

## PRESS RELEASE

Dateline: Sunday, August 18, 2019

Regarding: News articles referencing Wesley David Gilreath and Jason Savela

Please note Colorado Code of Professional Conduct Rule 3.6 and comments<sup>1</sup>

I recently received notice of news articles from various press outlets regarding Wesley David Gilreath. In some of these articles, there was information about me that was inaccurate. According to the article, the source of the information was a United States Government employee. I have not searched for all articles on the topic, but I will update as I find additional inaccurate information.

I have no comment on where the information came from or whether it was reported accurately. Questions regarding that are for the sources and reporters themselves. I am not a source of any information to any news reporter or news outlet. The list of inaccurate information is not necessarily exhaustive.

It was reported that I was present when the United States Government searched Mr. Gilreath's home. I do not know if his home was searched. I have never been to his home. I was not present during any search of his home.<sup>1</sup> I have never met nor spoken with Special Agent Justin Stern of the FBI, the reported source of information.

It was reported that I made statements about Mr. Gilreath's beliefs to the United States Government. I did not. Mr. Gilreath is the only person that can speak to his beliefs.<sup>2</sup> I have never met nor spoken with Special Agent Justin Stern of the FBI, the reported source of information.

A copy of the probable cause affidavit filed in United States District Court by FBI Special Agent Justin Stern on July 31, 2019, reviewed by AUSA Julia Martinez and Subscribed and Sworn before United States Magistrate N. Reid Neureiter is posted at [localtvkdvr.files.wordpress.com](http://localtvkdvr.files.wordpress.com) on July 31, 2019, including relevant information at ¶20 on page 6-7. It appears as though the author of the news articles misread or misquoted this material.

Despite certain articles suggesting domestic terrorism, there is no charge related to terrorism, menacing nor any charge related to the website mentioned and investigated in January 2019.

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<sup>1</sup> See DailyMail.com, Ralph R. Ortega August 9, 2019 <https://www.dailymail.co.uk/news/article-7341337/Colorado-man-charged-child-porn-trying-to-buy-a-gun-posted-hunting-guides-Jews-Muslims.html>; also found at <https://whatsnew2day.com/colorado-man-accused-of-child-porn-trying-to-buy-a-gun-posted-39-hunting-guides-39-for-jews-muslims> August 9, 2019; also found at newsfeeds.media August 9, 2019; also found at lipstickalley.com posted August 10, 2019.

<sup>2</sup> See DailyMail.com, Ralph R. Ortega August 9, 2019 <https://www.dailymail.co.uk/news/article-7341337/Colorado-man-charged-child-porn-trying-to-buy-a-gun-posted-hunting-guides-Jews-Muslims.html>; also found at <https://whatsnew2day.com/colorado-man-accused-of-child-porn-trying-to-buy-a-gun-posted-39-hunting-guides-39-for-jews-muslims> August 9, 2019; also found at newsfeeds.media August 9, 2019; also found at lipstickalley.com posted August 10, 2019.

When the United States Government considers whether to charge a person with a crime, they must have probable cause for each element of the crime, as indicated in the United States Code written by Congress and interpreted by the Federal Courts. If even one element is lacking, there is insufficient evidence to arrest, charge and convict. A United States Special Agent may find very compelling evidence of several elements, some of which can sell many newspapers (clicks). But without some evidence of all the elements, a United States Special Agent will not arrest, a United States Attorney will not charge, and a United States District Court Judge will not allow the case to proceed to trial. Where a person is investigated and the government fails to proceed, it is often because one or more elements cannot be proven. In such a situation, the person is innocent of that crime.

It appears that all articles containing inaccurate information come from author Ralph R. Ortega or are reprints of the same article. Other than this press release, I have made no statements on these topics.

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<sup>i</sup> Rule 3.6. Trial Publicity - <https://www.cobar.org/For-Members/Opinions-Rules-Statutes/Rules-of-Professional-Conduct/Rule-36-Trial-Publicity>

**Colorado Court Rules**  
**Colorado Rules of Professional Conduct**  
**Advocate**

*As amended through Rule Change 2018(4), effective March 15, 2018*

**(a) A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.**

**(b) Notwithstanding paragraph (a) and Rule 3.8(f), a lawyer may state:**

- (1) the claim, offense or defense involved and, except when prohibited by law, the identity of the persons involved;**
- (2) information contained in a public record;**
- (3) that an investigation of a matter is in progress;**
- (4) the scheduling or result of any step in litigation;**
- (5) a request for assistance in obtaining evidence and information necessary thereto;**
- (6) a warning of danger concerning the behavior of a person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and**
- (7) in a criminal case, in addition to subparagraphs (1) through (6):**
  - (i) the identity, residence, occupation and family status of the accused;**
  - (ii) if the accused has not been apprehended, information necessary to aid in apprehension of that person;**
  - (iii) the fact, time and place of arrest; and**
  - (iv) the identity of investigating and arresting officers or agencies and the length of the investigation.**

**(c) Notwithstanding paragraph (a) and Rule 3.8(f), a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the lawyer's client. A statement made pursuant to this paragraph shall be limited to such information as is necessary to mitigate the recent adverse publicity.**

**(d) No lawyer associated in a firm or government agency with a lawyer subject to paragraph (a) shall make a statement prohibited by paragraph (a).**

**Cite as RPC 3.6**

**History.** Entire rule and comment replaced and adopted June 12, 1997, effective January 1, 1998; entire Appendix repealed and readopted April 12, 2007, effective January 1, 2008; IP(b) and (c) amended and effective February 10, 2011.

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**Note:**

**COMMENT**

[1] It is difficult to strike a balance between protecting the right to a fair trial and safeguarding the right of free expression. Preserving the right to a fair trial necessarily entails some curtailment of the information that may be disseminated about a party prior to trial, particularly where trial by jury is involved. If there were no such limits, the result would be the practical nullification of the protective effect of the rules of forensic decorum and the exclusionary rules of evidence. On the other hand, there are vital social interests served by the free dissemination of information about events having legal consequences and about legal proceedings themselves. The public has a right to know about threats to its safety and measures aimed at assuring its security. It also has a legitimate interest in the conduct of judicial proceedings, particularly in matters of general public concern. Furthermore, the subject matter of legal proceedings is often of direct significance in debate and deliberation over questions of public policy.

[2] Special rules of confidentiality may validly govern proceedings in juvenile, domestic relations and mental disability proceedings, and perhaps other types of litigation. Rule 3.4(c) requires compliance with such rules.

[3] The Rule sets forth a basic general prohibition against a lawyer's making statements that the lawyer knows or should know will have a substantial likelihood of materially prejudicing an adjudicative proceeding. Recognizing that the public value of informed commentary is great and the likelihood of prejudice to a proceeding by the commentary of a lawyer who is not involved in the proceeding is small, the Rule applies only to lawyers who are, or who have been involved in the investigation or litigation of a case, and their associates.

[4] Paragraph (b) identifies specific matters about which a lawyer's statements would not ordinarily be considered to present a substantial likelihood of material prejudice, and should not in any event be considered prohibited by the general prohibition of paragraph (a). Paragraph (b) is not intended to be an exhaustive listing of the subjects upon which a lawyer may make a statement, but statements on other matters may be subject to paragraph (a).

[5] There are, on the other hand, certain subjects that are more likely than not to have a material prejudicial effect on a proceeding, particularly when they refer to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in incarceration. These subjects relate to:

(1) the character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness, or the identity of a witness, or the expected testimony of a party or witness;

(2) in a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement;

(3) the performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;

(4) any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration;

(5) information that the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and that would, if disclosed, create a substantial risk of prejudicing an impartial trial; or

(6) the fact that a defendant has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty.

[6] Another relevant factor in determining prejudice is the nature of the proceeding involved. Criminal jury trials will be most sensitive to extrajudicial speech. Civil trials may be less sensitive. Non-jury hearings and arbitration proceedings may be even less affected. The Rule will still place limitations on prejudicial comments in these cases, but the likelihood of prejudice may be different depending on the type of proceeding.

[7] Finally, extrajudicial statements that might otherwise raise a question under this Rule may be permissible when they are made in response to statements made publicly by another party, another party's lawyer, or third persons, where a reasonable lawyer would believe a public response is required in order to avoid prejudice to the lawyer's client. When prejudicial statements have been publicly made by others, responsive statements may have the salutary effect of lessening any resulting adverse impact on the adjudicative proceeding. Such responsive statements should be limited to contain only such information as is necessary to mitigate undue prejudice created by the statements made by others.

[8] See Rule 3.8(f) for additional duties of prosecutors in connection with extrajudicial statements about criminal proceedings.