cannot, standing alone, constitute a criminal offense. Defendant therefore argues that the record does not support the required obstructive intent. The Court considers this a meaningful distinction because the words “ask for a lawyer and stay silent,” viewed in isolation, describe lawful advice concerning constitutional rights and do not themselves establish criminal intent.

Standing alone, advising another person to request counsel and remain silent is lawful and does not establish witness tampering. The State relies, however, on the context of the communication, including Defendant’s earlier alleged instruction to “delete this exchange.” Viewed together and in the light most favorable to the State, those communications permit a reasonable inference that Defendant intended to cause Twiggs to withhold information from investigators.

The Court does not determine at this stage whether that inference is ultimately more persuasive than Defendant’s lawful-advice explanation, and it does not treat the exercise of legal rights—or advice concerning those rights—as criminal conduct standing alone. Although Defendant’s lawful-advice interpretation remains a reasonable competing interpretation, the surrounding communications permit the State’s proposed inference as well. Because the Court may not choose between reasonable competing inferences at this preliminary stage, probable cause supports Count 6. Count 6 is bound over for trial.

Count 7: Violent Offense Committed in the Presence of a Child (Class B Misdemeanor, Reclassified as Class A)

To bind Defendant over on Count 7, Violent Offense Committed in the Presence of a Child, a class B misdemeanor under Utah Code § 76-3-203.10(2) and (3), the State must demonstrate probable cause that Defendant: (1) committed criminal homicide; (2) in the physical presence of a child younger than 14 years old; and (3) with knowledge that the child was present and may have seen or heard the commission of the criminal homicide. The State further alleges that the offense is reclassified as a class A misdemeanor under § 76-3-203.14(3)(a)(ii) because of the victim-targeting allegation.

The first two elements are supported by evidence of the charged homicide and evidence that children younger than fourteen were physically present at the event. State's Exs. 6.1 and 8; Day 1 Tr. 204. The disputed—and closer—issue is knowledge. Defendant argues that the State has not shown that, from a distance of approximately 415 feet, he knew a child younger than fourteen was present and might see or hear the offense.

Knowledge may be established circumstantially, but it cannot rest solely on the general proposition that children sometimes attend public events. The relevant question is whether the circumstances described in this record permit a reasonable inference that Defendant knew a child was present.

The State relies on several circumstances specific to this event: Defendant allegedly had planned the shooting for more than a week; he visited the event area twice before the shooting and had an opportunity to observe the venue and preparations; the State's evidence places him at an elevated location with a clear line of sight toward the event area, where thousands of participants were present; and the rifle contained an optical scope. The event videos also depict young children and infants within the event area. State's Exhibits 6.1 and 8; Day 1 Tr. 65:4–68:12; Day 4 Tr. 116:5–15.

The Court recognizes the force of Defendant's argument that an opportunity to observe a large crowd does not necessarily establish knowledge that a child younger than fourteen was present. The Court therefore does not infer knowledge from crowd size alone.

The combined circumstances permit, but do not compel, an inference that Defendant knew a child was present and might see or hear the shooting. The Court does not equate familiarity with the venue, an opportunity to observe the crowd, or the presence of an optical scope with actual knowledge. Rather, the Court considers the circumstances collectively and under the preliminary-hearing requirement that reasonable inferences be drawn in the State's favor. Taken together, these circumstances are sufficient at this stage to establish probable cause as to the knowledge element. Whether Defendant actually observed a child and whether the State's inference is ultimately persuasive remain questions for the trier of fact. Count 7 is bound over for trial.

ANALYSIS OF MERGER/DOUBLE-JEOPARDY OBJECTIONS

Defendant argues that Count 2 must merge with Count 1 because both arise from a single gunshot directed at a single victim. Utah Code § 76-1-402 limits multiple convictions when one offense is included within another. But merger ordinarily concerns convictions and punishment, and a fact-dependent merger determination may be premature before the charges have been presented to the trier of fact. *State v. Lopez*, 2004 UT App 410, ¶¶ 8–9.

At this stage, the Court determines only whether probable cause independently supports the charged offenses. The Court does not decide whether either offense is ultimately a lesser-included offense of the other. If convictions are returned on both counts, the merger issue may be addressed at that time under § 76-1-402.

ANALYSIS OF THE SENTENCING ENHANCEMENTS

The Information presents three related but legally distinct matters: the separate offense charged in Count 7 under Utah Code § 76-3-203.10; the presence-of-a-child sentencing consideration under § 76-3-203.9; and the victim-targeting allegation under § 76-3-203.14. Because these provisions have different legal effects, the Court addresses them separately.

Because the victim-targeting allegation would reclassify Count 7 from a class B to a class A misdemeanor under § 76-3-203.14(3)(a)(ii), that allegation is subject to the probable-cause determination. *See Apprendi v. New Jersey*, 530 U.S. 466 (2000). The Court also considers whether the remaining sentencing allegations have factual support without deciding that each constitutes a separate element of an offense.

A. Presence-of-a-Child Allegations

For the reasons stated in the analysis of Count 7, the record provides probable cause for the factual allegation that the charged conduct occurred in the presence of children. Under § 76-3-203.9, that circumstance operates as a sentencing consideration rather than a reclassification of the underlying felony.

B. Victim-Targeting Allegations

Utah Rule of Evidence 417 limits the use of a defendant's expressions or associations in proving a victim-targeting allegation. The evidence must otherwise be admissible and must specifically relate to the defendant's selection of the victim. Pastor Engelhardt's statement may

establish the nature of Mr. Kirk's public expression, but it does not independently establish Defendant's motive, knowledge, or state of mind.

Defendant argues that the State has not established probable cause that he selected Mr. Kirk because of a qualifying personal attribute—identified here as “political expression.” Utah Code § 76-3-203.14(1)(k), (2). The Court therefore considers Engelhardt's statement only for the limited purpose described above and looks to other evidence to determine Defendant's alleged reason for selecting Mr. Kirk.

When asked why he shot Mr. Kirk, Defendant allegedly responded, “I had enough of his hatred. Some hate can't be negotiated out.” The word “hatred,” standing alone, is ambiguous and does not establish the statutory motive. The State also presented evidence that Defendant identified Mr. Kirk by name in communications concerning the planned shooting, allegedly planned the shooting in advance, and carried it out during a public event associated with Mr. Kirk's political expression.

Viewed together and in the light most favorable to the State, those circumstances support a reasonable, though not compelled, inference that Defendant selected Mr. Kirk because of his perception of Mr. Kirk's political expression. The Court does not determine whether that inference will ultimately prove more persuasive than other interpretations of Defendant's statement. At this stage, the targeting allegation satisfies the probable-cause standard. Its legal consequence differs by count. For Count 7, § 76-3-203.14(3)(a)(ii) reclassifies the offense from a class B to a class A misdemeanor. For Count 2, a first-degree felony, the statute makes victim selection an aggravating sentencing consideration rather than reclassifying the offense.

Section 76-3-203.14 does not expressly identify a penalty consequence for a capital felony. The Court therefore does not decide that the statute authorizes an additional penalty for Count 1. The State's notice remains preserved, but any asserted consequence for a capital-felony conviction must rest on separately identified legal authority. This ruling does not affect the targeting allegation as applied to Counts 2 and 7.

RULING AND ORDER

For the foregoing reasons and based on the record and the parties' submissions:

IT IS HEREBY ORDERED that Defendant Tyler James Robinson is **BOUND OVER FOR TRIAL** in the Fourth Judicial District Court on the following counts and sentencing allegations:

- a. Count 1: Aggravated Murder, a capital felony, in violation of Utah Code Ann. § 76-5-202, including the capital aggravating circumstance under § 76-5-202(2)(a)(iii).
- b. Count 2: Felony Discharge of a Firearm Causing Serious Bodily Injury, a first-degree felony, in violation of Utah Code Ann. § 76-11-210(2) and (3)(c), including the victim-targeting allegation under § 76-3-203.14(2), subject to the sentencing treatment described in § 76-3-203.14(3)(b), and the presence-of-a-child aggravating factor under § 76-3-203.9.
- c. Count 3: Obstruction of Justice, a second-degree felony, in violation of Utah Code Ann. § 76-8-306(2).
- d. Count 4: Obstruction of Justice, a second-degree felony, in violation of Utah Code Ann. § 76-8-306(2).
- e. Count 5: Tampering with a Witness, a third-degree felony, in violation of Utah Code Ann. § 76-8-508.
- f. Count 6: Tampering with a Witness, a third-degree felony, in violation of Utah Code Ann. § 76-8-508.
- g. Count 7: Violent Offense Committed in the Presence of a Child, a class B misdemeanor under Utah Code Ann. § 76-3-203.10, reclassified as a class A misdemeanor under § 76-3-203.14(3)(a)(ii), based on the victim-targeting allegation under § 76-3-203.14(2).

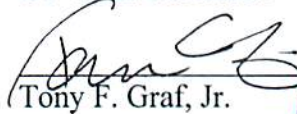
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All evidentiary determinations in this Order are limited to the preliminary hearing and do not determine admissibility or the ultimate weight of the evidence at trial. Nothing in this Order constitutes a final determination of Defendant's guilt or witness credibility. Defendant remains presumed innocent, and the State bears the burden at trial of proving each charged offense beyond a reasonable doubt.

IT IS SO ORDERED.

DATED this 1st day of September, 2026.

BY THE COURT:


Tony F. Graf, Jr.

District Court Judge

Used At Direction Of Judge



CERTIFICATE OF NOTIFICATION

I certify that a copy of the attached document was sent to the following people for case 251403576 by the method and on the date specified.

MANUAL EMAIL: KATHRYN NESTER KATHY@NESTERLEWIS.COM

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09/02/2026

/s/ TREENA HANSEN

Date: _____

Signature