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March 21, 2025

The Honorable Marc C. Lemieux, A.J.S.C.
Monmouth County Court House
71 Monument Park
Freehold, New Jersey 07728

Re: State of New Jersey v. Paul Caneiro
Indictment No. 19-02-0283; Case No. 18-4915
Motion for a Change of Venue
Returnable: April 2, 2025

Dear Judge Lemieux:

Please accept this letter memorandum in lieu of a more formal brief in opposition to defendant's motion for a change of venue.

STATEMENT OF FACTS

A Monmouth County Grand Jury has charged defendant Paul Caneiro with multiple crimes under the aforementioned indictment including four counts of first-degree murder for purposely or knowingly causing the deaths of his brother, [redacted]; his sister-in-law, [redacted]; [redacted], [redacted]; and his [redacted], [redacted] N.J.S.A. 2C:11-3a(1)/(2).

The victims' bodies were discovered November 20, 2018, in the aftermath of a 12:34 p.m. 9-1-1 call from a neighbor who reported active fire at [redacted] Road, Colts Neck, the victims' residence. Authorities found [redacted] shot to death, lying face down on the lawn outside his home, not far from its exterior electrical box and meter. The bodies of [redacted] and the children were found inside the house: [redacted] had been stabbed five times and shot once in the head; [redacted] and [redacted] also had been stabbed repeatedly. Autopsies revealed evidence of smoke inhalation as to both children, but not [redacted]; smoke inhalation was named a cause of [redacted]'s death.

At 4:59 a.m. that same morning, fire had been reported at defendant's residence at 27 Tilton Drive, Ocean Township. Defendant had awakened his wife and two adult daughters and safely evacuated the family from the residence. Two fires striking the two brothers' residences the same morning struck authorities as more than a coincidence.

The security system at defendant's home on Tilton Drive stopped recording at 1:30 a.m. November 20, 2018. Data on the DVR system that was in defendant's garage showed that the last recorded activity was at 1:29 a.m., November 20, 2018. Camera 3 captured defendant walking into the garage, turning on the light, and then walking toward the area of the DVR system. Recording ceased one minute later. When police questioned defendant about his security system at the scene of the Tilton fire, defendant said he had been

having connectivity issues and could not recall if he turned off the video recording system the previous day. Defendant stated that he periodically shut off the surveillance cameras because he suspected the system was causing his Wi-Fi to run slowly. Detectives quickly ascertained, however, that the system was hardwired and therefore could not affect Wi-Fi, and that it had consistently been operational since October 27, 2018.

Although defendant's surveillance had been disconnected that night, his neighbors' systems hadn't. Surveillance from nearby properties ([redacted]) showed defendant's white loaner Porsche Macan pull out of his driveway and leave his neighborhood at approximately 2:07 a.m. These same systems showed the Macan return to the neighborhood and pull back into his driveway at about 4:08 a.m.

Surveillance videos from residences at [redacted] showed a vehicle with the distinctive taillights of a Porsche Macan arrive on Willow Brook traveling west at 2:26 a.m., then depart Willow Brook traveling east at 3:48 a.m.

Detectives ascertained that, like the surveillance at defendant's home, the surveillance at [redacted] also suddenly stopped working in the middle of the night. Footage from a home surveillance camera located inside the garage of [redacted] labeled "Garage North Wall Shelf," faces the single garage door (with windows) on the west side of the house. Just north of this garage door is an outside area on the side of the home closest to

Route 34. To the right side of the camera view, just north of the garage door on the exterior corner of the house, is the electrical meter. On the opposite or left side of the camera view, on the exterior of the residence, is a large generator.

The surveillance footage from the aforementioned camera shows that on November 20, 2018, at approximately 2:35:46 a.m., a motion light comes on outside of the garage door. The light is affixed to the exterior of the home above the garage door. At 2:35:57, an individual can be seen outside of the garage door in the outside area. At 2:36:04, the individual appears to be attempting to reach up towards the light. At 2:36:30, the individual exits the frame, but the light stays on for over two minutes. During the course of the video, which ultimately terminates at approximately 2:51 a.m., the individual is seen on two more occasions. At approximately 2:46:16, the subject walks across the exterior of the garage door from the corner of the house where the electric meter is located to the side where the generator is located. At approximately 2:47:56, the subject walks across the camera view, from left (generator side) to right (electric meter side). At approximately 2:48:30, noises can be heard, to varying degrees and levels, and continue to approximately 2:49:23, then begin again at approximately 2:50:29 through 2:50:45. All video appears to cease after 2:51 a.m., which is the time that the power went out.

When police responded to the scene of the fire at [redacted] they found the main power switch to the home generator had

manually been turned off, the cover of the home's electrical meter box panel was on the ground, and the meter box's lock had been ripped off. A number of shell casings were found in the immediate vicinity of the electric panel.

Two callers had reported hearing shots fired in the middle of the night, November 20th. One report came in as a 9-1-1 call. The caller reported that, at approximately 3:31 a.m., he heard five shots in a row, a brief pause, then a sixth shot. The second report was made as the result of a neighborhood canvass after authorities responded to the fire in Colts Neck. The resident of [redacted] reported hearing four to five gunshots, a brief pause, and then another shot. This resident recalled hearing the shots at 3:10 a.m.

Various witnesses informed that defendant was familiar with and had been involved in setting up the infrastructure of [redacted]'s house. "Whenever there was a problem with the house, [redacted] would call Paul so that he wouldn't have to call a repairman. That was part of Paul's job ... Paul was the knowledgeable one and was part of building that house and had the technical knowledge." (Statement of Bette Karidis, at 4).

The ensuing investigation disclosed that [redacted] had sent defendant four text messages in the middle of the night, November 20, 2018:

> At 3:14:58: "My power is totally out at home. Total ac failure."

At 3:15:01: "I used the manual switch in the basement but nothing is working."

At 3:17:59: "I'm not even sure what to do."

At 3:18:13: "The generator says ac failure. Going outside to see if the generator is in the right mode."

Telecommunication records indicate defendant's cell phone did not leave Tilton Drive the night of November 20, 2018. The records also show that the text messages from [redacted] were read by defendant at 5:03:28, after he had evacuated his own home as a result of fire.

Detectives gathered evidence from both the Colts Neck and Ocean Township scenes to determine when the victims were murdered and who was responsible. Forensic evidence was secured, collected and later tested for the presence of biological material, including the collection of various DNA profiles from defendant and the victims. The investigation also yielded ballistic evidence, including bullets, shell casings and live rounds collected from the scenes and from the victims' bodies. Said evidence also included a handgun located inside defendant's residence, as well as the barrel of a handgun, a gun suppressor, and a night vision device, all located inside a backpack in the car defendant drove to police headquarters on November 20, 2018. The investigation further revealed motive evidence, which included financial records, emails, text messages, and a heated telephone conversation between [redacted] [redacted] and defendant, captured via

home surveillance cameras, that occurred approximately eight hours prior to the murders.

On November 21, 2018, defendant was charged via complaint warrant 2018-000790-1337 with one count of aggravated arson with respect to the fire at his home in Ocean Township. On that same date, Monmouth County Prosecutor Gramiccioni held a press conference.[1] During the press conference, the prosecutor advised that defendant was charged with aggravated arson for the fire at his Ocean Township home. With respect to the four deceased family members in Colts Neck, the prosecutor stated that they appeared to have been victims of homicidal violence. He further advised that the investigative team was exploring the possibility that the two incidents were related. However, when questioned as to whether defendant was a suspect in the Colts Neck incident, Prosecutor Gramiccioni stated that he could neither confirm nor deny same.

On November 29, 2018, defendant was charged via complaint warrant 2018-000058-1304 with four counts of first-degree murder, arson with respect to the victims' Colts Neck home, and related weapons offenses. On that same date, another press conference was held by Prosecutor Gramiccioni.[2] The press conference was approximately 25 minutes in length. During that time, Prosecutor Gramiccioni outlined the additional charges pending against defendant, the State's allegations as to the cause and manner of the victims' death, the State's allegations with respect to the

[1] https://www.youtube.com/watch?v=GEkVfQSe3hE
[2] https://www.youtube.com/watch?v=xAChYgm6CQw

cause and origin of the fires, and the State's allegations with regard to defendant's alleged purpose for starting the fire at his own home. With regard to the State's theory of motive, Prosecutor Gramiccioni limited his comments to stating that the State believed the motive to be financial in nature based on the investigation. The prosecutor offered condolences to the victims' family, asked that their privacy be respected, and promised to bring justice in the name of the victims.

In response to an (inaudible) question asked by a reporter, the prosecutor advised, "I only enforce the law. I don't make it. But if that was a possible sentence in the State of New Jersey, I would have certified this as a capital case. But again, that is not my job here." Another (inaudible) question was asked, to which the prosecutor replied, "If these allegations are proven true, regardless of whether or not the defendant did it, because he is entitled to his constitutional protections, we work for the State and the government without passion or prejudice. But this one is the most brutal case that I've seen in my experience here. And I know that the entire team of investigators and people involved. . . that they've struggled with this too." On multiple occasions during the press conference, Prosecutor Gramiccioni stated that he would not comment on the "quality" of the proofs or the "quantum" of evidence. He further used qualifying language, such as "if" this case gets indicted, and the State "alleges."

On November 30, 2018, the Court granted the State's motion for pre-trial detention. State's Exhibit 1. Commensurate with the filing of its motion, the State submitted an Affidavit of Probable Cause in support thereof. State's Exhibit 2. Due to the detail provided therein, a joint application was made by the State and the defense for the Affidavit of Probable Cause to be sealed. The Court granted the joint application and ordered that the Affidavit of Probable Cause remain sealed until February 21, 2019, or the date upon which Grand Jury proceedings are completed, whichever is sooner. State's Exhibit 3a.[3]

On February 25, 2019, the case was presented to a Monmouth County Grand Jury. A 16-count indictment was returned, charging defendant with four counts of first-degree murder, two counts of first-degree felony murder, two counts of aggravated arson, two counts of possession of a weapon for an unlawful purpose, two counts of unlawful possession of a weapon, one count of second-degree theft of moveable property, one count of fourth-degree misapplication of entrusted property, and two counts of hindering apprehension of oneself. State's Exhibit 4. The theft and misapplication charges contained in the indictment assist in establishing the framework for the State's theory of motive. The Grand Jury also returned aggravating factors N.J.S.A. 2C:11-3b(4)(d), 2C:11-3b(4)(f), and 2C:11-3b(4)(g), each with respect to

[3] On February 21, 2019, the Court issued a subsequent Order that the seal of the Affidavit of Probable Cause be extended until February 25, 2019, after the Grand Jury hand-up is accepted and filed by the Court. State's Exhibit 3b.

counts one through four, and aggravating factor 2C:11-3b(4)(k) with respect to counts three and four, thereby exposing defendant to a sentence of life without parole. Ibid.

On March 19, 2019, defendant was arraigned, during which time the State tendered a plea offer on the record.[4] Defendant acknowledged receipt of discovery, waived a formal reading of the indictment and entered a plea of not guilty.

On October 2, 2020, the State filed a letter, captioned "Notice of Intent to Offer Certain Evidence" (hereinafter, "Notice of Intent letter"). State's Exhibit 5[5]. While the defense characterizes this letter as "outlining a variety of arguably objectionable, inflammatory, and inadmissible evidence at trial[,]" db3, the purpose of this letter (as noted in the letter itself) was to put the defense on notice of the motive evidence the State intended to introduce at trial; the idea being that any challenges to said evidence would be litigated well before trial. Ibid. See also State's Exhibit 6, (T1:28-19 to 29-18)(Deputy First Assistant Prosecutor Decker explaining the genesis of the State's Notice of Intent letter).[6]

As the defense correctly notes, on February 18, 2022, the State's Notice of Intent letter was sealed upon order of the Court. Db4. Strikingly absent from the defense's rendition of the relevant

[4] The plea offer tendered on the record was for defendant to plead guilty to all counts of the indictment in exchange for a recommendation of an aggregate sentence of life without parole.
[5] The State is not attaching this exhibit to its filing due to its sealed nature and due to the fact that both defense and the Court have copies.
[6] State's Exhibit 6, T1, refers to the transcript of the oral argument for the joint application to seal the State's Notice of Intent letter. The transcript is dated February 15, 2022.

procedural history, however, is the fact that it was the State who first requested that the letter be sealed. As explained in the State's February 8, 2022 letter, State's Exhibit 7, (accessible to the defense via Ecourts), on February 3, 2022, an OPRA request was made to the Monmouth County Prosecutor's Office from reporter Kathleen Hopkins with the Asbury Park Press, requesting a copy of the State's Notice of Intent letter.[7] In response to the OPRA request, the State notified defense counsel of same. Id. at page 2. Subsequently, a joint application was made for the Notice of Intent letter to be sealed. State's Exhibit 6, (T1:4-24 to 5-2). The State filed its February 8, 2022 letter in support of its application. Oral argument was heard before the Honorable Lisa P. Thornton on February 15, 2022, State's Exhibit 6, and the Order to Seal was issued on February 18, 2022. State's Exhibit 8.[8]

The State recognizes that its 12-page Notice of Intent letter contains extremely detailed and very specific information regarding the State's proofs surrounding motive in the present case. Importantly, however, the State emphasizes that its Notice of Intent letter was never accessed by the press. The defense claims, "With public and media access to this filed letter, the press erupted into another frenzy, publishing prejudicial information and further amplifying the public uproar." Db3-4. In support of the aforementioned claim, the defense cites defense

[7] Kathleen Hopkins also made a request to the Court for a copy of said letter via R. 1:38. State's Exhibit 6, (T1:6-24 to 7-3).

[8] Judge Thornton also issued a written opinion along with the Court's Order to Seal. Hereinafter, this written opinion will be referred to as State's Exhibit 9.

exhibit C, which consists of the Court's Order to Seal and written opinion, along with multiple exhibits marked by the Court at the February 15, 2022 oral argument hearing. Db4. The court exhibits themselves include a civil, wrongful death complaint, dated November 10, 2020, and nine media/news articles. See Defense Exhibit C. The defense then claims:

> It was not until February 18, 2022 – 16 months later – that the Court ultimately signed an Order sealing the State's [Notice of Intent] letter. In support of its Order, the Court attached numerous exhibits in the form of concerning media/news articles pertaining to this case. By then, however, the damage was already done.

Db4.

The defense's aforementioned comments would have this Court believe, in no uncertain terms, that the press accessed and utilized information contained in the State's Notice of Intent letter and, therefrom, published "inflammatory" articles containing "prejudicial" information. The defense's comments are brazenly misleading, as there is no indication that the press ever accessed the State's Notice of Intent letter. Although the State's letter was "public for 16 months," (t1:19-7 to 19-8), and often referred to in court as a "roadmap" of the State's case, (t1:19-4 to 19-6, 19-7 to 19-10, 29-12 to 29-13), the contents therein were never discussed in open court, nor was the letter itself ever disseminated to the public or any media outlet.

Notably, not one of the 474 articles the defense appends to its brief suggest that the material written therein is information that was garnered from the State's letter. Moreover, seven of the nine media/news articles relied upon in defense exhibit C are dated prior to the filing of the October 2, 2020 Notice of Intent letter. Defense Exhibit C. A review of the remaining two articles—one written by Kathleen Hopkins of the Asbury Park Press, dated January 24, 2022, and the other published by the New York Post, dated November 21, 2020—makes clear that the Notice of Intent letter was not the source of the material written in either article. To be sure, neither article contains any of the highly specific and extremely detailed motive evidence proffered in the State's 12-page Notice of Intent letter. (None of the defense's proffered news/media articles do, nor does the civil, wrongful death complaint). Here, both articles simply regurgitate information that was previously made public, including information contained in the Affidavit of Probable Cause and in the civil, wrongful death complaint. Ibid. Likewise, both articles refer to information discussed at prior court hearings.[9] Ibid.

Thus, the State is quite certain that its Notice of Intent letter never made its way to the press, and the State's position was clearly substantiated by Judge Thornton, who stated: "[T]he State's October 2, 2020 submission was far more detailed than any

[9] While Kathleen Hopkins makes reference to the Notice of Intent letter in the aforementioned article, referring to it as a "12-page roadmap of the State's case," the article makes clear that she is quoting Deputy First Assistant Prosecutor Decker at a prior hearing earlier that month, which, in all likelihood, is what prompted her to make the February 3, 2022 OPRA request for the Notice of Intent letter.

allegations that have been released to the public." State's Exhibit 9, page 1.

Between November 12, 2024 and December 9, 2024, an Olenowski/Daubert hearing was conducted as a result of defendant's motion to exclude certain DNA evidence. Oral argument was heard on December 13, 2024. On March 6, 2025, this Court issued a written decision and an Order denying defendant's motion.

Defendant now moves for a change of venue, arguing that, "[r]elentless inflammatory reporting" and "pretrial sabotage via social media" prevents defendant from obtaining "a fair jury pool in the Monmouth County region." Db1. The State submits this brief in opposition.

LEGAL ARGUMENT

DEFENDANT HAS NOT ESTABLISHED A CHANGE OF VENUE IS NECESSARY TO OVERCOME PREJUDICE FROM PRETRIAL PUBLICITY

R. 3:14-1 generally provides that "[a]n offense shall be prosecuted in the county in which it was committed." The defendant may file a motion for a change of venue, however, which the court should grant only if it "finds that a fair and impartial trial cannot otherwise be had." R. 3:14-2.

The trial court has discretion to change venue where it is "necessary to overcome the realistic likelihood of prejudice from pretrial publicity." State v. Biegenwald, 106 N.J. 13, 33 (1987) (quoting State v. Williams, 93 N.J. 39, 67-68 n.13 (1983)). In determining whether there is a "realistic likelihood of prejudice from pretrial publicity," the court should distinguish between cases in which the trial atmosphere is "so corrupted by publicity that prejudice may be presumed" and cases where pretrial publicity, "while extensive, is less intrusive, making the determinative issue the actual effect of the publicity on the impartiality of the jury panel." State v. Harris, 282 N.J. Super. 409, 413 (App. Div. 1995), aff'd, 156 N.J. 122 (1998). In most cases, even "pervasive pretrial publicity does not necessarily preclude the likelihood of an impartial jury," as "there is some reason to believe that even in highly publicized cases the venire will

contain many individuals who have not been exposed to the publicity or who, if exposed, are only faintly aware of the nature of the case." Biegenwald, supra, 106 N.J. at 35 (quoting Williams, supra, 93, N.J. 66 at n.10).

"Presumptively prejudicial" pretrial publicity means "a torrent of publicity that creates a carnival-like setting or a barrage of inflammatory reporting that may but need not include all of the following: evidence that would be inadmissible at the trial, editorial opinions on guilt or innocence, and media pronouncements on the death-worthiness of a defendant." State v. Nelson, 173 N.J. 417, 475 (2002) (quoting Harris, supra, 156 N.J. at 143, 147-148). "Cases in which prejudice due to pretrial publicity may be presumed are relatively rare and arise out of the most extreme circumstances." State v. Koedatich, 112 N.J. 225, 269 (1988); State v. Marshall, 123 N.J. 1, 76 (1991) ("It is the rare case indeed in which prejudice due to pretrial publicity will be presumed.").

While the adequacy of voir dire is normally determinative of whether a defendant received a fair trial despite pretrial publicity, Koedatich, supra, 112 N.J. at 274, the existence of presumed prejudice obviates the need for conducting jury voir dire. Nelson, supra, 173 N.J. at 476. If, on the other hand, presumed prejudice is not found on pretrial motion for a venue change, but a probing and thorough voir dire during jury selection indicates that pretrial publicity was so pervasive as to preclude the

likelihood of an impartial jury, then an application to change venue may be renewed and granted. State v. Halsey, 218 N.J. Super. 149, 158-159 (Law Div. 1987).

Multiple cases illustrate the rigor of the standard for presumptive prejudice. In Biegenwald, supra, a Monmouth County Grand Jury returned a ten-count indictment against the defendant, which included the murder of a young woman. Id. at 20-21. There was extensive pretrial publicity. Id. at 21. Local and regional newspapers reported on the defendant's arrest, investigation, and trial. Ibid. Said publicity included numerous news articles linking the defendant to multiple local murders, mostly of teenaged girls, as well as reporting on his prior murder conviction. Id. at 21, 31. The Monmouth County Prosecutor was "quoted and seen regularly in the news reports of the case[,]" including his establishment of a "hotline to receive information about the defendant and the murders." Id. at 31. In addition to holding press conferences, the prosecutor was "accompanied by 200 reporters during the search for bodies of the defendant's alleged victims on Staten Island, New York." Ibid. While speaking with the press, the prosecutor "repeatedly assumed defendant's guilt" and stated that the defendant "killed only for pleasure." Ibid. A news article "attributed to the prosecutor the observation that defendant had murdered [ ] [the victim] and others because 'he wanted to see someone die' on those nights." Ibid. Front page news articles in the Asbury Park Press "included photographs of the police digging

to locate bodies, maps to gravesites, interviews with families of victims" as well as "photographs of the defendant in handcuffs." Ibid. As a result, the media nicknamed the defendant the "thrill killer." Id. at 21.

The defendant's request for a change of venue was denied by the trial court. Id. at 31. However, the trial date was adjourned for two months. Ibid. On the eve of trial, the Asbury Park Press published a front-page article which featured a photograph of the defendant, discussed his prior murder conviction, and repeated the prosecutor's statements regarding the defendant's motive and linking him to multiple local murders. Id. at 32. Defendant was convicted of murder and sentenced to death. Id. at 18. On appeal, the New Jersey Supreme Court concluded that although "this case was the subject of widespread and inflammatory publicity[,]" id. at 37, nearly six months had passed between the extensive publicity and the commencement of the defendant's trial, and that the trial court was not required to presume prejudice prior to jury voir dire. Id at 35.

Koedatich is also illustrative of the rigor of the standard for presumptive prejudice. The defendant was charged by way of indictment with multiple crimes, including the murder of a young woman. Koedatich, supra, 112 N.J. at 239. The media publicity surrounding the case included "almost-daily reports" in multiple newspapers; these reports chronicled in detail the circumstances surrounding the murder, the manhunt and extensive investigation

that ensued, and the resulting fear and anxiety felt by many area residents. Id. at 265-266. News articles "extensively reported" on the defendant's background, including the fact that the defendant had "just completed an 11-year prison term in Florida where he was serving a 20-year sentence for murder and armed robbery." Ibid. Additionally, the media reported on an incident "that while in jail Koedatich had choked to death another inmate[.]" Id. at 266. In support of his application for a change of venue, the defendant produced a record showing the Star Ledger had published more than 90 articles concerning the defendant; the Daily Advance had published approximately 40; and, the Daily Record offered no estimate. Ibid. The defendant was convicted of murder and sentenced to death. Id. at 231.

On appeal, the New Jersey Supreme Court held the trial judge was not required to presume prejudice because (1) there was no evidence of extreme community hostility toward the defendant as distinct from fear; (2) neither the victim nor defendant was a prominent member of the community; (3) the victim was not a public servant; (4) the defendant was not an "outsider"; and, (5) the community was not predisposed as to the defendant's guilt. Id. at 272-273. The Court further reasoned that almost two years had elapsed between the most intense publicity and jury selection, and the nature of the publicity was not unduly inflammatory. Ibid.

Measured against these cases, the evidence of pretrial publicity proffered by this defendant does not meet the demanding

standard for presuming prejudice. Given the nature and circumstances of the crimes, it is not surprising this case has received significant media attention, and defendant's proffer shows spurts of fact-based reporting that occurred when there was a new development or court date in the case. See generally, e.g., Skilling v. United States, 561 U.S. 358, 379, 381, 130 S. Ct. 2896, 2913, 2914-2915 (2010) (rejecting Enron CEO defendant's claim of presumed prejudice from pretrial publicity in Houston area and observing that "most cases of consequence garner at least some pretrial publicity"). However, the news/media articles defendant submits do not support a finding that pretrial publicity has been "extensive, excessive and ongoing" or "inflammatory" such that prejudice must be presumed. Db2.

While defendant highlights the 474 published articles he submits to support his complaint that media coverage has been "relentless" and "ongoing," the context in which these articles were published is important to keep in mind: namely, they have been published over the course of the past six-plus years while this case has been pending trial. While the State recognizes that "474" is not an unsubstantial number of articles, that number is put into perspective when we consider that 2,314 days have passed since November 20, 2018. Thus, contrary to defendant's claim that media coverage has been constant, it certainly has not been daily or even weekly, and the pattern has been to publish when there was a development of significance or a court event to report.

The majority of defendant's proffered articles were published in November and December of 2018, and in 2019. As would be expected, the most intense publicity occurred in November and December of 2018, as that is when events were fresh and court dates were unfolding. During that time, articles were published on a routine basis, covering the Colts Neck fire and murders (11/20/18), the Ocean Township arson charge (11/21/18), the Colts Neck murder charges (11/29/18), the detention hearing (11/30/18), and the victims' memorial services and funeral (12/2/18).

The same pattern of reporting can be seen for 2019; that is, spurts of fact-based reporting coinciding with new developments or court dates. There appear to be only two articles published in January 2019, both of which mention the [redacted] murders, but only in the context of discussing the overall number of homicides in the State of New Jersey the previous year. In February 2019, there was an uptick in reporting, with the majority of articles being published on the date the indictment was handed up and the Affidavit of Probable Cause was unsealed (2/25/19). The majority of articles that were published the next month, March 2019, were centered around the date of defendant's arraignment (3/18/19) and his prior attorneys' motion to relieve counsel. There appear to be no articles in April or June of 2019. The majority of the May 2019 articles were published around defendant's two court dates that month (5/13/19 and 5/28/19). In the summer of 2019, articles were published discussing defendant's insurance fraud charges (7/16/19,

7/17/19), and when the indictment for same was handed up, articles were published on that date as well (8/5/19). Subsequently, there appears to have been a hiatus, with publishing occurring only in November 2019, corresponding to the one-year anniversary.

Between 2020 and 2023, articles were published, but not nearly on as a routine basis as in the previous two years. (9/30/20, 11/20/20, 11/22/20; 6/10/21; 1/24/22, 2/27/22, 3/7/22, 7/29/22, 8/1/22, 11/3/22; 6/8/23, 9/11/23, 10/31/23, 11/3/23, 12/8/23). In 2024, as expected, there was an uptick in publishing, with more intense publicity leading up to (September and October 2024) and centering around the Olenowski/Daubert hearing (November and December 2024). Prior to that, however, the only other article published in 2024 was in March, which discussed the delay in trial.

In 2025, spurts of fact-based reporting continue, with media coverage occurring around court dates. All of this to say, that while the State recognizes the significant media coverage surrounding this case, the frequency of the reporting is not "excessive, extensive and ongoing," db2, and certainly does not create an oppressive, "carnival-like" atmosphere necessary to the existence of presumed prejudice." Nelson, supra, 173 N.J. at 478. (Internal citations omitted).

In Koedatich, supra, the Court set out a list of factors that should be considered in determining whether presumed prejudice exists: (1) evidence of extreme community hostility toward defendant; (2) prominence of either the victim or defendant in the

community; (3) nature and extent of the news coverage; (4) size of the community; (5) nature and gravity of the offense; and, (6) temporal proximity of the news coverage to the trial. 112 N.J. at 282-284; Nelson, supra, 173 N.J. at 476.

First, defendant has produced no persuasive evidence of "extreme community hostility" to justify a change of venue. The aforementioned news articles defendant submits do not consist of editorials or opinion articles. To be sure, this is not a situation like in Harris, supra, where the media ran a "vengeance seeking crusade" against the defendant, printing articles with headlines such as: "Ex-Inmate: Suspect is a Loudmouthed Punk," "Profile of a Monster," "From Boy to Beast," "He's Satan in Disguise." 156 N.J. at 145-146. Rather here, much of the reporting simply recounts what happened in court, what was said during press conferences or interviews, and what is contained in the Affidavit of Probable Cause. While defendant points to language in the articles describing the murders and crime scene as "gruesome," "brutal slaying[s]," "real-life horror," "stabbed repeatedly," "the massacre in Colts Neck," etc., db6-8, these articles are all describing the crimes themselves, not the defendant, and are in no way akin to the "vengeance seeking crusade" the media ran against the defendant in Harris, supra, 156 N.J. at 145.

Moreover, a review of the articles reveals that what is being relayed in them is not the opinion of the writer, but rather, a recounting of "what prosecutors say," what is "alleged," what the

defendant is "accused of," what the "affidavit says," and that defendant "pleads not guilty," and the like. Also, importantly, many of the articles quote defendant's own attorneys, whereby they maintain his innocence. ("No reason in the world for Paul Caneiro to have committed the crimes he is alleged to have committed;" "He would never hurt any of his family members;" "Paul's family means more to him than anything else in this world;" "Paul Caneiro is an innocent man who stands wrongfully accused;" "Expects complete vindication"). Other articles quote defendant's attorneys, who pronounce that defendant's family stands by him. One article, published on November 29, 2018 (94.3 "The Point") is titled: "Lawyer: Uncle Paul is Innocent – Find Family's Real Killer!" Thus, the articles themselves do not evidence "extreme community hostility." Nor do they indicate a media campaign against the defendant. To the contrary, they are fact based and, to the extent possible, report both sides.

Defendant also relies on comments from bloggers to support a finding of "extreme community hostility," arguing, "[A] flood of comments on news websites and social media websites alike reveal how people truly view Paul Caneiro." Db16, Db16-21. However, there is no evidence the individuals who chose to comment on the internet articles are Monmouth County residents or members of defendant's prospective jury pool. There is also no evidence whatsoever that they are members of the Monmouth County community. Courts have consistently rejected blogger commentary as reliable evidence of

community bias sufficient to warrant a change of venue. See, e.g., Gotbaum v. City of Phoenix, 617 F.Supp.2d 878, 881-882 (D. Ariz. 2008) (although blogs "clearly show that some individuals in unknown locations are not fair minded about this case, Plaintiffs provide no reason to conclude that the comments of these bloggers represent the views of the jury pool at large. Nor do Plaintiffs provide reason to believe that the blog comments have been widely read."); McMillan, supra, 139 So.3d at 243 (defendant's reference to "unflattering comments made on blogs on certain Web sites . . . do not require a change of venue"); Poitra v. State, 275 P.3d 478, 483-484 (Wyo. 2012) (even community poll and blogs on community website were entitled to "little weight" because they were posted anonymously and there was no indication how broadly read they were). As such, the first Koedatich factor weighs against a presumption of prejudice.

As to the second Koedatich factor, neither the victims nor the defendant were "prominent members of the community." Nor was defendant an outsider. While [redacted] and [redacted] [redacted] were somewhat active in their local community and well-respected by those who knew them, neither they nor defendant were public figures. It would be a fair statement that most people in Monmouth County had never heard their names prior to the murders. As such, the State submits that the second Koedatich factor weighs against a presumption of prejudice.

As to the third Koedatich factor, the State has discussed the nature and extent of the news coverage. Supra pp. 19-21. However, the State would further note that this case received national media attention. Many of the proffered articles were published by out-of-state media outlets and are internet based. Thus, their exposure and viewing would require the prospective reader to go online and search for the article or pursue the news or radio website to find it. Defendant provides no information as to how many times the articles were "visited" or by whom and when. McMillan v. State, 139 So.3d 184, 244 (Ala. Crim. 2010 ("web based coverage is not localized and has an equal opportunity to taint a jury pool in any district.")). There is no reason to believe that residents of Monmouth County read more online news articles than people in other areas.

In any event, Koedatich makes clear that "a defendant is not entitled to jurors who are totally ignorant of the facts and issues involved in a given case[.]" Supra, 112 N.J. at 268.

> In these days of swift, widespread and diverse methods of communication, an important case can be expected to arouse the interest of the public in the vicinity, and scarcely any of those best qualified to serve as jurors will not have formed some impression or opinion as to the merits of the case. This is particularly true in criminal cases. To hold that the mere existence of any preconceived notion as to the guilt or innocence of an accused, without more, is sufficient to rebut the presumption of a prospective juror's impartiality would be to establish an impossible standard. It is sufficient if the

> juror can lay aside his impression or opinion and render a verdict based on the evidence presented in court.

Ibid (internal citations omitted). Thus, while defendant argues that too much prejudicial information has been made public (prosecutor's comments on financial motive, Db 10; defendant's sentence exposure, Db 15; defendant being photographed in prison garb/shackles, Db14; article regarding defendant's confrontation with co-worker years ago, Db15-16; information from the wrongful death complaint, Db12; prosecutor's comments, Db6, 8-9) the case law makes clear that the remedy is a probing and thorough voir dire rather than a presumption of prejudice.

Overall, the publicity in the present case, including the cited prosecutorial comments and the media's reporting of certain facts and evidence, pales in comparison to the pretrial publicity received in Biegenwald and Koedatich. In those cases, some of the proffered pretrial publicity included: the defendants' prior murder convictions; reports of the defendants' connection to other murders in the area; reports that Koedatich killed another inmate while incarcerated; articles in which Biegenwald was nicknamed the "thrill killer" and where the prosecutor repeatedly assumed his guilt; articles displaying photographs of the police digging to locate bodies, maps to gravesites, interviews with families of victims, and photographs of Biegenwald in handcuffs. Yet, even in those cases, the Court still found that the presumption of prejudice was not required. As such, the State submits that the

third Koedatich factor weighs against the presumption of prejudice.

The fourth Koedatich factor, the size of the community, weighs in the State's favor. The population of Monmouth County (as of the 2024 census) is 647,520. Although not all of this number would be eligible for jury duty, its size nonetheless makes it hard to accept that 12 impartial individuals (potentially 16 including alternates) could not be found in Monmouth County to serve on defendant's jury. Cf. Skilling, supra, 561 U.S. at 382, 130 S. Ct. at 2915. Thus, the State submits that this factor weighs against a presumption of prejudice.

As to the remaining Koedatich factors and their consideration in the aggregate, the State submits that they do not support a finding of presumed prejudice. Although the nature and gravity of the crimes with which defendant is charged is great, that alone does not necessitate that prejudice be presumed. Given the nature and facts of this case, as will surely be heard by a jury, it is difficult to imagine that those facts would not have a similar impact on a jury comprised of Monmouth County residents as they would on a jury comprised of out-of-county residents. Finally, the State submits that the temporal proximity between the pretrial publicity and the commencement of trial (which is still months away) warrants against a presumption of prejudice.

In sum, although this case has received much pretrial publicity, said publicity has created nowhere near "the 'carnival-

like setting' necessary to the existence of presumed prejudice." Nelson, supra, 173 N.J. at 478. (Internal citations omitted). This is not a situation where the media has overrun the courtroom, nor can the State envision that ever happening in this Court. Because defendant has not established "presumptively prejudicial" pretrial publicity, he has not proved that a change of venue is necessary at this time to overcome prejudice to him. The State submits that a sound exercise of judicial discretion requires denial of defendant's motion under R. 3:14-1.

CONCLUSION

For the foregoing reasons and authorities cited in support, the State respectfully requests defendant's Motion for a Change of Venue be denied.

Respectfully submitted,

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