

<b>COUNTY COURT</b> <b>EAGLE COUNTY, COLORADO</b> 885 E. Chambers Road P.O. Box 597 Eagle, Colorado 81631	FILED IN THE COMBINED CLERKS OFFICE  AUG 04 2003  EAGLE COUNTY, COLORADO BY <u>MD</u>  σ COURT USE ONLY σ
<b>Plaintiff:</b>  PEOPLE OF THE STATE OF COLORADO.  <b>Defendant:</b>  KOBE BEAN BRYANT.	
	Case Number: 03 CR 204  Div.: 1
<b>ORDER DENYING DEFENDANT'S MOTION FOR RECONSIDERATION, AND        OBJECTION TO REQUESTS FOR EXPANDED MEDIA COVERAGE and ORDER RE        DEFENDANT'S COMBINED MOTION FOR HEARING ON EXPANDED MEDIA        COVERAGE, REQUEST FOR AN OPPORTUNITY TO BE HEARD PRIOR TO ANY        FURTHER ORDERS CONCERNING SUCH MEDIA COVERAGE, AND MOTION FOR        ADEQUATE NOTICE OF EXPANDED MEDIA COVERAGE REQUESTS</b>	

THIS MATTER comes before the Court on (1) Defendant's Motion for Reconsideration, and Objection to Requests for Expanded Media Coverage; and (2) Defendant's Combined Motion for Hearing on Expanded Media Coverage, Request for an Opportunity to be Heard Prior to Any Further Orders Concerning Such Media Coverage, and Motion for Adequate Notice of Expanded Media Coverage Requests. The Court has reviewed the motions and Court TV's response to the motion for reconsideration. The parties stipulated to a determination on the briefs.

I.

As noted in the Court's Order Re Expanded Media Coverage entered on July 25, 2003, advisements are excepted from the pretrial proceedings for which there shall be no expanded media coverage. Canon 3(A)(8)(c)(I). Court TV contends Canon 3 and *People v. Wiegard*, 727 P.2d 383 (Colo. App. 1986) give rise to a presumption in favor of coverage. "It is generally accepted that the presence or use of cameras or sound recording or broadcasting equipment in the courtroom during a criminal trial is not inherently inconsistent with the defendant's right to a fair and impartial trial." *State v. Hanna*, 378 S.E.2d 640, 644 (W.Va. 1989)(citations omitted). "However, the media does not have an absolute constitutional right to photograph, record or broadcast judicial proceedings if such activity would impose a serious threat to the defendant's constitutional right to a fair trial." *Hanna*, 378 S.E.2d at 644 (citations omitted). The brevity of

the comments in *Wieghard* has generated argument as to whether the *Wieghard* decision approved the trial court's finding of a presumption in favor of open coverage or whether the decision is limited to the specific finding that the presence of a camera is not a per se denial of due process. However, Canon 3 incorporates the fair trial concerns in the standards for authorizing coverage which are as follows.

- (1) Whether there is a reasonable likelihood that expanded media coverage would interfere with the rights of the parties to a fair trial;
- (2) whether there is a reasonable likelihood that expanded media coverage would unduly detract from the solemnity, decorum and dignity of the court;
- (3) whether expanded media coverage would create adverse effects that would be greater than those caused by traditional media coverage. Canon 3(8)(b).

Defendant contends expanded media coverage in this matter would interfere with Defendant's right to a fair trial. In support of that contention, Defendant cites numerous treatises and comment which reflect the debate that followed the broadcast of the O.J. Simpson trial. The bulk of these comments, however, are better addressed in the context of an evidentiary hearing or trial. Defendant's objections are general in nature and do not allege any specific prejudice which may result from expanded media coverage of the advisement. An advisement is not a matter directed to fact finding or evidentiary issues which would implicate significant fair trial considerations. Given the limited nature of an advisement, the Court is not persuaded that there is a reasonable likelihood that expanded media coverage of the advisement would interfere with Defendant's right to a fair trial. The Court finds that expanded media coverage of the advisement would not unduly detract from the solemnity, decorum and dignity of the Court or create adverse effects that would be greater than those caused by traditional media coverage.

## II.

Defendant's second motion concerns Defendant's opportunity to respond to requests for expanded media coverage. Defendant requests that the Court order the media to submit their requests no later than 30 days prior to any proceeding.

The relevant provisions of Canon 3 are as follows.

(I) Request for Expanded Media Coverage. A written request shall be submitted to the judge at least one day before expanded media coverage is requested to begin, unless a longer or shorter time is required or permitted by the judge. Copies of the request shall be given to counsel for each party participating in the proceeding. ...

(II) Objections. Any party or witness may lodge with the judge a written objection to expanded media coverage of all or a portion of a proceeding.

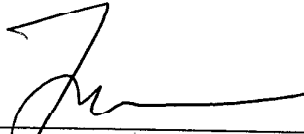
(III) Judicial Authorization. The judge shall rule on a request or objection within a reasonable time prior to the proceeding or promptly after the request or objection if the proceeding has begun. ... Canon 3(A)(8)(f)(emphasis added).

Given the specific directives contained in Canon 3, the response times contained in C.R.C.P. 121, § 1-15 are inapplicable. However, the lack of specificity in the time within which

the Court must rule creates some obvious concerns. The Court's intent is to ensure Defendant's opportunity to object, and to request a hearing if desired, subject to limited notice. Because the response times will inevitably vary depending upon the length of time between the date the proceeding date is established and the actual proceeding, the Court does find it appropriate to require that the expanded media requests be filed more than one day prior to the proceeding where there is sufficient advance notice. Thus, when a proceeding date is established more than 20 days prior to the actual proceeding, the media shall file its request no later than 7 business days prior to the proceeding. Any proceedings which are set in a period of less than 20 days shall be addressed on an expedited schedule to be established for that proceeding.

DATED THIS 4 DAY OF August, 2003.

BY THE COURT:

  
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County Court Judge

CERTIFICATE OF MAILING

I hereby certify that I have, on this 4<sup>th</sup> day of August, 2003, mailed and/or faxed a true and correct copy of the foregoing ORDER by U.S. Mail, postage prepaid, to the following:

Mark Hurlbert  
District Attorney  
Fifth Judicial District  
P.O. Box 295  
Eagle, Colorado 81631  
Fax: 970-328-1016

Pamela Robillard Mackey, Esq.  
Haddon, Morgan, Mueller, Jordan, Mackey & Foreman, PC  
150 East Tenth Avenue  
Denver, CO 80203  
Fax: 303-832-2628

Thomas B. Kelley, Esq.  
FAEGRE & BENSON LLP  
3200 Wells Fargo Center  
1700 Lincoln Street  
Denver, Colorado 80202  
Fax: 303-607-3600