

B Larry A. Howe
motion

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
VOLUSIA COUNTY, FLORIDA

STATE OF FLORIDA,

v.

CHARLES LEON IVY,

Defendant.

CASE NO.: 2023 305335 CFDB
JUDGE RAUL A. ZAMBRANO

**MOTION TO PREVENT FURTHER
PREJUDICIAL PUBLICITY**

COMES NOW the Defendant, Charles Leon Ivy, by and through his undersigned attorney and respectfully moves this Honorable Court to enter an Order prohibiting all attorneys, parties, witnesses, law enforcement personnel, court personnel, who are connected to the prosecution or investigation of this case, and Florida Department of Children and Families (D.C.F.) personnel or agents of D.C.F. from extra judicially releasing information in any form to any agent or employee of any news media concerning any aspect of this proceeding. As grounds for this Motion, the Defendant states:

1. The Defendant has been arrested and is being held on two counts of first-degree murder, two counts of attempted felony murder and one count of first-degree arson of a dwelling.
2. There has been prejudicial publicity regarding this case. At a press conference conducted on November 22, 2023, Daytona Beach Police Chief Jakari Young made prejudicial statements. Chief Young was quoted as describing the crime as "horrific and horrendous" and further said:

"With what we witnessed throughout this investigation, the defendant in this incident deserves a special place in the gates of hell for what he did to this mother and these children," Young said. "Again, I have never witnessed anything this horrific in my entire career."

Chief Young went on to release information about the case by saying:

"The defendant did not confess but what he did he placed himself on scene, he put himself on scene around the time that these murders would have occurred. Through technology, we were able to track his vehicle via traffic cameras leaving the area after this incident would have occurred. And he was also in possession, admittedly, of the victim's cellphone."

*Source Daytona Beach News Journal article dated November 22, 2023
(attached)*

These prejudicial quotes have been copied, repeated, and now appear in both national and international news media articles.

3. The very nature of the objectionable information that has being released, or that may be released in the future, serves only to increase the likelihood that Charles Ivy's right to a fair administration of his case and to a fair trial will be violated.
4. The current form of electronic news media makes it likely that news accounts of this event will be accessible and searchable by potential jurors years in the future. The dangers posed by poisoning the well of potential future jurors will remain as long as these prejudicial statements remain cataloged and searchable in search engines to be recalled in the future.
5. There is no recognized, valid community interest, which would allow this dissemination of extrajudicial information to continue. There is a serious and imminent threat to the fair administration of justice in this case. This dissemination of prejudicial and extrajudicial information must be stopped in order to assure that the Defendant has a fair trial as guaranteed by Article I, Sections 2, 9, 16 and 22 of the Constitution of the State of Florida and the Sixth, Eighth and Fourteenth Amendments to the United States Constitution. The defendant also cites Rule 4-3.6 of the Rules that Regulate the Florida Bar in support of this Motion.
6. The undersigned has reason to believe that this case will likely be a death penalty case. In the context of a trial in which the death penalty is sought, such protective measures are even more critical. The Supreme Court has repeatedly recognized that death as a punishment is unique in its finality and severity and that "extraordinary measures" must be taken to ensure that such a sentence is not imposed "out of whim, passion, prejudice or mistake." Eddings v. Oklahoma, 455 U.S. 104, 118 (1982).
7. In Sheppard v. Maxwell, 384 U.S. 333 (1966), in discussing the trial court's duty to prevent publicity from jeopardizing a criminal defendant's trial, the Supreme Court noted that "[g]iven the pervasiveness of modern communications and the difficulty of effacing prejudicial publicity from the minds of the jurors, the trial courts must take strong measures to ensure that the balance is never weighed against the accused." 384 U.S. at 362. The Court also warned that "[n]either prosecutors, counsel for defense, the accused, witnesses, court staff nor enforcement officers coming under the jurisdiction of the court should be permitted to frustrate its function." 384 U.S. at 362. Among the steps suggested by the Court for safeguarding the impartiality of a trial were controlling the release of leads, information and gossip to the press by the police, witnesses and other trial participants and proscribing extra judicial statements to the press by all lawyers, parties, witnesses and court officials. 384 U.S. at 359-361.

WHEREFORE, Defendant prays this Honorable Court grant this Motion.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by delivery to: Daytona State Attorney Office, Assistant State Attorney, at eservicevolusia@sao7.org, and to the defendant, on November 30, 2023.