



statutory and jurisprudential authorities cited below, and all other applicable constitutional, statutory, treaty, customary international law, evolving international standards, and jurisprudential authority to control prejudicial publicity.

In support, counsel states:

1. Jerry Jones is on trial for his life. The State, through the District Attorney, has announced its intention to kill Jerry Jones, a human being, by lethal injection.

2. “The fundamental respect for humanity underlying the Eighth Amendment’s prohibition against cruel and unusual punishment gives rise to a special ‘need for reliability in the determination that death is the appropriate punishment’ in any capital case.” Johnson v. Mississippi, 486 U.S. 578, 584 (1988) (citations omitted). It is well established that when a defendant’s life is at stake, a court must be “particularly sensitive to insure that every safeguard is observed.” Gregg v. Georgia, 428 U.S. 153, 187 (1976). This heightened standard of reliability is “a natural consequence of the knowledge that execution is the most irremediable and unfathomable of penalties; that death is different.” Ford v. Wainwright, 477 U.S. 399, 411 (1986).

Death, in its finality, differs more from life imprisonment than a 100-year prison term differs from one of only a year or two. Because of that qualitative difference, there is a corresponding difference in the need for reliability in the determination that death is the appropriate punishment in a specific case.

Woodson v. North Carolina, 428 U.S. 280, 305 (1976). The United States Supreme Court has repeatedly emphasized the principle that because of the exceptional and irrevocable nature of the death penalty, “extraordinary measures” are required by the Eighth and Fourteenth Amendments to ensure the reliability of decisions regarding both guilt and punishment in a capital trial. Eddings v. Oklahoma, 455 U.S. 104, 118 (1982) (O’Connor, J., concurring). See also Beck v. Alabama, 447 U.S. 625, 637-38 (1980); Lockett v. Ohio, 438 U.S. 586, 604 (1978); and Gardner

v. Florida, 430 U.S. 349, 357-58 (1977).

3. Jerry Jones is before this court charged with murder arising out of a highly publicized homicide in this community. The District Attorney has announced his intention to seek the death penalty.

4. There has been massive, highly prejudicial publicity throughout this area regarding this case. There have been newspaper articles in all of the major daily and weekly papers in the metropolitan area. Television stations covering the entire metropolitan area have devoted prime time news coverage of this case including video coverage of the arrest of Jerry Jones.

5. Exceptionally prejudicial publicity, emanating almost exclusively from state officials and court proceedings, has continued to this date.

6. The nature of the publicity is overwhelmingly negative and oriented toward the prosecution's theory of the case. Not only have the prosecuting authorities made damaging comments about the alleged facts of this case, there has been a running discourse and disclosure by law enforcement and prosecution personnel about this defendant's prior criminal records. For example, newspaper accounts of the crime indicate that the Sheriff of Gordon County has stated that ". Fairmount Elementary School Principal John Steele sent a letter regarding the case home to the parents of approximately 500 students in his school, *Atlanta Journal Constitution*, "Kids Safe After Hunt for Killer" ~~\_\_\_\_\_~~. Sheriff Jerry Davis also made comments indicating his interest in this case. "I've had him in the Gordon County Jail for traffic violations. I need him back in the jail for murder. The way he's treated these people, I want him bad." *Id.* Sheriff Davis also said, "We've had him in our jail and we're fixin to put him back in our jail. We're gonna put him back on the chain gang he was on." [www.wsbtv.com](http://www.wsbtv.com) *Kids OK, Murder Suspect Found.*

Posted on January 9, 2004. Newspaper articles have also included a host of information about Mr. Jones's criminal history, as well as his history of uncharged prior conduct. *AJC, op.cit.* News agencies have extensively publicized the victims' reactions in the case and have also included facts and figures regarding the cost of Mr. Jones's crano-facial reconstruction. *See, e.g. Atlanta Journal Constitution, "In Her Own Words,"* January 25, 2004. (Interview with Melissa Peeler). News agencies have also provided extensive coverage of Mr. Jones's alleged statements regarding this incident. *Accused Killer Talking to Police, Jones Gave lengthy Statement, Source Says* [www.wsbtv.com](http://www.wsbtv.com), posted January 13, 2004. Moreover, a large fundraiser was held to assist Melissa Peeler and her daughters. *Calhoun Times "Benefit Leaves Girls Who Were Kidnapped Wreathed in Smiles"* [www.calhountimes.com](http://www.calhountimes.com) Posted February 1, 2004. All of Mr. Jones's court appearances have been covered in great detail by the Atlanta and Chattanooga television media, which both have substantial markets in Gordon County.

7. Coverage of the proceedings herein not only results in the dissemination of prejudicial information revealed at those hearings but also triggers the recounting by the media of the history of this case, including the defendant's previous convictions, and alleged involvement in other criminal activities.

8. The coverage of this case is wide-ranging in scope and in its prejudicial nature. As a result, there is a serious and imminent threat to the fair administration of justice in this case. There is no alternative short of those sought in this motion to preserve Jerry Jones's rights to a fair trial by an impartial jury and to a reliable determination of punishment. Under these circumstances, the Sixth, Eighth and Fourteenth Amendments to the Constitution of the United States and Article I, § I, ¶¶ I, XI, and XVII of the Constitution of the State of Georgia require this Court to take appropriate and effective steps to prevent the proceedings and the participants

in this case from becoming a source of further prejudicial publicity.

WHEREFORE, JERRY WILLIAM JONES requests that this Court enter orders:


1. excluding the public and the print and electronic media from all pretrial hearings in this case;
2. prohibiting all attorneys, parties, witnesses, law enforcement personnel and court personnel who are connected to the prosecution or investigation of this case from extra-judicially releasing information in any form to any agent or employee of any news media, concerning any aspect of this proceeding;
3. directing that all records and transcripts in this case be sealed until a jury is impaneled and sequestered or until after trial;
4. prohibiting the use of video or other cameras to photograph the court proceedings herein; and
5. granting any other relief which is just and appropriate to protect his constitutional rights set out herein.

DATED this 12 day of May, 20 05.

Respectfully Submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing motion has been mailed to The Office of the District Attorney for Gordon County via first-class United States Postal Service this 19<sup>th</sup> day of May, 2005.



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IN THE SUPERIOR COURT OF GORDON COUNTY  
STATE OF GEORGIA

\_\_\_\_\_  
STATE OF GEORGIA,  
  
v.  
  
JERRY WILLIAM JONES,  
\_\_\_\_\_

Indictment No. 16471

**ORDER**

Upon consideration of Jerry Jones’s *Motion to Control Pretrial Publicity*, the Court being otherwise sufficiently advised, and good grounds appearing therefore,

IT IS HEREBY ORDERED AND DECREED, that:

1. the public and the print and electronic media will be excluded from all pretrial hearings in this case;
2. all attorneys, parties, witnesses, law enforcement personnel and court personnel who are connected to the prosecution or investigation of this case are prevented from extra-judicially releasing information in any form to any agent or employee of any news media, concerning any aspect of this proceeding;
3. all records and transcripts in this case will be sealed until a jury is impaneled and sequestered or until after trial; and
4. the use of video or other cameras to photograph the court proceedings herein will be prohibited.

SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

The Honorable G. Carey Nelson  
Judge, Gordon County Superior Court  
State of Georgia

Prepared by:  
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