

District Court, Arapahoe County, Colorado Arapahoe County Courthouse 7325 S. Potomac St., Centennial, CO 80112	<p style="text-align: center;">Filed</p> <p style="text-align: center;">OCT 2 2012</p> <p style="text-align: center;"><small>CLERK OF THE COMBINED COURT ARAPAHOE COUNTY, COLORADO</small></p> <p style="text-align: center;">σ COURT USE ONLY σ</p>
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff v. JAMES HOLMES, Defendant	
DOUGLAS K. WILSON, Colorado State Public Defender Daniel King (No. 26129) Tamara A. Brady (No. 20728) Chief Trial Deputy State Public Defenders 1290 Broadway, Suite 900 Denver, Colorado 80203 Phone (303) 764-1400 Fax (303) 764-1478 E-mail: state.pubdef@coloradodefenders.us	Case No. 12CR1522 Division 22
<p style="text-align: center;">MOTION FOR SANCTIONS FOR VIOLATING THIS COURT'S ORDER LIMITING PRETRIAL PUBLICITY BY LEAKING PRIVILEGED AND CONFIDENTIAL INFORMATION TO THE MEDIA AND REQUEST FOR EVIDENTIARY HEARING [D-017]</p>	

James Holmes, through counsel, respectfully requests that this Court impose sanctions on the government for violating this Court's order limiting pretrial publicity by leaking privileged and confidential information to the media concerning the contents of a package that Mr. Holmes sent to his [REDACTED]. These violations have undermined Mr. Holmes' rights to due process and a fair trial by an impartial jury, as guaranteed by the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution and Article II, sections 16, 18, 23 & 25 of the Colorado Constitution. Mr. Holmes requests an evidentiary hearing on this issue. In support of this motion, Mr. Holmes states the following:

1. After law enforcement officials seized a package sent from Mr. Holmes to [REDACTED] on July 23, 2012 pursuant to a search warrant, this Court issued a protective order at the request of the defense, *see* D-008 and Order Re: D-008, instructing all law enforcement officials, including the prosecutors, to refrain from opening or viewing the material in the package and to immediately seal the item.

2. Shortly after this order was issued, the media published articles disclosing information about the alleged contents of the package Mr. Holmes sent to [REDACTED], citing unnamed law enforcement sources.

3. As a result, the Court issued orders requiring the government to immediately seal the material in question, destroy any copies, and produce it to the Court, and also issued an order instructing the district attorney's office and law enforcement to comply with the Court's Order Limiting Pretrial Publicity. *See* Orders Re: D-009, D-010.

4. The defense next moved for immediate production of all discovery pertaining to this improper disclosure of privileged material in anticipation of requesting a hearing on this issue for the purpose of determining appropriate sanctions for this misconduct. *See* D-011.

5. Since then, the defense has received over 16,000 pages of discovery in this case. The discovery received thus far supports the defense's concern that the government was responsible for leaking information about the contents of the package to the media.

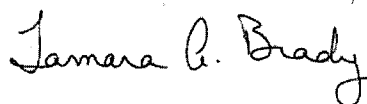
6. It is the defense's position that that sanctions are necessary because the government's actions have seriously jeopardized Mr. Holmes' constitutional rights to a fair trial, to a fair and impartial jury and to due process as protected by the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution and Article II, sections 16, 18, 23 & 25 of the Colorado Constitution. *See Sheppard v. Maxwell*, 384 U.S. 333 (1966); *Estes v. Texas*, 381 U.S. 532 (1965); *People v. Botham*, 629 P.2d 589 (Colo. 1981).

7. The defense respectfully requests that this Court set this motion for an evidentiary hearing on this matter.

Mr. Holmes files this motion, and makes all other motions and objections in this case, whether or not specifically noted at the time of making the motion or objection, on the following grounds and authorities: the Due Process Clause, the Right to a Fair Trial by an Impartial Jury, the Rights to Counsel, Equal Protection, Confrontation, and Compulsory Process, the Rights to Remain Silent and to Appeal, and the Right to be Free from Cruel and Unusual Punishment, pursuant to the Federal and Colorado Constitutions generally, and specifically, the First, Fourth, Fifth, Sixth, Eighth, Ninth, Tenth, and Fourteenth Amendments to the United States Constitutions, and Article II, sections 3, 6, 7, 10, 11, 16, 18, 20, 23, 25 and 28 of the Colorado Constitution.



Daniel King (No. 26129)
Chief Trial Deputy State Public Defender



Tamara A. Brady (No. 20728)
Chief Trial Deputy State Public Defender



Kristen M. Nelson (No. 44247)
Deputy State Public Defender

Dated: October 2, 2012

I hereby certify that on 10/2, 2012, I

☐ mailed, via the United States Mail,
☐ faxed, or
☒ hand-delivered

a true and correct copy of the above and foregoing document to:

Carol Chambers
Rich Orman
Karen Pearson
Office of the District Attorney
6450 S. Revere Parkway
Centennial, Colorado 80111
Fax: 720-874-8501

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Defendant's motion is hereby GRANTED _____ DENIED _____.

BY THE COURT:

 JUDGE

 Dated