

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

In re:	)	CASE NO. MC 08-6420-S-EJL
THE SPOKESMAN-REVIEW, THE	)	
ASSOCIATED PRESS, THE IDAHO	)	RELATED CASE NO. CR07-23-N-EJL
STATESMAN, IDAHO PRESS CLUB, IDAHO	)	
NEWSPAPER FOUNDATION, IDAHOANS	)	MEMORANDUM ORDER
FOR OPENNESS IN GOVERNMENT, IDAHO	)	
ALLIED DAILIES, IDAHO STATE	)	
BROADCASTERS ASSOCIATION, BOISE	)	
STATE RADIO, KHQ-TV, KREM-TV, KXLY-	)	
TV, KTVB-TV, KTRV-TV, KBCI-TV and KIVI-	)	
TV	)	
Movants.	)	

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On August 5, 2008, the Court entered an order granting the Media's motion for the courtroom to remain open during the presentation of graphic video tapes that were anticipated to be offered as evidence in the related case, United States v. Joseph Edward Duncan, III, CR07-23-N-EJL. A motion for reconsideration of that August 5, 2008 Order has been filed by Steven V.G. and the Media has filed a response to the same. The Court has reviewed the matter including both the recent and prior briefing in addition to the record in both cases. Having done so the Court finds as follows.

**Discussion**

The Court previously concluded that "[t]hough the videos in question are disturbing,

they are direct evidence of the crimes and are necessary to the jury's consideration and must be presented to the jury. The Court is sensitive to the family's interest in maintaining their privacy and the dignity of the victim. However, ours is an open judicial system that requires a compelling interest that outweighs the lengthy history of public access to open court proceedings. Unlike the compelling interests noted above as to the surviving minor victim, such interests that outweigh the public's right of access as to the videos have not been shown here. As such, the courtroom will remain open during the presentation of the videos in question." (Dkt. No. 29).

The instant motion asks that the Court employ reasonable time, place, and manner restrictions for the viewing of the video such as: limiting the number of representatives of non-trial/non-court participants and a limitation on the manner in which the video tape is presented. Because of the graphic nature of the video, the Court considered the proposed limitations previously when it entered the August 5, 2008 Order. The Court has again contemplated the alternatives proposed in the instant motion. However, the Court's conclusion remains the same as determined in the Court's prior Order. The Court will take precautions to eliminate the possibility of any recording of any kind being made when the video is shown. In addition, the Court will admonish the public and the jury prior to the video being played. Accordingly, the motion for reconsideration is denied.

**ORDER**

Based on the foregoing, the Motion for Reconsideration (Dkt. No. 31) is **DENIED**.

The Clerk of the Court is directed to file this Order in case MC08-6420 in the normal course and to serve the same upon all parties.

**IT IS SO ORDERED.**



DATED: **August 21, 2008**

A handwritten signature in black ink, appearing to read "Edward J. Lodge".

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Honorable Edward J. Lodge  
U. S. District Judge