

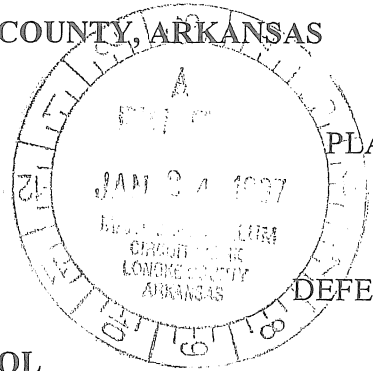
IN THE CIRCUIT COURT OF LONOKE COUNTY, ARKANSAS

STATE OF ARKANSAS

VS.

HEATH STOCKS

NO. CR- 97-9



PLAINTIFF

DEFENDANT

**MOTION TO CONTROL  
PREJUDICIAL PUBLICITY**

Comes now the defendant, Heath Stocks, by and through his counsel, Mac Carder, Jr. and Edgar Thompson, and pursuant to the Sixth, Eighth and Fourteenth Amendments of the United States Constitution, and the laws and constitution of the State of Arkansas, and moves this Court for (1) excluding the public, press, 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 after trial; and (4) prohibiting the use of video or other cameras in court for the proceedings herein. In support of this motion, Defendant states as follows:

1. The defendant is before this Court charged with three counts of capital murder arising out of highly publicized homicides in this county. There is ample indication that the prosecutor will seek the penalty of death in this case.

2. There has been massive, highly prejudicial publicity through this area, and throughout the State, regarding this matter. The television news agencies from Little Rock, Arkansas, KATV, channel 7; KTHV, channel 11; and KARK, channel 4, all have been extensively covering this matter. An example of the electronic media's prejudicial coverage can

be seen in their repeated references to Defendant's "confession" in their stories. The press, including the local Lonoke press and the state-wide Arkansas Democrat-Gazette, has also given an extraordinarily large amount of coverage to this case. Counsel is presently putting together a video tape of all television coverage it has been able to record. At a hearing on this matter, Defendant will offer said tape as evidence in support of this motion.

3. This prejudicial publicity has continued to date. Recent examples of this is an article published in the January 21, 1997 Arkansas Democrat-Gazette characterizing defendant as "aggressive". Furthermore, the director of the Arkansas State Police, Col. John Bailey, has speculated to as yet unfounded facts surrounding the case, as reported in the January 20, 1997, Arkansas Democrat-Gazette.

4. The continued exposure of this case to the press results not only in the dissemination of prejudicial information revealed at hearings on this case, but it also triggers the media to recount the history of this case, and very often in an encapsulized and incomplete fashion which generates false and unwarranted public perceptions of this case.

5. The relief requested by Defendant is not unique in this State. see Ruiz v. State, 265 Ark. 875, 582 S.W.2d 915 (1979) ; Orsini v. State, 281 Ark. 348, 665 S.W.2d 245 (1984).

6. Arkansas is a state small in physical size and relatively sparsely populated. The same can be said of Lonoke County. The expanded capability of the state press to cover stories, along with the growth of cable television in this state, has made the possibility of seating jurors who have not been exposed to the described prejudicial information largely impossible. Furthermore, without the requested relief, the option of change of venue will not cure the complained of problem. In essence, potential jurors in a county within this judicial district will be equally prejudiced by this wanton flow of information. And, their interest in the case will be

exponentially increased should a change of venue ultimately be granted. To compound this problem, a change of venue will surely cause this case to reappear in the media.

7. There exists a serious and imminent threat to the fair administration of justice in this case. There is no alternative short of the relief sought by Defendant in this case and motion which will preserve the Defendant's right to a fair trial by an impartial jury and the right to a reliable determination of punishment, should a verdict of guilt be reached on any of the offenses. Under these circumstances, the laws of the State of Arkansas, and the Sixth, Eighth, and Fourteenth Amendments to the United States Constitution 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, for the reasons set out herein, Defendant respectfully requests that this Court enter an Order which :

1. excludes the public, press and electronic media from all pretrial hearings in this case;
2. prohibits all attorneys, parties, witnesses, law enforcement personnel and court personnel who are connected to the prosecution of this case, from extrajudicially 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 after trial;
4. prohibiting the use of video or other cameras to photograph the court proceedings herein; and,
5. for all other relief which is just and proper based upon the facts, circumstances,

and nature of this case.

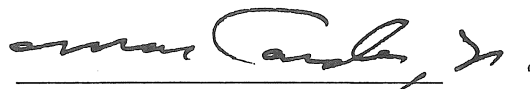
Respectfully submitted,



Mac Carder, Jr.,  
Edgar Thompson,  
Attorneys for Defendant Stocks  
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Little Rock, Arkansas 72201  
(501) 682-9070

**CERTIFICATE OF SERVICE**

I, Mac Carder, Jr., hereby certify that a true and correct copy of the foregoing motion has been delivered to Larry K. Cook, Prosecuting Attorney, at P.O.Box 4232, Lonoke, Arkansas, 72086-0423, on this 24<sup>th</sup> day of January, 1997.



Mac Carder, Jr.