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**IN THE SUPREME COURT OF THE STATE OF NEVADA**

**MICHAEL SOLID,**

Petitioner,

vs.

**EIGHTH JUDICIAL DISTRICT  
COURT JUDGE, THE  
HONORABLE VALERIE ADAIR,**

Respondents,

and

**MY ENTERTAINMENT TV, THE  
STATE OF NEVADA,**

Real Parties in Interest.

Supreme Court No. \_\_\_\_\_

District Court No. C-13-290260-1

Dept. No. 21

**EMERGENCY PETITION FOR  
WRIT OF MANDAMUS OR, IN  
THE ALTERNATIVE, WRIT OF  
PROHIBITION**

Petitioner Michael Solid, by and through his counsel JoNell Thomas, Robert Arroyo, Randall Pike and David Schieck, moves this Court for a Writ of Mandamus, or in the alternative, a Writ of Prohibition pursuant to NRAP 21, Article 6 §4 of the Nevada Constitution, NRS 34.160 and NRS 34.320. Petitioner Solid asks that this Court either compel the district court to deny My Entertainment TV's request to record all hearings in the district court case or prohibit the district court from allowing My Entertainment TV to have access to the trial proceedings as if My Entertainment TV were a media entity. Trial in this matter is scheduled to begin on Monday, August 22, 2016. Petitioner therefore requests expedited consideration of this petition. Petitioner has satisfied the procedural requirements of verification and proof of service. See attached Exhibits 1 and 2.

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## **Introduction**

Petitioner Solid is the defendant in a trial for the offense of first degree murder. Trial begins today, Monday, August 22, 2017. It is anticipated that jury selection will take approximately two days and that filming of the trial by My Entertainment TV, which was allowed over the objection of Petitioner Solid, will begin after jury selection is complete. The district court announced its order granting My Entertainment TV permission to film its docu-drama program, Las Vegas Law, on Monday, August 22, 2017. Petitioner Solid requested a stay of the order, but that request was denied by the district court. Filed concurrently with this motion is an emergency motion for stay of the district court's order allowing My Entertainment TV to film the trial for use in its cable television production. Petitioner Solid contends that My Entertainment TV is not a media organization and is not entitled to film his trial under this Court's rules. Moreover, My Entertainment TV's contract with Clark County provides that it will not film County employees, which includes Petitioner's Solid's counsel, without their permission. By the plain terms of the contract, My Entertainment TV must not be allowed to film defense counsel. Petitioner Solid also does not give permission for his forced involvement in a cable television docudrama which promotes his prosecutors.

## **Routing Statement**

This writ proceeding concerns a murder case and involves a potential sentence of life without the possibility of parole. It appears that the issue presented herein is an issue of first impression in this state and is of statewide public importance. Petitioner submits that this matter should be retained by the Nevada Supreme Court pursuant to NRAP 17(a)(13), (14). It does not appear that this petition involves any of the case categories which are presumptively assigned to the Court of Appeals.

## **Parties and Procedural History**

Petitioner Solid is the defendant in the case of State of Nevada v. Michael Solid, Eighth Judicial District Court, Case No. C-13-290260-1. He is charged with one count of murder with use of a deadly weapon, one count of robbery, and other offenses.

Respondent Judge Adair is assigned to preside over the case. Real Parties in Interest are the State of Nevada and My Entertainment TV. The State of Nevada, through the Clark County District Attorney's Office, is the entity prosecuting Petitioner Solid. My Entertainment TV intervened in the criminal proceedings for the limited purpose of obtaining an order allowing it to record and broadcast all proceedings in this case.



My Entertainment TV filed a request to record and broadcast the proceedings in the district court case. Appendix page 1. Petitioner Solid objected to that request. App. 3. On August 18, 2016, the district court heard oral argument from counsel for Petitioner and My Entertainment TV. The State did not take a position on the request or Solid's motion to deny My Entertainment TV's request. Following argument, the district court took the matter under submission. On August 22, 2016, the district court announced its Order allowing My Entertainment TV to film the trial. App. 35. The district court entered its Order on August 22, 2016. App. 35. Petitioner Solid requested a stay of the Order, which was denied by the district court.

Petitioner Solid now seeks this Court's intervention by way of a petition for extraordinary relief because of the important legal issues presented in this matter and because it will be impossible to obtain the relief requested in the ordinary course of the law.

### **Synopsis of the Legal Arguments**

My Entertainment TV, producer of Las Vegas Law, which is an entertainment program on cable television, received permission from the district court to cover Petitioner Solid's trial as though My Entertainment TV were a media entity. Petitioner Solid contends that My Entertainment TV is not in fact a representative of the media and that the district court abused its discretion by allowing the cable television

program to film the trial. The contract between My Entertainment TV and Clark County, provides for payment of \$7500 per episode to Clark County and allows the District Attorney's office to have editorial control over the contents of the program, establishing that My Entertainment TV is not a media entity as contemplated by this Court's rules governing media access to the courtroom. Moreover, allowing My Entertainment TV media access to the courtroom would contribute to violations of this Court's ethical rules concerning publicity in a criminal case. Finally, Petitioner Solid and his counsel do not consent to participation in the cable television docu-drama which presents the Clark County District Attorney's Office as "super-heros" and promotes the prosecutors' office. The contract between Clark County and My Entertainment TV expressly provides that permission must be granted by employees of Clark County, which includes Petitioner's counsel, before My Entertainment TV may film the employees. Permission has not, and will not, be granted in this case. For each of these reasons, the district court improperly allowed My Entertainment TV to film this trial.

### **A Writ of Mandamus Is The Appropriate Remedy**

Petitioner Solid will suffer irreparable harm by having to participate in an entertainment company's presence in the courtroom and use of his image and name,

as well as the images and names of his counsel, for a docudrama which promotes the Clark County District Attorney's Office, and which allows the prosecutor's office editorial control over the content of their program and pays Clark County for each episode aired. Moreover, the plain terms of the contract between My Entertainment TV and Clark County provide that County employees, which include Petitioner's counsel, may refuse to participate in the cable television program.

This Court has "original jurisdiction to issue writs of mandamus and prohibition." Gonzalez v. Eighth Judicial Dist. Court, 129 Nev. \_\_\_, \_\_\_, 289 P.3d 448, 449 (2013); Nev. Const. art. 6 § 4. A writ of mandamus may issue to compel the performance of an act that the law requires "as a duty resulting from an office, trust or station." NRS 34.160. A writ of prohibition is available to halt proceedings occurring in excess of a court's jurisdiction. NRS 34.320. "This court may issue a writ of mandamus to compel the performance of an act which the law requires as a duty resulting from an office or where discretion has been manifestly abused or exercised arbitrarily or capriciously. The writ does not issue where the petitioner has a plain, speedy, and adequate remedy in the ordinary course of law. This Court considers whether judicial economy and sound judicial administration militate for or against issuing the writ. The decision to entertain a mandamus petition lies within the discretion of this court." Redeker v. Eighth Judicial Dist. Court (Mosley), 122 Nev.

164, 167, 127 P.3d 520, 522 (2006) (citing NRS 34.160, NRS 34.170, Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981); Hickey v. District Court, 105 Nev. 729, 731, 782 P.2d 1336, 1338 (1989); State v. Babayan, 106 Nev. 155, 175-76, 787 P.2d 805, 819 (1990)). “This Court may also exercise its discretion to entertain a writ petition “[w]here the circumstances establish urgency or strong necessity, or an important issue of law requires clarification and public policy is served by this court’s exercise of its original jurisdiction.” Schuster v. Eighth Judicial Dist. Court, 123 Nev. 187, 190, 160 P.3d 873, 875 (2007).

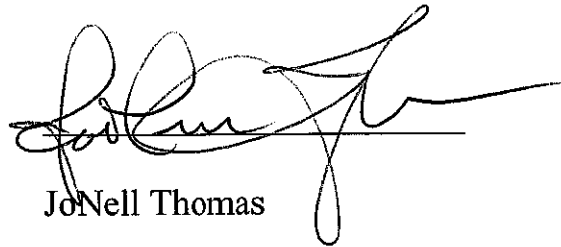
Petitioner Solid has no other plain, adequate or speedy remedy at law to protect his right not to face a felony trial where an entertainment company is allowed full access to record all proceedings. Pursuant to Nevada Supreme Court Rule 243, no direct appeal review is available for this issue. Instead, under Rule 243, this Court has held that a party may seek extraordinary relief by way of writ petition. Moreover, judicial economy and sound judicial administration warrant issuance of the writ and this case presents an opportunity for this Court to clarify an important issue of law.

### **Request for Relief**

Wherefore, based on the foregoing and the accompanying Points and Authorities, Petitioner Solid respectfully requests that this Court issue a Writ of

Mandamus compelling the district court to deny My Entertainment TV's request to record all hearings. In the alternative, Petitioner requests that this Court issue a Writ of Prohibition precluding the district court from allowing My Entertainment TV to record the district court proceedings.

Dated this 22nd day of August, 2016.

A handwritten signature in black ink, appearing to read "JoNell Thomas", written over a horizontal line.

JoNell Thomas

Robert Arroyo

## **POINTS AND AUTHORITIES IN SUPPORT OF WRIT**

### **Procedural History**

The trial in this case is set for August 22, 2016. On August 4, 2016, a Media Request and Order Allowing Camera Access to Court Proceedings was filed. App. 1. The order grants My Entertainment TV access to film all proceedings in this case. App. 1. The Order states My Entertainment TV's access is subject to reconsideration upon motion by a party. App. 1. Mr. Solid, who is the defendant in the district court case, filed a motion for reconsideration of the district court's order and asked that the district court deny My Entertainment TV's motion. App. 3. My Entertainment TV did not file a written opposition to the motion, but presented argument in opposition to the district court on August 18, 2016.<sup>1</sup> The State declined to participate in the argument on the motion. Following argument from counsel for Mr. Solid and My Entertainment TV, the district court took the matter under submission. On August 22, 2016, the district court announced its Order denying the defense motion and allowing My Entertainment TV to film the trial. Petitioner Solid requested a stay of the Order,

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<sup>1</sup>At the hearing, Petitioner Solid's counsel requested expedited preparation of the transcript and was informed that it would be prepared in approximately 24 hours. Inquiry was made on August 22, 2016, of the court reporter about the status of the transcript and counsel's representative was informed that it should be ready on August 23, 2016. Undersigned counsel will file a supplemental appendix which includes the transcript as soon as it is available.

which was denied by the district court. On August 22, 2016, the district court entered its written order. App. 35. This petition for extraordinary relief now follows.

### **Statement of the Facts**

The Clark County District Attorney's Office and My Entertainment TV entered into a contract for My Entertainment TV to produce up to 12 episodes and a pilot of a television program for a broadcast or cable television network. App. 15 (Clark County District Attorney Television Series Agreement and First Amendment to the Agreement). The program, of which six episodes have already aired, highlights cold cases and/or cases which are being prosecuted by the Clark County District Attorney's Office. App. 15. The show currently airs on the Discovery Channel's "Investigation Discovery" network. It is called "Las Vegas Law." App. 31.

According to the description on My Entertainment's web page<sup>2</sup>, My Entertainment TV is:

"A company with a broad spectrum of experience in television: we package and consult, but first and foremost, we are producers. We're proud to create compelling entertainment television that stays on the air. We've created shows for National Geographic, TruTV, Spike TV, Travel Channel, TLC, IFC, Discovery Channel, LOGO and Oxygen, among others. My Entertainment is also a purchaser of international formats for production and distribution in the U.S."

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<sup>2</sup>[www.myentertainment.tv](http://www.myentertainment.tv)

App. 30 (Webpage Printout). Las Vegas Legal Law is described as,

“a one-hour, non-fiction series that offers, unprecedented access to the gritty, dramatic and entertaining world of the ‘superheroes’ fighting crime in one of the wildest cities on the planet. There’s no higher stakes in Las Vegas than in the D.A.’s office, where winning and losing is truly life or death- and ‘dealing’ doesn’t just happen in casinos.”<sup>3</sup>

App. 31 (Webpage Printout).

According to the contract, the District Attorney agrees to give My Entertainment TV access to its office, personnel, and case files for inclusion in the TV series. App. 15-16. The County may have one or more representatives present with the Producer of the show to protect the public image of the DA’s office. App. 16. The case subject matter of each episode shall be mutually acceptable to Producer and DA’s Office. My Entertainment TV owns filming activity in connection with the Program and for promotional and advertising purposes. App. 16. The final product may be sold to third parties but it must remain intact. App. 16.

The final version of the show that airs on television needs to be approved by the County, through Steve Wolfson and Laura Rehfeldt. App. 16, 18. District Attorney Steve Wolfson has the authority to remove any material from the final broadcast that he unilaterally determines would potentially cause the public to distrust the District Attorney’s office or to hold it in low esteem. App. 18. All other matters,

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<sup>3</sup>[www.myentertainment.tv/shows/las-vegas-law-investigation-discovery/](http://www.myentertainment.tv/shows/las-vegas-law-investigation-discovery/)



including “artistic taste,” are within the control of My Entertainment TV. App. 18. The County has given the show permission to film confidential information as long as it is omitted from the final program. App. 17. However, the Producer must obtain the express permission of each individual county employee it wishes to film, tape or record. App. 15.

The County is being compensated for granting access to My Entertainment TV. The County will receive \$4,000 if the show is a half-hour long. App. 18-19. If the show is one-hour long, the County will receive \$6,000. App. 18-19. There is currently a Second Amendment, which increases the compensation to \$7500 per episode. App. 33.

Neither Mr. Solid nor his counsel consent to using their images, names, likenesses, and/or voices in a My Entertainment production. They also do not consent to participation in a commercial activity.

Petitioner Solid does not contest the right of media entities, such as the Las Vegas Review Journal, KLAS-TV, and KSNV News 3, to film or provide coverage of this trial. This writ is limited to filming by My Entertainment TV.

## Argument

**The district court erred in finding that My Entertainment TV is a news media corporation and abused its discretion by allowing My Entertainment TV to record and broadcast all proceedings in this case.**

Petitioner Michael Solid's rights to Due Process, a Fair Trial, and Effective Assistance of Counsel under the Sixth and Fourteenth Amendments to the United States Constitution and the Nevada State Constitution will be violated if My Entertainment TV is allowed to film the trial and court proceedings in this case. The district court should not have granted My Entertainment TV permission to film the proceedings in this case as there are no rules that would allow a production company to pay for access to record, edit, and sell footage of criminal proceedings.

It is well established that there is no constitutional right to film and broadcast a criminal trial. See Courtroom TV Network, LLC v. State of New York, 833 N.E. 2d 1197, 1200-02 (N.Y. 2005) (citing Chandler v. Florida, 449 U.S. 560, 569 (1981)). "There is a long leap... between a public right under the First Amendment to attend trials and a public right under the First Amendment to see a given trial televised. Id. at 1200, citing Westmoreland v. Columbia Broadcasting Sys., Inc., 752 F.2d 16, 23 (2nd Cir. 1984). See also Federal Rule of Criminal Procedure 53 ("Except as otherwise provided by a statute or these rules, the court must not permit the taking of

photographs in the courtroom during judicial proceedings or the broadcasting of judicial proceedings from the courtroom.”).

Although there is no federal right to film and broadcast a trial, this Court has passed rules governing the filming, recording and broadcasting of court proceedings. See Nev. Sup. Ct. R. 229-246. The rules state, “news reporters desiring permission to provide electronic coverage of a proceeding in the courtroom shall file a written request with the judge at least 24 hours before the proceeding commences...” Nev. Sup. Ct. R. 230(1). “Under these rules there is a presumption that all courtroom proceedings that are open to the public are subject to electronic coverage. Nev. Sup. Ct. R. 230(2). The right to cover court proceedings electronically is not absolute. The Court must make particularized findings based upon the enumerated factors when determining if electronic coverage will be allowed at a proceeding. Nev. Sup. Ct. R. 230(2). “Video, photography or audio reproductions may only be used for educational and informational purposes, and may not be used for unrelated advertising purposes.” Nev. Sup. Ct. R. 241(1).

The district court should not have granted My Entertainment TV permission to film the court proceedings pursuant to Nev. Sup. Ct. R. 229-246 because My Entertainment is not a “news reporter” as defined by the rules and the broadcasting of the resulting Las Vegas Legal show is prohibited by Nev. Sup Ct. R. 241.

Additionally, even if My Entertainment TV were a news reporter, the district court should prohibits its electronic coverage of the court proceedings in this case because the enumerated factors listed in Nev. Sup. Ct. R 230(2) weigh in favor of prohibiting electronic coverage by My Entertainment. Lastly, aside from this Court's rules, filming and broadcast of this proceeding by My Entertainment is barred as a matter of contract law because counsel for Solid asserts that as Clark County employees, they do not consent to any filming activity pursuant to the Clark County District Attorney Television Series Agreement.

**1. My entertainment is not a news reporter for purposes of Nevada Supreme Court Rules 229-246 and therefore it is not entitled to film the proceedings.**

This Court's rules expressly prohibit the recording of courtroom proceedings except as provided by rules 229-246. Nev. Sup. Ct. R. 229 (2)(b). A person seeking to electronically record courtroom proceedings must seek the permission of the judge. Nev. Sup. Ct. R. 230. The rules only allow "news reporters" to seek permission to electronically cover courtroom proceedings. Nev. Sup. Ct. R. 230 (1). Also, this Court has limited the use of any recorded material for educational or informational purposes only. Nev. Sup Ct. R. 241(1).

The district court concluded that "My Entertainment TV is a news reporter as defined by Supreme Court Rule 229(c)," but provided no analysis supporting this

conclusion. App. 35. This Court should prohibit My Entertainment TV from filming or otherwise recording the court proceedings because My Entertainment TV is not a “news reporter” as defined by Nev. Sup. Ct. R. 229. Under the rules, a “‘News reporter’ shall include any person who gathers, prepares, collects, photographs, records, writes, edits, reports, or publishes news or information that concerns local, national, or international events or other matters of public interest for dissemination to the public.” Nev. Sup. Ct. R. 229(1)(c). Based upon its own description, My Entertainment TV’s main focus is to create compelling television shows for sale to cable networks.<sup>4</sup> My Entertainment TV does not publish news or information directly. The purpose of filming Mr. Solid’s trial is to create a docu-drama that will be sold to the Discovery Channel. This also violates the limitation that any footage recorded during a court proceeding only be used for educational or informational purposes. Nev. Sup. Ct. R. 241 (1).

My Entertainment TV’s purpose for filming the trial is contrary to what is expected from a traditional local news outlet. For example, Channel 3 News website states simply, “KSNV NBC Las Vegas covers news, sports, weather, and traffic for

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<sup>4</sup>Other productions from My Entertainment include *Pros v. Joes*, *Ghost Adventures*, *Baggage Battles*, and *Paranormal Paparazzi*. See <http://www.myentertainment.tv/shows/>. None of the shows produced by My Entertainment include the words “news,” “media,” or other indication of a journalistic tradition.

the Las Vegas, Nevada area.”<sup>5</sup> In contrast, My Entertainment TV is concerned with creating a compelling story line to gain ratings rather than disseminating information to the public. This is demonstrated by the description of Las Vegas Law which promises access to the “gritty, dramatic and entertaining world of the ‘superheroes’ fighting crime in one of the wildest cities on the planet.” App. 31. It must be assumed that defense counsel is left to play the villain in this story My Entertainment TV has created.

Other factors illustrate why the district court erred in finding that My Entertainment TV is a news reporter. First, and most obvious, is its name. The company is not called “My News” or “My Media.” It identifies itself as “My Entertainment,” and its title should be believed. Equally revealing about the fact that My Entertainment TV is an entertainment program is that it pays the subject of its program a royalty. App. 19, 33. An entertainment company may find it acceptable to pay for its content, but media do not. For example, the Society of Professional Journalists has enacted a Code of Ethics which instructs journalists and the media to “Be wary of sources offering information for favors or money; do not pay for access to news.” <http://www.spj.org/ethicscode.asp>. Likewise, no credible journalist would allow the subject of a news story to have editorial control over the content of a story.

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<sup>5</sup>[www.news3lv.com/news](http://www.news3lv.com/news)

Here, in contrast, My Entertainment's contract allows the District Attorney final say over the completed project and he may reject any footage which would paint the District Attorney's Office in an unfavorable light. App. 18. This editing power held by the District Attorney's Office is evidence that My Entertainment TV is not acting as a traditional news reporter, and is nothing more than a drama series producer.

**2. Even if My Entertainment TV is considered a news reporter, denial of the request to film the trial is still warranted based upon the factors listed in this Court's rules.**

The allowing of electronic coverage in the court room is not an unrestricted right. Nevada Sup. Ct. R. 231(2) states, "[t]his authorization may be revoked at any time without prior notice when in the judge's discretion, it appears that electronic coverage of the judicial proceedings is interfering in any way with the proper administration of justice." Additionally, "news reporters shall have no greater rights of access than the public." Nev. Sup. Ct. R. 242.

Under this Court's Rule 230(2), the district court was required to consider:

- (a) The impact of the coverage upon the right of any party to a fair trial;
- (b) The impact of coverage upon the right of privacy of any party or witness;
- (c) The impact of coverage upon the safety and well-being of any party, witness or juror;
- (d) The likelihood that coverage would distract participants or would detract

from the dignity of the proceedings;

(e) The adequacy of the physical facilities of the court for coverage; and

(f) Any other factor affecting the fair administration of justice.

Nev. Sup. Ct. R. 230 (2)(a-f). In response, the district court entered findings which purported to address these factors. App. 36. Specifically, the district court found that coverage by My Entertainment TV would not impact the parties' right to a fair trial and that defense counsel's claim that he would be distracted over how he was being portrayed was not sufficient to overcome the presumption in favor of coverage. App. 36. The district court also found that witnesses who would refuse to testify if My Entertainment TV was allowed to cover the trial could be remedied by instructing My Entertainment TV not to film those witnesses. App. 36. The district court did not address Petitioner Solid's contention that the dignity of the proceedings would be impacted because of violations of this Court's Rules of Professional Conduct and because the coverage by My Entertainment TV was for a commercial entertainment purpose, rather than information and education as stated in this Court's Rules.

The factors weigh in favor of prohibiting My Entertainment TV from filming Michael Solid's trial and other court proceedings in this case. In regard to having cameras in the courtroom, the United States Supreme Court has noted the potential



dangers of having electronic coverage of a criminal trial:

In the context of a trial of intense public interest, there is certainly a strong possibility that the timid or reluctant witness, for whom a court appearance even at its traditional best is a harrowing affair, will become more timid or reluctant when he finds that he will also be appearing before a 'hidden audience' of unknown but large dimensions. There is certainly a strong possibility that the 'cocky' witness having a thirst for the limelight will become more 'cocky' under the influence of television. And who can say that the juror who is gratified by having been chosen for a front-line case, an ambitious prosecutor, a publicity-minded defense attorney, and even a conscientious judge will not stray, albeit unconsciously, from doing what 'comes naturally' into pluming themselves for a satisfactory television 'performance'?

Estes v. Texas, 381 U.S. 532, 591 (1962).

In this case, Petitioner Solid will be denied the right to a fair trial if My Entertainment TV is allowed to film the proceedings to be used in its nationally televised docu-drama - Las Vegas Law. First, Mr. Solid's right to effective assistance of counsel will be compromised. Counsel did not go to acting school and does not plan to voluntarily participate in whatever storyline My Entertainment TV and the District Attorney's Office decide to spin from this case. Counsel will be distracted with thought of how he will be portrayed in this nationally televised docu-drama. As stated above, My Entertainment TV has set up the narrative so that the District Attorneys Office will play the role of the "superheroes." App. 31. Defense Counsel does not have any comparative say over the final editing of each episode and is

worried he will be made out to be a villain for ratings and to advance the created storyline. Counsel does not believe he will be able to represent Mr. Solid to the best of his ability with My Entertainment TV filming the proceedings.

Additionally, at least one of Mr. Solid's penalty phase witnesses has refused to participate in the sentencing hearing if My Entertainment is allowed to film the proceedings. Witnesses for Mr. Solid will have the same concerns that counsel has with being aligned with the villain. The manner in which potential witnesses are displayed for this docu-drama has the potential to greatly effect people's personal lives at school or work. Allowing My Entertainment TV to film the court proceedings will effect Mr. Solid's right to present an adequate defense at the trial and penalty phases.

Allowing My Entertainment TV to film the district court proceedings will greatly detract from the dignity of the proceedings. My Entertainment is paying several thousand dollars per episode for access to the criminal justice system in Clark County. This Court should not allow a company to buy access to and exploit our criminal justice system for its own profit motive. This case involves the death of a young boy. The jurors are going to be in a tough situation in determining if a young man should be held liable for the death and whether to permanently deny that young man's right to liberty by sentencing him to life in prison without the possibility of

parole. These proceedings should be treated with the utmost dignity and respect. They should be not be reduced to a spectacle in the form of a half-hour docu-drama television show collaboration between My Entertainment and the District Attorney's office for the purpose of boosting the ratings of a cable television network. This exploitation by My Entertainment TV makes a mockery out of our criminal justice system.

Finally, this Court should find that the reality television/docu-drama at issue is contrary to the dignity and respect expected of the courts because it encourages violations of this Court's Rules of Professional Conduct. Rule 3.6(a) provides that:

A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.

See also Nev. Sup. Ct. R. 244 ("Attorneys must observe and strictly comply with Rule of Professional Conduct 3.6 regarding the conduct of all attorneys with respect to trial publicity"). There are exceptions to Rule 3.6, NRPC 3.6(b), but the statements made by attorneys who participate in the docu-drama far exceed the limited statements allowed. Likewise, NRCP 3.8(f), provides that:

Except for statements that are necessary to inform the public of the nature and extent of the prosecutor's action and that serve a legitimate law enforcement purpose, refrain from making extrajudicial comments

that have a substantial likelihood of heightening public condemnation of the accused and exercise reasonable care to prevent investigators, law enforcement personnel, employees *or other persons assisting or associated with the prosecutor in a criminal case* from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.6 or this Rule.

(Emphasis added). Mr. Solid submits that by virtue of the contract between My Entertainment and the Clark County District Attorney, My Entertainment's employees must be considered to be "persons assisting or associated with the prosecutor in a criminal case," who are therefore subject to this rule. This program presents extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused. See Atty. Griev. Comm'n v. Gansler, 835 A.2d 548, 570-74 (Md. App. 2003) (reprimanding prosecutor based upon extrajudicial statements about the defendant's confession, his opinion about the defendant's guilt, and his opinion concerning a plea bargain); Ernest F. Lidge III, *Perp Walks and Prosecutorial Ethics*, 7 Nev. L.J. 55 (2006) (evaluating rules of professional conduct and extrajudicial statements by prosecutors).

As previously stated, the media's access to the courtroom is not without limitations and it is incumbent upon the court to consider all the factors outlined in Nev. Sup. Ct. R 230. The district court should have denied My Entertainment permission to film all court proceedings in this case based upon the factors discussed

above. Allowing My Entertainment TV the ability to film the proceedings, and later use them in their docu-drama will have a negative effect on the dignity of the criminal justice system.

**3. Counsel for Michael Solid Do Not Consent to Being Recorded, Filmed, Taped, or Photographed.**

As stated above, the contract between the County and My Entertainment expressly states that “whether a County employee is to be recorded, filmed, taped or photographed is a personal decision of each individual County employee. All filming Activity of County Employees will be undertaken only with each individual employee’s written consent...” App. 15. Mr. Solid’s attorneys, who are both County employees, have not and do not give their consent to be recorded by My Entertainment. In addressing this issue, the district court stated as follows:

The contract between Clark County and My Entertainment TV does not give defense counsel, Randall Pike and Robert Arroyo, as county employees, a right of consent in this instance. As licensed Nevada attorneys appearing as counsel in a public proceeding, they are subject to the same rules as any other attorney.

App. 36-37.

Contrary to the district court’s conclusion, the express terms of the contract apply, and My Entertainment, as a party to that contract, is bound by its terms. Defense counsel accept their role as public defenders and recognize that they will on

occasion be photographed or filmed by the media as part of their cases. Defense counsel, however, have no desire or intention to serve as supporting actors in the prosecutor's docudrama on a entertainment cable television show.<sup>6</sup> There is no exception in the contract for public court appearances. My Entertainment TV voluntarily agreed to this provision in its contract and should now be required to abide by this express provision.

Additionally, the district court has the discretion to limit electronic coverage of any participant in the court proceedings that do not consent to being filmed or photographed. Nev. Sup. Ct. R. 240(1). Counsel for Mr. Solid requested that the district court enter an order prohibiting My Entertainment TV from filming or recording counsel pursuant to Nev. Sup. Ct. R. 240(1) because counsel asserts that such recording for a nationally televised docu-drama would hinder counsel's performance and representation of Mr. Solid at trial. Mr. Solid also does not consent to the use of his image, voice, and name for My Entertainment's program.

### **CONCLUSION**

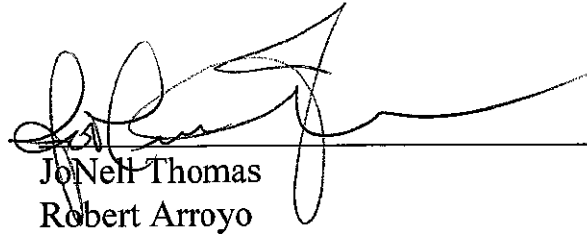
Petitioner Solid respectfully urges this Court to find that the district court erred

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<sup>6</sup>Clark County District Attorney Wolfson has also given assurances that participation in the program is "strictly voluntary."  
<http://www.lasvegasnow.com/news/i-team-doubts-surface-about-las-vegas-reality-show>.

in finding My Entertainment to be a media entity and abused its discretion by allowing My Entertainment to film the trial at issue herein. He asks this Court to issue an extraordinary writ prohibiting My Entertainment from filming the trial.

Dated this 22nd day of August, 2016.



Jonell Thomas  
Robert Arroyo

**EXHIBIT A**

**VERIFICATION**

STATE OF NEVADA     )  
                                      ) ss  
COUNTY OF CLARK    )

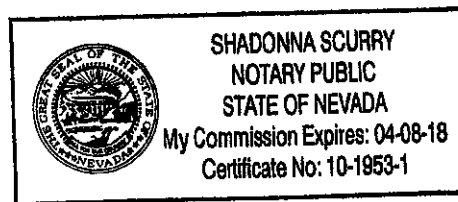
ROBERT ARROYO, being first duly sworn, deposes and says:

That he is the attorney of record for Petitioner in the above entitled matter; that he has read the foregoing Petition, knows the contents thereof, and that the same is true of his own knowledge, except for those matters therein stated on information and belief, as to those matters, he believes them to be true; that Petitioner Michael Solid personally authorizes him to commence this Writ of Habeas Corpus action.

  
ROBERT ARROYO

SUBSCRIBED and SWORN to me  
this 19<sup>th</sup> day of August, 2016.

  
NOTARY PUBLIC in and for said  
County and State





**EXHIBIT B**

**CERTIFICATE OF SERVICE**

I hereby certify that on 8/22/16 a true and accurate copy of this PETITION FOR WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, WRIT OF PROHIBITION and APPENDIX OF RECORD were served on the following,

**BY ELECTRONIC FILING TO**

Agnes Lexis, Deputy District Attorney  
District Attorney's Office  
200 Lewis Ave 3<sup>rd</sup> Floor  
Las Vegas, NV 89101

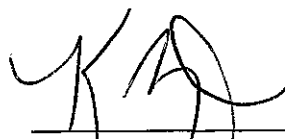
**BY HAND DELIVERY TO**

The Honorable Judge Valerie Adair  
200 Lewis Ave., 11th Floor, Dept. 21  
Las Vegas NV 89101

**BY U.S. MAIL AND VIA EMAIL**

My Entertainment  
c/o Mark Tratos, Esq.  
Lisa Zastrow, Esq.  
Greenberg Traurig  
3773 Howard Hughes Parkway #400 N  
Las Vegas NV 89169  
tratosm@gtlaw.com

Dated: 8/22/16



\_\_\_\_\_  
An employee of the Special  
Public Defender