

DISTRICT COURT, El Paso County, Colorado Court Address: 270 South Tejon Street Colorado Springs, Colorado 80903	DATE FILED: November 28, 2022 5:00 PM
<b>People of the State of Colorado</b> vs. <b>Defendant: Anderson Lee Aldrich</b>	▲ COURT USE ONLY ▲ Case #: 2022CR6008
District Attorney: Michael J. Allen, #42955 Chief Deputy District Attorney: Reginald Short #35656 Chief Deputy District Attorney: Jennifer Viehman, #33163 105 E. Vermijo Colorado Springs, CO 80903 Phone Number: 719-520-6000	Division #: 21 Courtroom #: W450
<p style="text-align: center;">[D-9]</p> <p style="text-align: center;"><b>PEOPLE'S RESPONSE TO DEFENDANT'S MOTION FOR PRESERVATION OF DISCOVERABLE MATERIAL AND PHYSICAL EVIDENCE TO ENSURE EVIDENCE IS NOT ALTERED OR DESTROYED BEFORE BEING PRODUCED OR INSPECTED BY THE ACCUSED AND HIS DEFENSE TEAM</b></p>	

Comes now, Michael J. Allen, District Attorney for the Fourth Judicial District, and his duly appointed Chief Deputies, respectfully submits the following, [D-9] People's Response to Defendant's Motion for Preservation of Discoverable Material and Physical Evidence to Ensure Evidence Is Not Altered or Destroyed Before Being Produced or Inspected By the Accused and His Defense Team. In support thereof, the People state:

1. The People would ask this Court to deny any order broader than Crim.P 16 dictates for the production and preservation of evidence.
2. Specifically, the People would object to any order to preserve all emails and text messages between law enforcement, expert witnesses and the prosecution "related to the investigation of this case." It is worth noting that this provision of the Defendant's request is without citation to case law or statutory mandates for this preservation, and when viewed in the light of the obvious inclusion of entirely superfluous nature of materials such as routine requests to schedule a conference room, or potentially privileged communications stretching to the span of victims compensation requests with a separate statutory scheme to address release of this information. Materials that are the substance of witness communications are already provided for in the rule of criminal procedure and adequately provide due process protections for the Defendant. The

proposal by the Defendant to require the information be disclosed for privilege determination purposes would become incredibly burdensome for the Court can counsel, and effectively grind material testing to a halt.

3. The People agree to comply with any notification of destructive testing for litigation purposes, but object to a blanket restriction on “altering” evidence prior to testing. As a matter of routine, forensic DNA laboratory personnel document the condition of received property prior to selection of representation samples to collect potential swabs from – the condition is thus preserved for defense purposes without the delay associated some form of precatory process of defense review prior to further testing and analysis. The lab litigation packet provides the condition photographs as well as testing methodology, enabling information for subsequent defense review.
4. Where, the People ask this Court to deny preservation orders outside of the notification of destructive testing and recitations of witness statements to investigators.

Respectfully submitted this 28th day of November 2022.

MICHAEL J. ALLEN, #42955  
DISTRICT ATTORNEY

By: /s/ Michael J. Allen  
Michael J. Allen, #42955  
District Attorney

/s/ Reginald Short  
Reginald Short, #35656  
Chief Deputy District Attorney

/s/ Jennifer Viehman  
Jennifer A. Viehman, # 33163  
Chief Deputy District Attorney

## CERTIFICATE OF SERVICE

I certify on the 28th day of November 2022, a true and correct copy of People's Response to Defendant's Motion For Preservation of Discoverable Material And Physical Evidence to Ensure Evidence Is Not Altered or Destroyed Before Being Produced or Inspected By the Accused and His Defense Team , was served via Colorado Courts E-Filing on all parties who appear of record and have entered their appearances according to Colorado Court's E-Filing.

/s/

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Kim Daniluk, Paralegal