

District Court, Chaffee County, COLORADO 142 Crestone P.O. Box 279 Salida, Colorado 81201 (719) 539-2561	DATE FILED: August 4, 2021 10:19 AM CASE NUMBER: 2021CR78
Plaintiff(s): THE PEOPLE OF THE STATE OF COLORADO, v. Defendant(s): MORPHEW, BARRY LEE	▲ COURT USE ONLY ▲ Case No.: 2021CR78 Division: 2
ORDER REGARDING PROTOCOL FOR PRELIMINARY/PROOF EVIDENT HEARING	

This matter is set for a four-day combined preliminary hearing/proof evident presumption great hearing. The hearing is set for all day on August 9, August 10, August 23 and August 24, 2021.

PUBLIC WEBEX

As stated on the record on July 22, 2021, the Court does not intend to broadcast these proceedings to the public via WebEx. The Court made this decision for several reasons.

First, the Court does not believe it has the legal authority to do so. Pursuant to Colorado Court Rules, only certain pre-trial hearings are eligible for expanded media coverage in criminal cases. Preliminary hearings are not included on that list. (See Colorado Court Rules Chapter 38, Rule 3)

While Colorado Courts have utilized the WebEx platform extensively during the pandemic and continue to do so, the Court views this particular case in a different manner. This case has generated enormous public interest and broadcasting the proceedings via WebEx would very likely result in thousands of people viewing the hearing. This would seem to thwart the purpose of limiting expanded media coverage in criminal cases. Those purposes include not interfering with the rights of the parties to a fair trial, not detracting from the decorum and dignity of the Court and not creating adverse effects that would be greater than those caused by traditional media coverage.

By way of illustration, at a prior non-evidentiary hearing over 1,100 devices joined the WebEx meeting and viewed the proceedings. Numerous messages, many of which were inappropriate, were posted in the “chat” feature. The Court is aware that despite a prohibition on recording and rebroadcasting, the proceedings were recorded and rebroadcast.

The fact that it would be the Court broadcasting the proceedings, and not the media, does not alter the Court’s thinking. The same rationale applies.

Additionally, on July 8, 2021, Colorado Governor Jared Polis declared an end to the public health emergency created by the pandemic. Therefore, broadcasting the hearing via WebEx due to an ongoing public health emergency is no longer a valid rationale.

Finally, the Court is the trier of fact at a preliminary/proof evident hearing. The Court needs to focus all of its attention on the proceedings. Monitoring the WebEx meeting during the hearing would divide the Court’s attention and create a distraction.

PUBLIC ACCESS TO HEARING

The Chaffee County Combined Courts have received the approval of the Chaffee County Department of Public Health to conduct in person hearings. The Courts agreed to limit capacity in courtrooms by adhering to three feet of social distancing. The Courts also agreed to mandating masks in courtrooms for participants, judicial employees and observers.

These rules will allow for approximately twenty-four members of the public or media representatives to view the hearing in person.

The Court understands that without the distancing requirement, more members of the public would be able to view to proceedings (approximately twice as many). The Court also understands that significantly more than twenty-four people or members of the media will want to view the proceedings.

Therefore, with the help of Chaffee County, the Court will live stream the proceedings into the main hall of the Chaffee County Fairgrounds. This should provide seating for approximately 40 or 50 additional people. The live stream will only be accessible to the judicial laptop at the fairgrounds building and to immediate members of the Morpew/Moorman families. The public will not have access to the livestream.

FAMILY OF VICTIM

The prosecution has requested that Suzanne Morpew's siblings be able to view to proceedings via the live stream. The prosecution has also asked that the Morpew children be able to view the proceeding via the live stream but does not know their intention.

Siblings and children of a victim are considered victims for purposes of Colorado's Victims Right Amendment. (C.R.S. 24-4.1-302(5))

Under the V.R.A., the Court has an obligation to ensure that victims are informed of and be present for all critical stages of a criminal case. (C.R.S. 24-4.1-302.5(1)(b))

A preliminary hearing is a "critical stage" of a criminal proceeding. (C.R.S. 24-4.1-302(2))

Because the siblings reside in another state and are otherwise unaware of the facts supporting Mr. Morpew's arrest due to the Court's suppression of the arrest affidavit, the Court will allow them to view the proceedings via the live stream. Similarly, if the Morpew children desire to watch the proceeding via live stream, the Court will allow this as well.

The Court believes that this will satisfy the Court's responsibilities under the V.R.A. without leading to some of the concerns noted above regarding the general public viewing the proceedings via live stream.

ORDER

All participants, judicial employees and observers must maintain social distancing of at least three feet and must wear masks. Masks may be removed by participants when speaking and by witnesses when testifying.

There will be approximately twenty-four people admitted into the courtroom to observe. Seven of those seats will be reserved for the media, the rest will be reserved for the general public. The media seats will be apportioned by Deputy Public Information Officer Jon Sarche. Please contact Mr. Sarche for details. (jon.sarche@judicial.state.co.us) Public seating will be on a first come, first serve basis.

Additional seating and a live stream will be provided at the Chaffee County Fairgrounds main building, 10165 County Road 120, Poncha Springs, Colorado.

Live tweeting or reporting of the proceedings will be allowed unless disruptive to the process. Recording of the proceedings is prohibited.

The siblings and children of Suzanne Morphew may view the proceedings via WebEx. The Court will need the email address and device name for each member of the family who intends to view the proceedings via live stream.

IT IS SO ORDERED.

By the court, this 4th day of August, 2021.

/s/ Patrick W. Murphy,

Chief Judge, 11th J.D.