



IN THE DISTRICT COURT OF MONTGOMERY COUNTY, ALABAMA

STATE OF ALABAMA)	
)	
V.)	Case No.: DC-2021-001023.00
)	
WHISNAND CALEB MICHAEL SR)	
Defendant.)	

ORDER

This matter is before the Court on the Defendant's motion for an "order barring trial participants from making any statements to the press concerning any aspect of this case that bears upon the merits to be resolved by the jury or revealing information or making comments intended to influence public opinion regarding the merits of this case." The Defendant's right to a fair trial and an impartial jury can be severely compromised by news media prior to a trial. The Court must balance the Defendant's Sixth Amendment right to a fair trial against the participants' First Amendment rights to free speech. It is the Court's primary responsibility to ensure that the Defendant has a fair trial and broad discretion is given to accomplish that goal. U.S. v. Noriega, 917 F.2d 1543, 1547 (11th Cir. 1990) However, "The restraint on speech is narrowly tailored to achieve those objectives. The regulation of attorneys' speech is limited—it applies only to speech that is substantially likely to have a materially prejudicial effect." Gentile v. State Bar of Nevada, 501 U.S. 1030, 1075 (1991)

After hearing argument from the Prosecution and the Defense, this Court finds that there is a substantial probability of material prejudice to the Defendant's ability to receive a fair trial, should the parties be free to discuss without limits the case in a setting where media coverage is likely and there are not any reasonable alternatives. Therefore, it is hereby ORDERED that:

1. All attorneys, witnesses, law enforcement personnel and anyone else affiliated with this matter shall comply strictly with the Alabama Rules of Professional Conduct, Rule 3.6.
2. The Defense Attorney shall inform each participant affiliated with the defense of this matter the restrictions contained in Alabama Rules of Professional Conduct, Rule 3.6.
3. The District Attorney and/or his staff shall inform each participant affiliated with the prosecution of this matter the restrictions contained in Alabama Rules of Professional Conduct, Rule 3.6.

4. No member of either trial team, nor any of their representatives shall comment to the media or in any other manner likely to reach the media anything about the case until such time as a final verdict has been rendered. This does not include such things as bare facts related to the scheduling of hearings and/or trial dates, motions filed as a public record and not “under seal”, and/or the in-court testimony of any witness testifying after the issuance of this order.
5. Any participant violating this order shall be in contempt of court and may subject to sanctions that may include, but are not limited to, a fine and/or jail time.

DONE this 4th day of June, 2021.

/s/ TIFFANY B. MCCORD
DISTRICT JUDGE
