

FILED
11-20-2020
Clerk of Circuit Court
Kenosha County
2020CF000983

STATE OF WISCONSIN CIRCUIT COURT KENOSHA COUNTY

DA Case No.: 2020KN003907

STATE OF WISCONSIN

Plaintiff,

Court Case No.:

2020CF000983

vs.

KYLE H. RITTENHOUSE

DOB: 01/03/2003

Defendant.

**STATE'S MOTION ON
TRIAL PUBLICITY**

For Official Use

The State of Wisconsin, by Assistant District Attorneys Thomas C. Binger and Jason R. Zapf, hereby moves the Court for a protective order pursuant to Wisconsin Supreme Court Rule 20:3.6. Specifically, the State respectfully requests that the Court order that the attorneys for the parties in this case may 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."

Wisconsin Supreme Court Rule 20:3.6 governs "Trial Publicity". It places an express prohibition against any public "extrajudicial statement" by an attorney on a case which will have a "substantial likelihood of materially prejudicing" an impartial trial. The rule is based on American Bar Association Rule 3.6, and Wisconsin's rule is followed by the ABA Comment. That comment notes, quite correctly, that a balance must be struck between safeguarding the right of free expression and the right to a fair trial. If there was no rule against trial publicity, "the result would be the practical nullification of the protective effect of the rules of forensic decorum and the exclusionary rules of evidence." ABA Comment [1]. The comment also states that "[c]riminal jury trials will be most sensitive to extrajudicial speech." ABA Comment [6]. Wisconsin SCR 20:3.6(c) details specific categories of information that may be publicly shared by a party's attorney. However, SCR 20:3.6(b) describes several categories of information that attorneys involved in a case may not comment on.

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While the only attorney of record for the defendant in the case thus far is Attorney Mark Richards, a Motion to Admit Attorneys John M. Pierce and Andrew E. Calderon *Pro Hac Vice* has been filed by the defense.¹ Attorney Pierce has publicly claimed to be the attorney for the defendant since shortly after the defendant's arrest on August 26, 2020. Since then, he has given numerous media interviews about the case, including, but not limited to, the following:

1. Breitbart News, August 30, 2020 (<https://www.breitbart.com/politics/2020/08/30/rittenhouse-lawyer-my-client-legallypossessed-a-rifle-in-wisconsin/>)
2. Fox News, August 31, 2020 (<https://www.mrctv.org/videos/just-facts-rittenhouse-lawyer-shreds-media-narrative-kenosha-shooting>)
3. Chicago Tribune, November 10, 2020 (<https://www.chicagotribune.com/news/ctkyle-rittenhouse-mother-kenosha-20201110-ikckkevit5epzjydc52szyog34-story.html>)
4. WGN Radio, November 10, 2020 (<https://wgnradio.com/john-williams/kylerittenhouse-attorney-john-pierce-and-mother-wendy-rittenhouse-i-didnt-know-hewas-in-kenosha/>)

In all of these interviews, Attorney Pierce has commented on the character of his client and the victims in the case, expressed his opinion as to his client's innocence, and shared information that he should know would be inadmissible at trial.

Attorney John M. Pierce is a name partner of the firm Pierce Bainbridge out of Los Angeles, and Attorney Andrew E. Calderon is also an attorney with that same firm. The firm released a statement to the public on August 28, 2020 outlining their theory of defense (<https://spectrumnews1.com/wi/madison/news/2020/08/29/teen-s-attorneys-claim-self-defense-in-kenosha-shootings>). This statement was widely covered in the media.

In addition to the statement and numerous media interviews that he has given about the

¹ In a separate motion, the State of Wisconsin intends to oppose the admission *Pro Hac Vice* of Attorneys Pierce and Calderon.

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case, Attorney Pierce has used his Twitter account, @CaliKidJMP, to regularly discuss this case.² He has promoted many of the media interviews that he has done.

(<https://twitter.com/CaliKidJMP/status/1326338222272761858>). He has also attacked the character of District Attorney Michael Graveley. He has called for DA Graveley to be recalled by voters. (<https://twitter.com/CaliKidJMP/status/1323114447892873216>) and accused him of being tied to George Soros, a billionaire philanthropist who is regularly accused by conservatives of financing various nefarious global plots

(<https://twitter.com/CaliKidJMP/status/1323274055718502401>). He has criticized the prosecution as “politically-motivated”

(<https://twitter.com/CaliKidJMP/status/1299842372247998469>). Attorney Pierce has also called for the criminal prosecution of one of the victims in this case, Gaige Grosskreutz

(<https://twitter.com/CaliKidJMP/status/1323110865508380677>). Attorney Pierce has repeatedly used his Twitter account to express his theory of the case and profess the defendant's innocence. (<https://twitter.com/CaliKidJMP/status/1329413437294862338>).

Finally, Attorney Pierce has publicly shared information that is inadmissible at trial and creates a substantial risk of prejudicing an impartial trial. For example, he has frequently claimed that his client is “God-fearing” and “service-oriented”, qualities which are irrelevant to the facts of the case and only serve to encourage jury nullification.

(<https://twitter.com/CaliKidJMP/status/1325248719860731904>).

All of the foregoing public statements by Attorney Pierce violate SCR 20:3.6.

Specifically, Attorney Pierce has violated subsection (b)(1) by attacking the character of DA Graveley and a victim, Gaige Grosskreutz. He has violated subsection (b)(4) by repeatedly expressing his extrajudicial opinion that the defendant is innocent. He has violated subsection (b)(5) by publicly sharing information that he “knows or reasonably should know is likely to be

² Attorney Pierce's Twitter account has over 23,000 followers, including reports from the Kenosha News and Milwaukee Journal-Sentinel.

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inadmissible as evidence” at trial and which creates substantial risk of prejudicing an impartial trial.

For the foregoing reasons, the State of Wisconsin respectfully requests that the Court enter a protective order requiring all attorneys on the case to comply with SCR 20:3.6. The State also requests that the Court sanction any attorney on the case who violates the Court's order.

Date Signed: 11/20/20

Electronically Signed By:

Thomas C. Binger

Assistant District Attorney

State Bar #: 1027874

DATE SIGNED: November 22, 2020

Electronically signed by Judge Bruce E. Schroeder, Circuit Court Branch 3
Circuit Court Judge

STATE OF WISCONSIN, CIRCUIT COURT, KENOSHA COUNTY

State of Wisconsin, Plaintiff

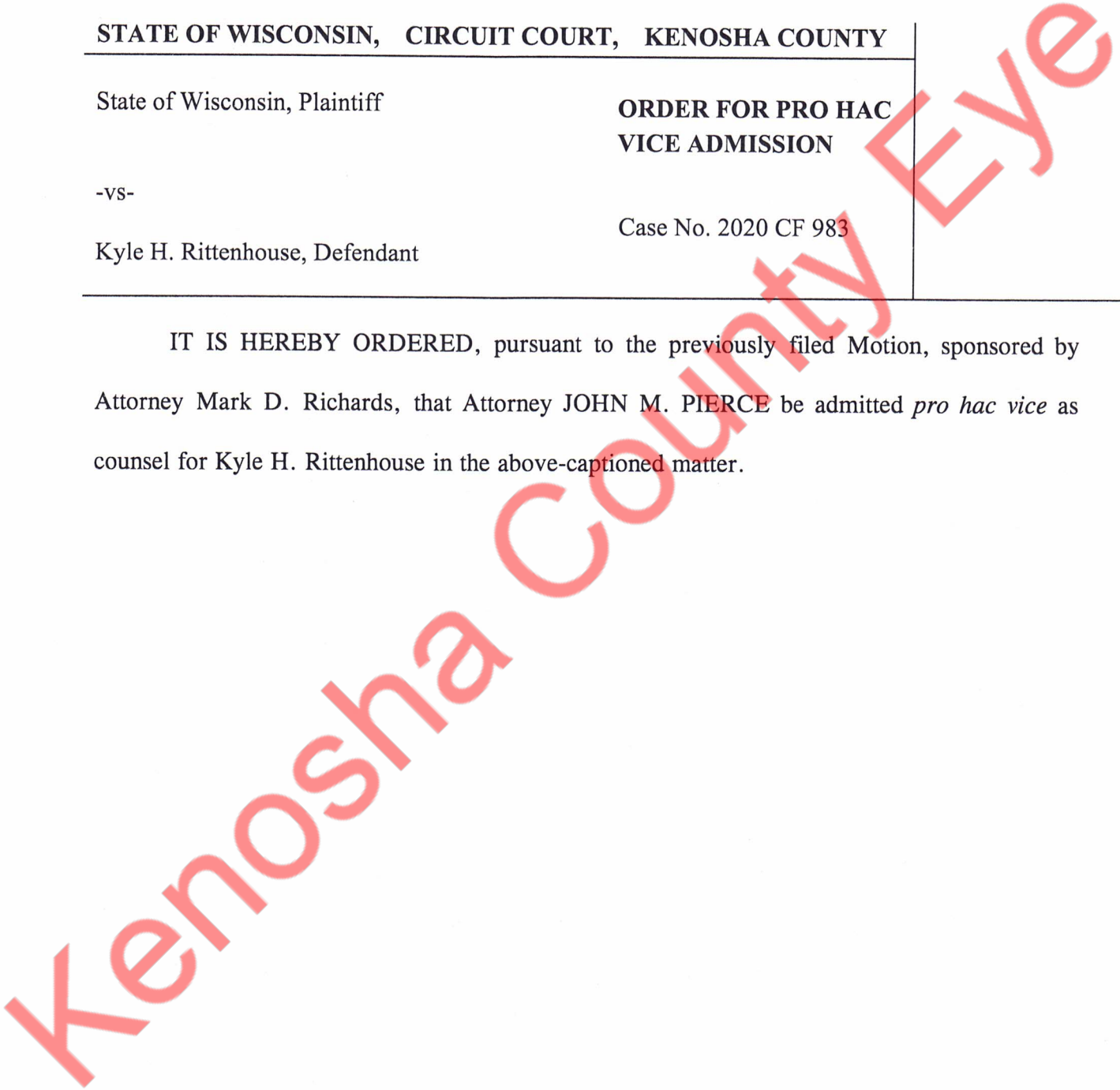
**ORDER FOR PRO HAC
VICE ADMISSION**

-vs-

Case No. 2020 CF 983

Kyle H. Rittenhouse, Defendant

IT IS HEREBY ORDERED, pursuant to the previously filed Motion, sponsored by Attorney Mark D. Richards, that Attorney JOHN M. PIERCE be admitted *pro hac vice* as counsel for Kyle H. Rittenhouse in the above-captioned matter.



DATE SIGNED: November 22, 2020

Electronically signed by Judge Bruce E. Schroeder, Circuit Court Branch 3
Circuit Court Judge

STATE OF WISCONSIN, CIRCUIT COURT, KENOSHA COUNTY

State of Wisconsin, Plaintiff

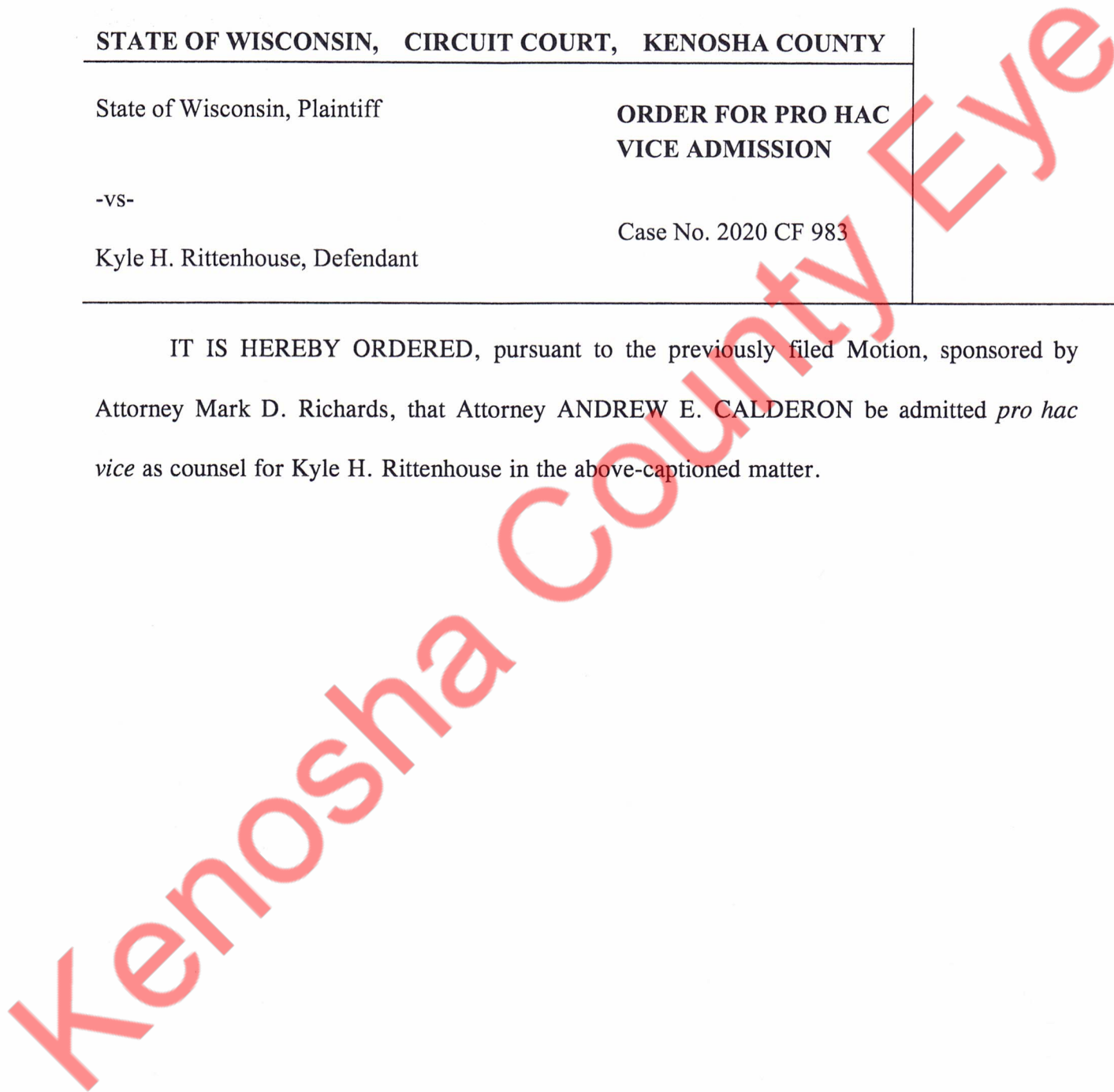
**ORDER FOR PRO HAC
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-vs-

Case No. 2020 CF 983

Kyle H. Rittenhouse, Defendant

IT IS HEREBY ORDERED, pursuant to the previously filed Motion, sponsored by Attorney Mark D. Richards, that Attorney ANDREW E. CALDERON be admitted *pro hac vice* as counsel for Kyle H. Rittenhouse in the above-captioned matter.



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For Official Use

November 19, 2020

The Honorable Bruce E Schroeder
Circuit Court – Branch 3
Kenosha County Courthouse
912 56th Street
Kenosha, WI 53140

RE: **STATE OF WISCONSIN V. KYLE H. RITTENHOUSE**
File No: 2020CF000983

Dear Judge Schroeder:

On November 18, 2020, Attorney Richards, counsel for the defendant, filed two motions for *Pro Hac Vice* admission for Attorneys Andrew E Calderon and John M Pierce in this case. Also filed were accompanying affidavits of Attorney Calderon and Attorney Pierce, as well as proposed orders. The State is respectfully requesting a hearing at the court's convenience on these motions to address several issues, including but not limited to compliance with Wisconsin Supreme Court Rules necessary for *pro hac vice* admission.

Sincerely,

Date Signed: 11/19/20

Electronically Signed By:

Jason R Zapf

Assistant District Attorney

State Bar #: 1088718

Kenosha County Eye