IN THE SUPREME COURT OF THE STATE OF NEVADA

LAS VEGAS REVIEW-JOURNAL, INC.; NOBLE BRIGHAM; BIZUAYEHU TESFAYE; AND, AKIYA DILLON,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK; AND, THE HONORABLE JESSICA PETERSON, DISTRICT JUDGE

Respondents,

and

NATHAN CHASING HORSE; AND, THE STATE OF NEVADA,

Real Parties in Interest.

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Elizabeth A. Brown
Clerk of Supreme Court

Case No.:

Dist. Case No.: C-24-387035-1

EMERGENCY PETITION FOR WRIT OF MANDAMUS AND/OR, IN THE ALTERNTIVE, PROHIBTION, PURSUANT TO NRAP 21 AND 27(e)

IMMEDIATE ACTION REQUIRED

Margaret A. McLetchie, Nevada Bar No. 10931
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MCLETCHIE LAW GROUP PLLC
602 South 10th Street
Las Vegas, Nevada 89101
Counsel for Petitioners

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NRAP 27(e) CERTIFICATE

Under penalty of perjury, the undersigned declares and certifies:

1. I am a member of the Bar of the State of Nevada and am a partner in the firm MCLETCHIE LAW GROUP PLLC. Our firm represents Petitioners Las Vegas Review-Journal, Inc., Noble Brigham, Bizuayehu Tesfaye and Akiya Dillon. I make this declaration in support of Petitioners' Emergency Petition for Writ of Mandamus and, in the Alternative, Prohibition Pursuant to NRAP 21 and 27(e). I am over eighteen years of age, have personal knowledge of the facts set forth herein, and if called as a witness, I could testify competently with respect thereto.

2. I have read the following Emergency Petition and know the contents thereof. Said Emergency Petition is true of my own knowledge, except as to those matters stated on information and belief, and that as to such matters I believe them to be true.

3. In open court on January 21, 2026, I informed the district and the parties in the underlying criminal case that I would be seeking emergency relief from this Court. I also emailed counsel for the Real Parties In Interest on January 26, 2026, and spoke with counsel for the State.

4. I have filed this Emergency Petition as soon as practicable; the necessary transcripts were not received until January 26, 2026.

5. I endeavored to file this Emergency Petition after hours on January 26, 2026, but the efile system was down. Mr. Wolpert emailed the Petition to the clerk and

copied the Respondent and Real Parties in Interest.

6. Pursuant to NRAP 21(a)(4), I have submitted with this Emergency Petition an appendix containing the portions of the record and exhibits which are essential to understand the matters set forth in the Emergency Petition.

6. On January 22, 2026, my colleague, Leo Wolpert, informed the Supreme Court Clerk by telephone of Petitioners' intent to petition for emergency writ relief as soon as possible. On January 26, 2026, I updated the Supreme Court Clerk as to the likely timing of the filing. Also on January 26, 2026, I emailed counsel for the Real Parties in Interest to advise them as to the planned timing of this Emergency Petition.

Respectfully submitted this 27th day of January, 2026

/s/ Margaret A. McLetchie
MARGARET A. MCLETCHIE
Counsel for Petitioners

NRAP 26.1 DISCLOSURE

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a) that must be disclosed. These representations are made in order that the justices of this Court may evaluate possible disqualification or recusal.

Las Vegas Review-Journal, Inc. submits the following corporate disclosure statement pursuant to Fed. R. App. P. 26.1: (1) Las Vegas Review-Journal, Inc. is a Delaware corporation registered in the State of Nevada as a foreign corporation; (2) the sole shareholder of Las Vegas Review-Journal, Inc. is News + Media Capital Group, LLC; and (3) no publicly held corporation owns ten percent or more of Las Vegas Review-Journal, Inc.'s stock.

The law firm whose partners or associates have or are expected to appear for the Las Vegas Review-Journal, Inc., Noble Brigham, Bizuayehu Tesfaye, and Akiya Dillon is MCLETCHIE LAW GROUP, PLLC

DATED this 26th day of January, 2026

/s/ Margaret A. McLetchie

Margaret A. McLetchie, Nevada Bar No. 10931
MCLETCHIE LAW GROUP PLLC
602 South 10th St.
Las Vegas, Nevada 89101
Counsel for Petitioners

ROUTING STATEMENT

This case should be retained by the Supreme Court pursuant to NRAP 17(d)(2)(D) because its principal issues are questions of first impression and statewide public importance regarding court access and freedom of the press which has application beyond the parties. This case should also be retained by the Supreme Court pursuant to NRAP 17(d)(2)(C) because it raises as a principal issue a question of regarding the free speech protections under the Nevada and United States Constitutions, including whether a district court judge can implement a prior restraint on attendees of court communicating regarding information disclosed in open court and whether a district court judge can limit access to journalists based on their refusal to consent to limitations on the content of their reporting. Additionally, this matter is not one that would be presumptively assigned to the Court of Appeals under NRAP 17(b).

DATED this the 26th day of January, 2026.

/s/ Margaret A. McLetchie
Margaret A. McLetchie, Nevada Bar No. 10931
MCLETCHIE LAW GROUP PLLC
602 South 10th St.
Las Vegas, Nevada 89101
Counsel for Petitioners

I. RELIEF SOUGHT

This Petition is before the Court because on January 21, 2026, the trial court ejected Noble Brigham, Bizuayehu Tesfaye, and Akiya Dillon (collectively, the "Journalists") from the courtroom during the criminal trial of Nathan Chasing Horse and banned them and anyone affiliated with the Las Vegas Review-Journal, Inc. (the "Review-Journal")[1] from being present during the open, public courtroom testimony of an alleged victim ("S. Doe"). The trial court took these unprecedented steps because LVRJ refused to acquiesce to a prior restraint banning publication of S. Doe's real name. It also ordered that any publication would result in contempt. The prior restraint and ejection of LVRJ from the courtroom did nothing to protect S. Doe's anonymity. The State already made her name public, she was testifying under a pseudonym, and almost nobody else who remained in court was required to agree to the prior restraint. To justify its actions, the trial court relied in part on a "Decorum Order" it had previously entered, which also contains other prior restraints.

LVRJ thus seeks a writ of mandamus and/or prohibition providing the following relief:

1. Mandating that the trial court immediately rescind the prior restraints and prohibiting it from entering other prior restraints; and

[1] The Journalists and Review-Journal are collectively referred to as "LVRJ."

2. Prohibiting the trial court from banning LVRJ from the trial.

The Chasing Horse trial is ongoing, and the trial court has made repeated efforts to unconstitutionally restrict court access and punish LVRJ's exercise of freedom of the press. Thus, because the LVRJ faces ongoing efforts to restrict what they can publish and other irreparable First Amendment harms, they seek this requested relief on an emergency basis.

II. ISSUES PRESENTED

The issues presented include:

1) Whether a prior restraint prohibiting LVRJ from publishing information that is already in public court files (and has already been revealed in open court) violates LVRJ's First Amendment rights; and,

2) Whether the trial court's ejection of LVRJ for refusing to agree to content restrictions on reporting—while allowing other members of the public who were not required to waive their right to free speech to reman—violated LVRJ's First Amendment right of access to court.

III. INTRODUCTION AND SUMMARY OF ARGUMENT

On January 21, 2026, Judge Jessica Peterson barred LVRJ from attending the criminal trial of Nathan Chasing Horse while an alleged victim, referred to as S. Doe, was testifying, but allowed other members of the public (including other members of the press) to remain. The trial court did so because Petitioner Noble Brigham respectfully informed the court that the Review-Journal would not acquiesce after the court demanded he agree to an unconstitutional prior restraint prohibiting the publication of S. Doe's already-public real name, immediately before she was about to testify using a pseudonym.

Mr. Brigham was well within his rights to refuse to agree to the trial court's order (which also threatens disobedience with contempt) As this Court has explained: "Prior restraints on speech and publication are the most serious and the least tolerable infringement on First Amendment rights, and are presumptively unconstitutional." *Las Vegas Rev.-J. v. Eighth Jud. Dist. Ct. in & for Cnty. of Clark*, 134 Nev. 40, 43, 412 P.3d 23, 26 (2018) ("*Hartfield*") (internal quotation marks omitted) (quoting from *Neb. Press Ass'n v. Stuart,* 427 U.S. 539, 559, 96 S.Ct. 2791, 49 L.Ed.2d 683 (1976)).[2]

The prior restraint cannot possibly pass the near-impossible applicable test,

[2] While the focus of this Petition is First Amendment issues, the parallel provisions of Nevada's Constitution are also implicated. Nev. Const. Art. I, Sec. 9.

which requires showing, *inter alia,* that it is "necessary to protect against an evil that is great and certain, would result from the reportage, and cannot be mitigated by less intrusive measures." *Hartfield*, 134 Nev. at 44, 412 P.3d at 26. The publicly-filed grand jury transcripts are riddled with S. Doe's real name (*see generally* 1PA0001 – 2PA0338), and the State disclosed her name yet again during opening statements. (4PA720, ¶ 18.) Indeed, minutes before ejecting LVRJ from the courtroom, the trial court identified S. Doe's real first name. (4PA550:15-20.)[3] These publications alone render the prior restraint invalid. *See Hartfield*, 134 Nev. at 45, 412 P.3d at 27 (prior restraint regarding victim records "could not as a matter of law, promote a state interest of the highest order" where victim records had previously been published).[4]

[3] The written transcript erroneously states that Judge Peterson referred to the alleged victim as "S. Doe," but the audio-visual recordings demonstrate that Judge Peterson referred to her by her true first name. Department 8 staff advised the undersigned that "[t]he recorders department was instructed to refer to the victim who testified on 1/21/26 as S. Doe and to not transcribe the bench conference[.]" Pursuant to NRAP 30(d), LVRJ is moving the Court to order the district court to provide these recordings.

[4] To be clear, LVRJ does not contest that a trial court may prohibit photos from being taken in the courtroom at proper times during a trial, and nobody is unsympathetic to crime victims. LVRJ abides by the highest standards of journalistic ethics and avoids publishing information such as the names of child victims of sex crimes who do not want their names disclosed. For example, in a January 21, 2026, article, LVRJ explained its general position when explaining why it did, uncharacteristically, include the name of a different victim that testified earlier that day: "Although the Review-Journal typically does not identify alleged victims of sexual assault, it is choosing to name Corena Leone-LaCroix and publish her photo because she has previously given interviews to news outlets including the Review-Journal."

Moreover, punishing LVRJ for refusing to agree to an unconstitutional order by banning the Journalists and anyone affiliated with LVRJ from observing testimony in open court cannot withstand scrutiny. Any sanction would be impermissible, but this was not just any sanction; the trial court deprived LVRJ of another First Amendment right: the right to attend criminal trials. Worse still, it did not advance any legitimate goal and was not protective of victims. Not only had the victim's name been published, she was testifying under a pseudonym, reinforcing the reality that the trial court was trying to do the impossible: make secret information that is already public. Further undermining the trial court's purported victim-protection rationale—and underscoring the orders' unconstitutionality—is the fact that the trial court did not even ensure that everyone present agreed to the restrictions. Rather, banishing LVRJ was a bald (but ineffective) effort to punish speech and press. Due to LVRJ's extensive reporting[5], the banishment also limited, by proxy, the public's ability to access information and violated Nevada public policy.[6]

(4PA0689.)

[5] *See, e.g.*, 3PA0442-445, 4PA0539-543, 4PA0686-698.

[6] The "press often acts as a proxy for the public, advancing the public's understanding and awareness of the criminal justice system." *Stephens Media, LLC v. Eighth Jud. Dist. Ct.*, 125 Nev. 849, 860, 221 P.3d 1240, 1248 (2009) (citations omitted). *See also Index Newspapers LLC v. United States Marshals Service*, 977 F.3d 817, 830 (9th Cir. 2020) (citing *Richmond Newspapers, Inc. v. Virginia*, 448

The Chasing Horse trial is ongoing and a related order the trial court claims authorized her actions (a bootstrap, since she entered the so-called Amended Decorum Order) remains in place. (3PA0382-392.) The trial court has repeatedly demonstrated its lack of respect for the First Amendment by, *inter alia,* imagining the press needs a permission slip before it can report, complaining on the record about the Review-Journal's reporting, and describing court access as a "privilege" rather than a presumptive right protected by the First Amendment.

The First Amendment issues at stake thus implicate irreparable, ongoing harm, warranting writ relief on an emergency basis.

IV. STATEMENT OF FACTS AND PROCEDURAL HISTORY

On January 21, 2026, at the beginning of the proceedings in the ongoing criminal trial of Nathan Chasing Horse, the trial court decided that S. Doe could testify and appear under a pseudonym.[7] The trial court also announced it would

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U.S. 555, 572-73, 100 S. Ct. 2814, 65 L. Ed. 2d 973 (1980)) ("excluding the media from public fora can have particularly deleterious effects on the public interest, given journalists' role as 'surrogates for the public,'"). Additionally, the fair report privilege was enacted to promote the policy that "Nevada citizens have a right to know what transpires in public and official legal proceedings." *Sahara Gaming Corp. v. Culinary Workers Union Loc. 226*, 115 Nev. 212, 215, 984 P.2d 164, 166 (1999).

[7] LVRJ believes the trial court failed to follow the procedures required by the First Amendment for pseudonymity. However, LVRJ does not challenge that decision herein.

restrict publication of S. Doe's name and photo. (4PA0550:21 – 4PA0551:4.) S. Doe was a minor at the time of the sexual abuse she claims Chasing Horse committed, and is now an adult. (2PA0195:17-20.) Her name was already disclosed in the court record; it appears repeatedly in grand jury transcripts that were publicly filed and available to all (until the court closed access during the trial's pendency). (*See generally* 1PA0001–2PA0338.) Furthermore, the prosecutors and Judge Peterson stated her name on the record during the trial. (*See, e.g.*, 4PA720, ¶ 18; n. 3, *supra*) Another television journalist was present from another station but was not asked to agree to the prior restraint, and no other person present was asked to agree. (4PA720, ¶¶ 12-13.)

Importantly, while it soon became clear that the State had asked the district court to demand the restriction, no prior written motion seeking this restriction had been filed, let alone publicly.[8] The deputy district attorney indicated that he was too busy for such things.[9]

After announcing that it intended to restrict publication, the trial court gave

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[8] Even if such a motion had been filed, that would not have provided the public notice since criminal case records are not available on the Eighth Judicial District's public portal during the pendency of a criminal trial. (4PA720, ¶ 17.) While unconstitutional, LVRJ does not challenge that sealing of records herein.

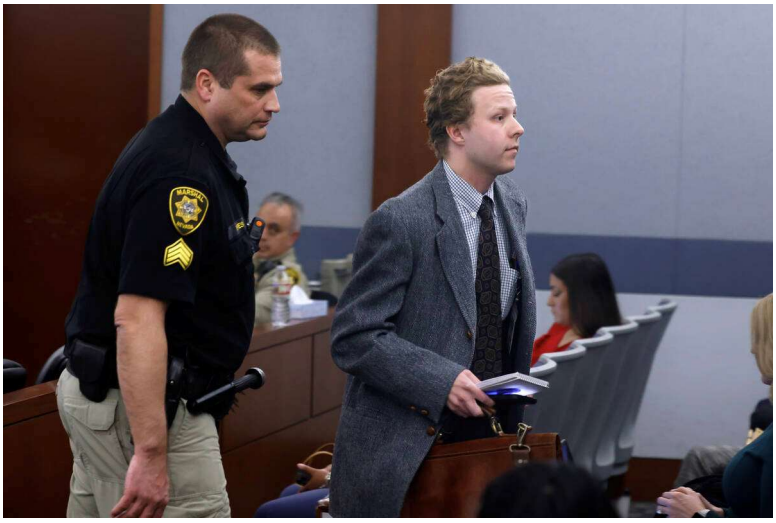
[9] *See* 4PA0591 ("… We can't just sit down and [write] motions and review motions and come in and pick battles over nothing. So no, no written motion was filed. We made an oral request as soon as we were able to hear it."). On information and belief, the oral motion was off the record.

two journalists, Vanessa Murphy of Channel 8 and Mr. Brigham, the opportunity to call counsel. (4PA551:7-14.) Ms. Murphy readily agreed to the restrictions. (4PA552:15-25.) However, Mr. Brigham did call Review-Journal counsel. (4PA551:15-19; 4PA719, ¶ 7.) Then, back on the record, Mr. Brigham respectfully indicated LVRJ would not agree to the content restrictions. The trial court then stated:

> **Then I am going to close the courtroom or I will remove your access, because I am not going to allow this victim to be revictimized by the Las Vegas Review-Journal**.

(4PA0553:14-18.) The trial court also stated: "**if the Review-Journal published the alleged victim's name she would hold the news organization in contempt of court**." (4PA0554:15-18.) Mr. Brigham "asked [the trial court] for time so an attorney could come to court and respond, but she refused.." (4PA0554:19 – 4PA0555:1; 4PA0688.)

At that stage, court marshals ejected Mr. Brigham from the courtroom for the pendency of S. Doe's testimony. (4PA719, ¶ 10.) This was captured by Petitioner Bizuayehu Tesfaye, a Review-Journal photojournalist, before he and Petitioner Akiya Dillon, a reporter, also had to leave:



(4PA0686.)

While Brigham and Tesfaye were waiting in the hall outside the courtroom, the undersigned arrived to challenge the banishment. However, the undersigned had difficulties even getting past the first set of doors into the vestibule and then could not get into the courtroom itself from the vestibule because, through the window in the door, she could see a marshal was blocking it. Thus, the undersigned had to get the attention of a marshal to explain she represented the Review-Journal and wanted to be heard as soon as possible (which, while later accused of being disruptive, she did as quietly as possible while still asserting her right to be present in the courtroom), and she asked the marshal to let the judge know she wanted to be heard. The undersigned was instructed by one marshal to go outside and was told she would not be allowed in; she indicated she needed to be heard. Other court staff then spoke with the undersigned, who had to explain that she had a right to be heard and that

the proceedings should be arrested until she could be heard.[10]

Eventually, the undersigned was allowed to enter the courtroom. The trial court dismissed the witness and jurors, finally allowing to the undersigned to speak. The undersigned argued that, substantively, the Journalists had a right to be present in court and that the trial court could not condition court access on agreeing to a prior restraint giving the trial court to control LVRJ content. (4PA0582-596.)

The trial court and the State argued that Marsy's Law gave the victim constitutional rights (not just statutory rights) that justified the order and that the fact other media entities "all" agreed supported the restriction and made LVRJ's refusal unreasonable.[11] (4PA0585-586.)

The undersigned argued that there was no basis to deny LVRJ access to the court that could satisfy strict scrutiny (or, for that matter, even the most lenient standard), as well as procedural First Amendment problems because no written

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[10] *See* 4PA0587:17-21. The undersigned also verifies the facts in these paragraphs. *See also* 4PA719-720, ¶¶ 14-15.

[11] Even though the trial court had already talked to Mr. Brigham on the record (and allowed him to call counsel, but did not give any advance notice or time for counsel to appear), the State initially objected to the undersigned counsel being heard at all, expressing disgust and questioning whether LVRJ had standing and complained that no written motion had been filed seeking intervention. (4PA0583:5 – 4PA0584:17.) Initially, the trial court appeared to agree with the State. (4PA0585:2 – 4PA0586:9.) However, after further argument by the undersigned, the State and trial court agreed the Review-Journal and Mr. Brigham should be allowed to intervene and their oral motion to intervene should be granted. (4PA0590:7-22.)

motion had been filed before deciding to condition access on agreement to the content restrictions. (4PA0587-591.) The State responded that it was too busy due to the trial and that the Review-Journal did have notice of other orders the trial court had entered.[12] (4PA0591:11-21.)

The trial court refused to reverse course. (4PA0595-596.) The undersigned then asked that the proceedings be arrested pending this Petition, but the trial court refused. (4PA0588:10-16) S. Doe's questioning proceeded without LVRJ present. S. Doe's real name, already public, was not disclosed during the testimony. (*See generally* 4PA0561-578; 4PA0597-684.) The undersigned asked that Mr. Brigham at least be provided a copy of the JAVS by the end of the day (4PA0596:13-14; 4PA0595:18-21) it was not provided until well into the next day and the Eighth Judicial District Court's recorder's office waited until the trial court gave permission to release them.[13]

January 21, 2026, did not happen in isolation. The trial evidences general hostility to LVRJ and to free speech. At the trial's start, on January 13, 2026, the

[12] While the Amended Decorum Order hardly gives clear notice, it shows that January 21, 2026, is not the first time this trial judge has violated the First Amendment.

[13] The undersigned represents that the trial judge's permission also had to be obtained before the undersigned's transcript request could even be assigned, delaying this Petition.

trial court issued the first of its so-called "Decorum Orders"[14] which prohibited, *inter alia,* the press from conducting any interviews anywhere on "the Premises" of the Regional Justice Center and ordered that the media "not disclose or publish any personal identifying information" of any victim, witness or juror without their permission. (3PA0383-384.) During this discussion, the trial court complained about Mr. Brigham's reporting. Specifically, the trial court criticized Mr. Brigham's reporting on statements made during "bench conference"—despite the fact that the statements were taken directly from a "JAVS" recording the trial court, itself, had provided him. (3PA404:12-18.)

The trial court did walk back some restrictions, but the "Amended Decorum Order" still contains unconstitutional provisions. For example, separate and apart from the photography and filming rules, it states

> All members of the media wishing to cover proceedings in the Eighth Judicial District Court must have an approved media request in the case file.

(3PA0387.) Additionally, while the trial court's interpretation was unclear, the January 21, 2026, exchange clarified that it intended the following as a prior restraint on the use of victims' names:

> The privacy and safety of victims, witnesses, and jurors should be respected at all times. Media personnel are requested out of respect for the alleged sexual assault victims to not disclose their personal

[14] *See* 3PA0382-392.

> identifying information including their full names, without their consent, but rather to refer to them by their initials.

(3PA0389; 4PA0594:25-595:2.)

The Amended Decorum Order also expressly prohibits reporting the identify of a testifying officer:

> Pursuant to the Stipulation of the parties and at the request of the Las Vegas Metropolitan Police Department, media personnel shall not disclose the identity of one of the testifying officers. Before this officer testifies, the media will be notified, so that they are put on notice as to the identity of the officer not to be disclosed.

(3PA0389.)

Notably, while doing so would not save their constitutionality, the trial court did not even limit any of these prohibitions on publication to information learned during the portions of the upcoming testimony and issued them even though the information sought to be protected was already in the public record (including not just S. Doe's name, but on information and belief, the testifying officer's name).

As it did through its punitive actions on January 21, 2026, the trial court gave itself extensive powers in the Decorum Orders to punish the media for perceived violations of these restrictions on speech:

> Failure to comply with this Decorum Order may result in the revocation of media approval for coverage, expulsion from the courtroom, and other appropriate sanctions as determined by the Court.

(3PA0390.)

V. STANDARDS FOR WRIT RELIEF

This Court may issue a writ of mandamus to enforce the 'performance of an act which the law especially enjoins as a duty resulting from an office . . . or to compel the admission of a party to the use and enjoyment of a right . . . to which the party is entitled and from which the party is unlawfully precluded by such inferior tribunal." NRS 34.160. Mandamus may lie to control a discretionary action if it is manifestly abused or is exercised arbitrarily or capriciously. *Office of the Washoe County District Attorney v. Second Judicial District Court*, 5 P.3d 562, 566 (2000) (*citing Marshal v. District Court*, 108 Nev. 459, 466, 836 P.2d 47, 52 (1992)); *City of Sparks v. Second Judicial District Court*, 998 P.2d 1190, 1193 (2000).

Alternatively, this Court may issue a writ of prohibition when the district court has acted in excess of its jurisdiction. NRS 34.320 and NRS 34.330. The object of a writ of prohibition is to restrain inferior courts from acting without authority of law in cases where wrong, damage, and injustice are likely to follow such action. *Olsen Family Trust v. District Court*, 110 Nev. 548, 552, 874 P.2d 778, 781 (1994); *see also Silver Peaks Mines v. Second Judicial District*, 33 Nev. 97, 110 P. 503 (1910).

While writ relief is generally discretionary, a writ of prohibition must issue when there is an act to be 'arrested' which is 'without or in excess of the jurisdiction' of the trial judge." *Houston Gen. Ins. Co. v. District Court*, 94 Nev. 247, 248, 78 P.2d 750, 751 (1978).

Writs of prohibition and mandamus "shall be issued in all cases where there is not a plain, speedy and adequate remedy in the ordinary course of law[.]" NRS 34.170. "This court has considered writ petitions when doing so will clarify a substantial issue of public policy or precedential value, and where the petition presents a matter of first impression and considerations of judicial economy support its review." *Falconi v. Eighth Judicial Dist. Court*, 543 P.3d 92, 95 (Nev. 2024) (citing *Washoe Cnty. Hum. Servs. Agency v. Second Jud. Dist. Ct.*, 138 Nev. Adv. Op. 87, 521 P.3d 1199, 1203 (2022) (internal citations and quotation marks omitted)).

This Court has taken up writs challenging prior restraints because appeals are also not an adequate remedy to challenge such restraints in light of the irreparable harm and lack of adequate other remedy. *See Hartfield*, 134 Nev. at 43, 412 P.3d at 26 (quoting *Capital Cities Media, Inc. v. Toole*, 463 U.S. 1303, 1304, 103 S.Ct. 3524, 77 L.Ed.2d 1284 (1983)); *see also Johanson v. Eighth Judicial Dist. Court of State of Nev. ex rel. Cty. of Clark*, 124 Nev. 245, 249, 182 P.3d 94, 96 (2008) (considering a writ of mandamus challenging a prior restraint because an appeal would not be adequate or speedy legal remedy).

Writs also are appropriate to address the First Amendment issues here relating to the denial of access to the courtroom, because access denials not only raise important public policy issues but also because they may evade review such that the

media does not have an adequate remedy. *See, e.g., Stephens Media*, 125 Nev. at 858, 221 P.3d at 1246 (providing that a petition for extraordinary writ relief was appropriate because "the press did not have an adequate remedy at law to challenge the district court's order denying its application to intervene"). As this Court has more recently explained:

> [T]he scope of the press's and public's access to courts is an important issue of law, as well as a substantial issue of public policy, warranting our extraordinary consideration. Further, issues of access to courts happen frequently but evade review because closed hearings often will have already occurred while the party denied access to the court challenges the closure of the hearing. **…** direct appellate review is often not available to the press, and thus, writs for extraordinary relief may be necessary to challenge a denial of access.

Falconi, 543 P.3d at 95-96. As this amply reflects, the nature of cases like this one raising court access issues makes them appropriate for extraordinary writ relief.

VI. REASONS WHY THE WRIT SHOULD ISSUE

A. The Trial Court Manifestly Abused its Discretion in Multiple Respects.

On January 21, 2026, the trial court manifestly abused its discretion in multiple ways. First, it issued a prior restraint prohibiting the Review-Journal and the Journalists from publishing information they had lawfully obtained. Second, it punished LVRJ for refusing to agree to that judicial editorial control. To be clear, agreeing to the trial court's restrictions—even if LVRJ did not intend to report the

victim's name—would have required them to give up their First Amendment rights to be free from government control over the content of their reporting. Third, the trial court punished them for their non-acquiescence by kicking them out of court. It did all this even though (1) S. Doe's name was already public, and (2) another journalist and members of the public were allowed to remain without restrictions.

1. The Trial Court Manifestly Abused Its Discretion When Issuing a Prior Restraint Order.

A prior restraint in the form of a judicial demand for editorial control over content related to public court records and proceedings and threats of contempt for a refusal to agree to it—let alone punishment in the form of banishment from court—is an egregious infringement on First Amendment rights. A prior restraint is defined as a "procedure … aimed toward prepublication censorship" and is therefore "an inherent threat to expression, one that chills speech." *Goldblum v. Nat'l Broad. Corp.*, 584 F.2d 904, 907 (9th Cir. 1978).[15] In *Nebraska Press Ass'n v. Stuart*, 427 U.S. 539 (1976), the Supreme Court held that a similar "order entered [by the state trial court in a criminal proceeding] … prohibiting reporting … on judicial

[15] As the *Goldblum* court noted, in vacating the district court's order mandating a broadcasting company "produce a film just before its scheduled broadcast so that it could be examined for inaccuracies," a publisher should not "be required to make a sudden appearance in court and then to take urgent measures to secure appellate relief, all the while weighing the delicate question of whether or not refusal to comply with an apparently invalid order constitutes a contempt."

proceedings held in public … is clearly invalid." *Id.* at 570. *See also New York Times Co. v. United States*, 403 U.S. 713, 730-31, 91 S.Ct. 2140, 29 L.Ed.2d 822 (1971) (White, J., joined by Stewart, J., concurring) (noting the "extraordinary protection against prior restraints enjoyed by the press under our constitutional system").

As the United States Supreme Court articulated, commenting on its track record of holding prior restraints on speech and publication unconstitutional, "**prior restraints on speech and publication are the most serious and the least tolerable infringement on First Amendment rights**" because:

> A prior restraint, by contrast [to criminal or civil sanctions after publication] and **by definition**, has an **immediate** and **irreversible** sanction. If it can be said that a threat of criminal or civil sanctions after publication "chills" speech, prior restraint "freezes" it at least for the time. **The damage can be particularly great when the prior restraint falls upon the communication of news and commentary on current events**"

Nebraska Press Ass'n, 427 U.S. at 559 (emphasis added) *see also Hartfield*, 134 Nev. 40, 43, 412 P.3d 23, 26 (citations omitted). Due to its dangers, a prior restraint may only be issued when "(1) the activity poses a clear and present danger or a serious and imminent threat to a protected competing interest, (2) the order is narrowly drawn, and (3) no less restrictive means are available." *Johanson*, 124 Nev. at 251, 182 P.2d at 98 (citing and adopting standard set in *Levine v. U.S. Dist. Court for C. Dist. of Cal*., 764 F.2d 590, 595 (9th Cir.1985)).

The undersigned is not aware of any case in which the United States Supreme

Court or this Court has ever found any prior restraint issued to the media to be constitutional. Even when other constitutional rights such as a criminal defendant's Sixth Amendment right are in fact implicated, courts are strictly limited in their ability to preemptively prohibit publication, "one of the most extraordinary remedies known to our jurisprudence." *Hunt v. Nat'l Broad. Co.*, 872 F.2d 289, 293 (9th Cir. 1989).

A prior restraint is especially problematic when it hinders a free press. As the United States Supreme Court explained in *Nebraska Press,* the damage of a prior restraint (presumptively unconstitutional under any circumstances) is "particularly great when the prior restraint falls upon the communication of news and commentary on current events. Truthful reports of judicial proceedings have been afforded special protection against subsequent punishment. … For the same reasons the protection against prior restraint should have particular force as applied to reporting of criminal proceedings." 427 U.S. at 559 (internal citations omitted).

As important as victims' privacy may be, the prior public dissemination of S. Doe's real name in this case is fatal to any prior restraint. As this Court explained in granting writ relief and vacating a prior restraint restricting the Review-Journal's reporting on information in the public record in a previous case, the "prior publication of the redacted autopsy reports diminished the [victims'] privacy interests beyond the point of after-the-fact injunctive repair." *Hartfield*, 134 Nev.

40, 45, 412 P.3d 23, 27. *See also Cox Broad. Corp. v. Cohn*, 420 U.S. 469, 494-95, 95 S.Ct. 1029, 43 L.Ed.2d 328 (1975) ("the interests in privacy fade when the information involved already appears on the public record"). *See also Oklahoma Publishing Co. v. Oklahoma County District Court,* 430 U.S. 308 (1977) (United States Supreme Court found unconstitutional a pretrial order enjoining the media, which had lawfully attended a juvenile proceeding, from thereafter publishing the name or photograph of an 11-year-old boy).

Moreover, even where prior restraints are not involved, as the Supreme Court noted in *Nebraska Press* (quoted above), courts have specifically considered the balance of state-protected privacy interests (including of minor victims of sex crimes) with the First Amendment rights of the media to report on lawfully-obtained victim information—and repeatedly and consistently found in favor of a free press. In *Cox Broadcasting Corp. v. Cohn,* 420 U.S. 469 (1975), the United States Supreme Court vacated a civil damages award entered against a television station for actually broadcasting the name of a child rape-murder victim that the station had obtained from courthouse records, holding the imposition of liability was unconstitutional. Notably, *Cox Broadcasting* only involved monetary damages after the fact, not the issue here: a prior restraint and punishment by ejectment. Further, S. Doe is now an adult (2PA0195:17-20); *Cox Broadcasting* involved a minor.

In *The Florida Star v. B.J.F.*, 109 S. Ct. 2603 (1989), the United States

Supreme Court considered whether two newspapers could be subject to compensatory damages for publishing the statutorily-protected name of a rape victim the paper had legally obtained. While it was considering a far less extreme sanction than here, the *Florida Star* Court upheld free speech over privacy. It explained "where a newspaper publishes truthful information which it has lawfully obtained, punishment may lawfully be imposed, if at all, only when narrowly tailored to a state interest of the highest order…" *Id.* at 2613.

Likewise, in *Smith v. Daily Mail Publishing Co.,* 443 U.S. 97 (1979), the United States Supreme Court found unconstitutional the indictment of two newspapers for violating a state statute forbidding newspapers from publishing the name of a youth charged as a juvenile offender without written prior permission from the court after the newspapers had learned about a shooting from police scanners and learned the juvenile's name from witnesses.

That courts have found weaker restrictions on speech unconstitutional means the prior restraint here (let alone taken together with the ejectment) cannot possibly survive the far more stringent test for prior restraints.

2. The Trial Court Manifestly Abused its Discretion In Banishing LVRJ from the Courtroom.

Alone, the prior restraint prohibiting the publication of identifying information about the victim is unconstitutional. That the trial court punished

LVRJ's refusal to agree to it with ejectment from court makes the situation even more egregious. And that punishment was, in and of itself, an independent deprivation of another of LVRJ's First Amendment rights: the right to attend and report on a trial (which Mr. Brigham could not adequately do at all without being present, let alone do in a timely manner[16]).

Attending court proceedings is not a mere "privilege," as the trial court characterized it. Rather, there is a well-established, presumptive First Amendment and common law right of access to proceedings in criminal matters. *See, e.g., Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 580, 100 S. Ct. 2814, 2829, 65 L. Ed. 2d 973 (1980) (plurality opinion) ("the right to attend criminal trials is implicit in the guarantees of the First Amendment; without the freedom to attend such trials, which people have exercised for centuries, important aspects of freedom of speech and of the press could be eviscerated.") (citations and footnotes omitted); *Globe Newspaper Co. v. Superior Ct. for Norfolk Cnty.*, 457 U.S. 596, 606, 102 S. Ct. 2613, 2619–20, 73 L. Ed. 2d 248 (1982) (access "fosters [among other things]

[16] Additionally, the trial court did not make the JAVS recording available until January 22, 2026. This made the harm worse. Notably and problematically, the Eighth Judicial District Court would not provide the JAVS or process a transcript request from the undersigned until the trial court approved the requests in writing (even though the proceedings were otherwise open to the public, and the trial court originally agreed on the record on January 21, 2026, that the JAVS would be provided to Mr. Brigham.

an appearance of fairness, thereby heightening public respect for the judicial process"); *Stephens Media*, 125 Nev. at 859-860, 221 P.3d at 1247-48 (the press has a right of access to criminal cases, which extends to records, and access "plays an integral role in the administration of justice"); *Falconi*, 543 P.3d at 97 ("there is a presumption that civil proceedings must be open, ***just like criminal proceedings***") (emphasis added).

A trial court can only restrict access to court proceedings if it meets both the exacting procedural requirements and strict substantive test required by common law and the First Amendment. *See, e.g., Stephens Media*, 125 Nev. at 861-863, 221 P.3d at 1249-50 (explaining and adopting *Press-Enterprise II* balancing test to determine when a court may limit access to juror questionnaires); *Press-Enter. Co. v. Superior Ct. of California for Riverside Cnty.* (*"Press-Enterprise II"*), 478 U.S. 1, 106 S. Ct. 2735, 2737, 92 L. Ed. 2d 1 (1986). Here, the trial court's ejectment did not meet these tests.

LVRJ's decision to stand up for its First Amendment rights and resulting denial of its and its Journalists' contemporaneous rights of access to criminal trials put it at a competitive disadvantage. More importantly, it interfered with the public's rights to access by proxy. The *Review-Journal* is Nevada's paper of record; as such, it dedicates more resources to court coverage—including this trial—than any other press entity in Nevada. Further, LVRJ, and each of them, as members of the public,

have a First Amendment right of access to court proceedings whether they are journalists or not, though their role as journalists and surrogates of the public make their ejection even more egregious. *See* n. 6, *supra*. Thus, ejecting and banishing LVRJ impeded the public's ability to get timely, detailed information in a high-profile trial of great public interest while also violating the First Amendment right of access of each Petitioner.

As detailed above, other cases involving less harmful after-the-fact punishment than court banishment have found punishment impermissible and not justified by victims' rights. Here, because others were not even asked to agree to a prior restraint, and because S. Doe's real name was already public (and not revealed during her testimony), rather than protecting victims, the ejectment and banishment served only to punish LVRJ—and to limit the reporting on the trial. Just as it abused its discretion when it issued its prior restraint order, the trial court abused its discretion when it punished LVRJ for refusing to acquiesce by depriving them of their First Amendment rights to access the court proceeding.

3. The Trial Court Manifestly Abused its Discretion by Treating LVRJ Unequally.

In addition to allowing Ms. Murphy to remain because she acceded to the trial court's demand, the trial court allowed at least one other journalist (not affiliated

with the Review-Journal)[17] and all the other members of the public who were present to remain for S. Doe's testimony **without even being asked to agree not to disseminate the information**. (4PA719, ¶ 13.) Singling out the Review-Journal renders the trial court's actions impermissible. In *The Florida Star v. B.J.F.*, 109 S. Ct. 2603 (1989), the United States Supreme Court examined unequal application of restrictions on speech and explained:

> When a State attempts the extraordinary measure of punishing truthful publication in the name of privacy, it must demonstrate its commitment to advancing this interest by applying its prohibition evenhandedly, to the smalltime disseminator as well as the media giant.

Id. at 2613. Here, there was nothing evenhanded about how the trial court targeted the LVRJ.

The trial court's actions thereby ran afoul of the Equal Protection Clause as well as the First Amendment. The Equal Protection Clause demands that "all persons similarly circumstanced shall be treated alike." *Plyler v. Doe,* 457 U.S. 202, 216 (1982) (cleaned up). Not only must any speech restrictions be evenhanded, strict scrutiny always applies if a classification "burdens the exercise of a fundamental right." *United States v. Hancock,* 231 F.3d 557, 565 (9th Cir.2000).[18] Here,

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[17] While it is not clear the trial court recognized this journalist as a member of the press as she had not attracted the same attention as Mr. Brigham, the failure to be even-handed reflects that the approach was not even rational.

[18] *See also Honolulu Weekly, Inc. v. Harris*, 298 F.3d 1037, 1047 (9th Cir. 2002); *San Antonio School District v. Rodriguez*, 411 U.S. 1, 16, 93 S.Ct. 1278, 1287, 36

restricting access only with regard to the Review-Journal and its Journalists for refusing to cede editorial control to the trial court punishes and burdens their fundamental First Amendment rights—and violates the Equal Protection clause in the process.

As this demonstrates—in addition to manifestly abusing its discretion by issuing a prior restraint and punishing a refusal to agree by refusing court access — the trial court also abused its discretion because it applied its orders unequally, compounding the constitutional harm, further reinforcing the manifest abuse of discretion.

B. The Trial Court Manifestly Abused its Discretion by Issuing Ongoing Prior Restraints.

Writ relief on an emergency basis is further supported because the trial court has issued multiple prior restraints since the trial began, and those prior restraints are ongoing. The trial court's admonishment that LVRJ will be held in contempt if they publish S. Doe's name remains ongoing. Additionally, the Amended Decorum Order remains in place.

Each of these orders prohibiting publication and requiring court permission to

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L.Ed.2d 16 (1973); *Massachusetts Bd. of Ret. v. Murgia*, 427 U.S. 307, 312, 96 S. Ct. 2562, 2566, 49 L. Ed. 2d 520 (1976).

report on the trial[19] constitutes a prior restraint and, as explained above, such orders carry a "heavy presumption" against their constitutional validity. *Nebraska Press*, 427 U.S. at 570. Even if, *arguendo*, the publication of the information the Amended Decorum Order seeks to protect could be said to violate someone's privacy, the interests themselves are not weighty enough to justify a prior restraint, the most egregious infringement on freedom of the press and of speech. There is simply no showing of the type of harm that courts have hypothesized could support writ relief in some future case, let alone are any of the prior restraints sufficiently vital to and necessary to protect an interest of a higher order. As the Ninth Circuit has held, the "*Nebraska Press* standard is an exacting one [which] allows a prior restraint only if its absence would prevent securing twelve jurors who could, with proper judicial protection, render an [impartial] verdict." *Hunt*, 872 F.2d at 295.

In short, none of the prior restraints at issue is the hypothetical unicorn that could allow this Court to find a prior restraint against the media constitutional for the first time.

[19] The requirement that "[a]ll members of the media wishing to cover proceedings in the Eighth Judicial District Court must have an approved media request in the case file" ignores not only that the trial court does not have the power to decide who reports but also that any member of the public has the right to attend public trials without a permission slip; the default is access.

C. The LVRJ Faces Immediate, Irreversible, and Irreparable Harm.

This Petition should be considered on an emergency basis; rights are irrevocably lost if this matter is not addressed on an immediate basis. *See, e.g., Nebraska Press Assoc. v. Stuart*, 427 U.S. 539 (1976) (First Amendment right of access raises "profound constitutional implications demanding immediate resolution"); *see also Cap. Cities Media*, 463 U.S. at 1304 ("It is clear that even a short-lived 'gag' order in a case of widespread concern to the community constitutes a substantial prior restraint and causes irreparable injury to First Amendment interests as long as it remains in effect.").

The reasons this Court explained supported emergency relief in *Hartfield* apply here too, *i.e.*, a later appeal is ineffective to remedy a prior restraint.134 Nev. at 43, 412 P.3d at 26. The trial reflects a pattern of First Amendment violations that cause ongoing, irreparable harm. On January 21, 2026, journalists were ejected and even the undersigned faced initial exclusion and other challenges when trying to be heard to challenge the ejectment shortly thereafter. The LVRJ should not have to face ejectment, contempt, or arrest—or give up their First Amendment rights to attend and report on the Chasing Horse trial free from judicial interference.

VII. CONCLUSION

The Review-Journal and the Journalists face ongoing irreparable harm—but do not have a speedy or adequate remedy at law to address the myriad issues

presented by the trial court's actions in the Chasing Horse trial. By the time the trial is over, the access issues to this specific trial will be moot. And while the ejectment during the testimony of an alleged victim testifying under a pseudonym cannot be undone, the issues presented herein—which are matters of first impression and statewide importance—are not moot because of the ongoing pendency of the oral order prohibiting publication of S. Doe's identity as well as the Amended Decorum Order the trial court relied on and because similar ejectments could recur—in this trial.

Even if that were not the case, the issues presented are capable of repetition yet evading review. The court access issues this Petition presents arise in other criminal trials and resolving them will promote judicial economy. Deciding this Petition will also prevent future First Amendment issues and provide needed clarity to the courts.

Thus, the Review-Journal and the Journalists respectfully request that this Court direct an answer and that the writ be considered on an emergency basis in light of the ongoing—and irreparable—First Amendment and other harms.

DATED this 26th day of January, 2026.

/s/ Margaret A. McLetchie
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VERIFICATION

I, Margaret A. McLetchie, state that I have read this Petition and that the contents are true and correct of my own personal knowledge, except for those matters I have stated that are not of my own personal knowledge, but that I only believe them to be true, and as for those matters, I do believe they are true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 26th day of January, 2026

/s/ Margaret A. McLetchie
MARGARET A. MCLETCHIE
Counsel for Petitioners

CERTIFICATE OF COMPLIANCE

Pursuant to NRAP 21(d) and (e):

I hereby certify that this EMERGENCY PETITION FOR WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, PROHIBITION PURSUANT TO NRAP 21 AND NRAP 27(e) complies with the requirements of NRAP 32(c)(2), specifically the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5), and the type style requirements of NRAP 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word with 14-point Times New Roman font.

I further certify that this EMERGENCY PETITION FOR WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, PROHIBITION PURSUANT TO NRAP 21 AND NRAP 27(e) complies with the type-volume limitation of NRAP 21(d) is proportionally spaced, has a typeface of 14 points or more, and contains 6,937 words.

Finally, I hereby certify that I have read this petition, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this petition complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on

is to be found.

I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 27th day of January, 2026.

Respectfully submitted:

/s/ Margaret A. McLetchie
MARGARET A. MCLETCHIE
Counsel for Petitioners

CERTIFICATE OF SERVICE

I certify and affirm that I am an employee of MCLETCHIE LAW and that on this 27th day of January, 2026, the EMERGENCY PETITION FOR WRIT OF MANDAMUS OR IN THE ALTERNATIVE PROHINITON PURSUANT TO NRAP 21 AND 27(e) IMMEDIATE ACTION REQUIRED was served by email and First Class United States Mail, postage fully prepaid to the following:

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