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IN THE FOURTH JUDICIAL DISTRICT COURT, PROVO DEPARTMENT

IN AND FOR THE COUNTY OF UTAH, STATE OF UTAH

STATE OF UTAH,

Plaintiff,

vs.

TYLER JAMES ROBINSON,

Defendant.

**DEFENDANT TYLER JAMES
ROBINSON'S REPLY IN SUPPORT OF
MOTION TO STAY PENDING
INTERLOCUTORY REVIEW**

Case No. 251403576

Honorable Tony F. Graf, Jr.

Defendant, Tyler James Robinson (“Mr. Robinson”), by and through undersigned counsel, hereby files this reply in support of *Defendant Tyler James Robinson’s Motion to Stay Pending Interlocutory Review* (Dkt 561) and in response to the State’s *Opposition to Motion to Stay Pending Interlocutory Review* (Dkt 575).

ADDITIONAL FACTUAL GROUNDS

Mr. Robinson filed his Petition seeking interlocutory review of this Court’s ruling regarding electronic media coverage on May 29, 2026. On June 6, 2026, the Utah Supreme Court issued an order requiring the State of Utah and the News Media to respond within fourteen days. A copy of the Utah Supreme Court’s order is attached as Exhibit B.

DISCUSSION

A. The State Asks this Court to Apply the Wrong Standard.

The State argues that this Court is bound in its decision concerning issuance of a stay in this matter by the factors in Utah Rule of Appellate Procedure 8(c). However, the plain language of the entire provision reveals that the factors apply not to the stay request but whether or not the court should “waive the requirement for a bond or other security[.]” *Id.* 8(c)(2), (3). The entire provision reads:

(c) Security requirement.

(1) Except as provided in paragraphs (c)(2) and (c)(3), the appellate court ordinarily will require the movant to give a bond or other appropriate security as a condition of the requested relief.

(2) In the case of a stay, the court *may waive the requirement for a bond or other security if the movant demonstrates:*

- (A) a likelihood of prevailing on appeal;
- (B) a likelihood of irreparable harm to the movant outweighing the harm to any other party; and
- (C) the stay is not adverse to the public interest.

(3) In the case of an injunction, the court *may waive the requirement for a bond or other security if the movant demonstrates:*

- (A) a substantial likelihood of prevailing on appeal;
- (B) the movant will suffer irreparable harm without the injunction;
- (C) the irreparable harm to the movant outweighs whatever harm the injunction may cause the party enjoined; and
- (D) the injunction is not adverse to the public interest.

Utah R. App. P. 8(c) (emphasis added). The State has provided this Court with no authority interpreting these security requirements during a stay as the requirements for the stay itself.

A motion for a stay requires only “the content required by Rule 23(a)”. Our appellate rules and caselaw provide little guidance on what showing is required for a court to grant a stay pending interlocutory review. However, as noted in Mr. Robinson’s motion,

It lies within the inherent powers of the courts to grant a stay of proceedings. It is a discretionary power, and the grounds therefor necessarily vary according to the requirements of each individual case.

Lewis v. Moultrie, 627 P.2d 94, 96 (Utah 1981). The requirements of this capital case provide grounds for this Court to exercise its inherent and discretionary power to grant a stay pending the outcome of Mr. Robinson’s *Petition*.¹

B. The Utah Supreme Court is Considering the Petition.

As noted above, the Utah Supreme Court has ordered responses to Mr. Robinson’s *Petition*. Those responses are due within fourteen days of the order, issued June 6, 2026.

Pursuant to Utah Rule of Appellate Procedure 5(f), the Utah Supreme Court has the discretion to

¹ The State’s *Opposition* suggests that requesting a stay at this stage, before a decision on the *Petition* is issued, is not appropriate. However, such relief is specifically provided for in Utah Rule of Appellate Procedure 8, stating that “[a] party may move the appellate court for the following relief pending appeal or *pending disposition of a petition under Rule 5*[.]” Utah R. App. P. 8(a)(1). Rule 5 also states that the appellate court “will not consider a stay pending disposition of an interlocutory appeal until the petitioner has filed a petition for interlocutory appeal”—in other words, requesting a stay is permissible once a petition has been filed.

deny a petition without receiving a response or to order a response but may not grant a petition without offering the opposing party the opportunity to file a response. Here, the Utah Supreme Court has ordered the State and the News Media to respond. While this does not offer certainty that the Utah Supreme Court will accept the petition for merits briefing, it does indicate that the Utah Supreme Court is considering accepting the request.

And, as detailed in the petition, this is for good reason. Despite lengthy and detailed briefing on Mr. Robinson's constitutional rights relative to continued EMC and Utah Rule of Judicial Administration 4-401.01, the Court chose not to address these fundamental and core issues. However, as the Utah Court of Appeals has noted:

The purpose of the Code of Judicial Administration is to bring order to the manner in which the courts operate. They are not intended to, nor do they, create or modify substantive rights of litigants, nor do they decrease the inherent power of the court to control matters pending before it.

Scott v. Majors, 1999 UT App 139, ¶ 12, 980 P.2d 214. The Court's ruling is inconsistent with this instruction from Utah's appellate courts that the rules do not modify Mr. Robinson's rights. And, the State's *Opposition* is significant in its failure to even acknowledge, let alone address, the constitutional concerns raised in Mr. Robinson's *Petition*. *See Opp.* at 9-11.

Interlocutory appeals may be granted if the order at issue "involves substantial rights and may materially affect the final decision" in the case, or a "determination of the correctness of the order before final judgment will better serve the administration and interests of justice." Utah R. App. P. 5(g). The Petition is centered on Mr. Robinson's constitutional rights in this capital proceeding. Further, the administration and interests of justice are better served by the Utah Supreme Court preventing further error in a capital case where the State has vowed to "only try this case once." The only way to accomplish that is to ensure Mr. Robinson's rights are protected along the way.

C. The Potential Harm Cause by Delay Does Not Outweigh the Harm to Mr. Robinson's Constitutional Rights Caused by the Court's Order.

The State claims that a stay designed to permit the Utah Supreme Court to weigh in on the constitutional issues raised in Mr. Robinson's Petition has the *potential* to harm its case. *See Opp.* at 7. The possibility of harm to the State is not enough in the balancing of rights.

As to the preliminary hearing, any potential harm cause by the delay necessary for the Utah Supreme Court to make a determination on the Mr. Robinson's Petition is *de minimus*. The State has chosen not to call any lay witnesses at all, relying solely on the testimony of five or six law enforcement officers. The State has not identified any evidence that would somehow be altered or any witness who would no longer be available if this Court acts prudently and grants a stay in order to avoid adding to the accumulating prejudice caused by EMC of this case.

The State also cannot say that a stay at this stage will result in a delay of trial. It is not as if work on the case will simply cease during a stay. A stay means only that there will not be court proceedings streamed live, worldwide, generating money for the media and infecting the jury pool with all of the negative reporting that necessarily accompanies every court hearing in this case while the Utah Supreme Court considers the constitutional issues presented in Mr. Robinson's *Petition*.

Regarding the State's assertion of the Victim Representative's right to speedy disposition of the criminal case, when weighing competing constitutional interests of a victim and a defendant, a defendant's interests must necessarily prevail. Indeed, "the rights afforded to crime victims pursuant to the constitutional amendment and corresponding statutes were drafted so as to not infringe on the constitutional protections belonging to defendants." *State v. Lane*, 2009 UT 35, ¶ 23, 212 P.3d 529. *See also, e.g.*, Utah Code § 77-38-12(4) ("All of the rights contained in this [victim's rights] chapter shall be construed to conform to the Constitution of the United

States”); Utah Code § 77-38-12(6) (“The enumeration of certain rights for crime victims in this chapter shall not be construed to deny or disparage other rights granted by the Utah Constitution or the Legislature ...”). Mr. Robinson’s rights to due process, a fair trial, and reliability in all of these capital proceedings may not be infringed by what the State refers to as the Victim Representative’s right to a speedy disposition of the case.

The State repeats often and loudly that Mr. Robinson’s counsel are engaging in “delay tactics.” However, Mr. Robinson has requested one continuance in the lifespan of this case in order to prepare for the preliminary hearing. Mr. Robinson has appeared dutifully before the Court, with counsel, one to two times per month since the outset of this case. This Court surely knows this is significantly more appearances than an average criminal case in Utah. And as Counsel has continued to advocate for Mr. Robinson’s constitutional rights, Counsel is also reviewing the over 27,000 items of discovery disclosed thus far (with discovery continuing to be produced weekly), consulting with experts, conducting investigations, researching, and preparing in all ways for the preliminary hearing. This is not delay. This is rendering constitutionally effective assistance of counsel to Mr. Robinson, who is charged with a capital offense.

Mr. Robinson is entitled to due process. He is entitled to the effective assistance of counsel. And he is entitled to a fair and reliable trial by an impartial jury. These rights are paramount over any potential, ambiguous harm to the State. Mr. Robinson has argued in his *Petition* to the Utah Supreme Court that the Court did not consider his constitutional arguments in the course of denying his motion to exclude cameras; Mr. Robinson asks the Court to consider his constitutional arguments now and to protect them by ordering a stay.

CONCLUSION

The Court should grant a stay of all proceedings pending the outcome of Mr. Robinson's Petition.

RESPECTFULLY SUBMITTED this 9th day of June, 2026.

/s/ Kathryn N. Nester
Kathryn N. Nester

/s/ Michael N. Burt
Michael N. Burt

/s/ Richard G. Novak
Richard G. Novak

/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 9th day of June, 2026, thereby serving all attorneys of record.

/s/ Staci Visser

Exhibit B

The Order of the Court is stated below:

Dated: June 06, 2026
12:45:06 PM

/s/ Paige Petersen
Justice



IN THE SUPREME COURT OF THE STATE OF UTAH

---oo0oo---

TYLER JAMES ROBINSON,
Petitioner,
v.
STATE OF UTAH,
Respondent.

ORDER

Case No. 20260695-SC

---oo0oo---

This matter is before the court on a petition for permission to appeal from an interlocutory order, filed on May 29, 2026.

Pursuant to Rule 5(f) of the Utah Rules of Appellate Procedure, the Court requests that the Respondent file a response to the petition within fourteen (14) days from the date of this order. The Court also requests that the representatives of the news media that filed a response to the motion to exclude still photographers, TV cameras, and microphones from the courtroom in the district court file a response to the petition within the same time frame.

End of Order - Signature at the Top of the First Page