

DISTRICT COURT, BOULDER COUNTY, COLORADO 1777 Sixth Street Boulder, CO 80302	DATE FILED: September 23, 2021 3:07 PM
PEOPLE OF THE STATE OF COLORADO v. AHMAD AL ALIWI ALISSA Defendant	COURT USE ONLY
Michael T. Dougherty, District Attorney Adam Kendall, Chief Trial Deputy District Attorney 1777 Sixth Street Boulder, CO 80302 Phone Number: (303)441-3700 FAX Number: (303)441-4703 E-mail: akendall@bouldercounty.org Atty. Reg. #38905	Case No. 21CR497 Div:13
People’s Response to Defendant’s Motion to Waive the 21 Day Deadline for the Completion of the Court-Ordered In-Custody Competency Evaluation . . . (D-018)	

On September 21, 2021, Ahmad Al Aliwi Alissa (the “Defendant”) filed his Motion to Waive the 21 Day Deadline for the Completion of the Court-Ordered In-Custody Competency Evaluation to Allow Enough Time for an Adequate, Thorough and Constitutionally Sound Evaluation (the “Motion”), asking this Court to waive the 21-day deadline for the filing of the competency evaluation in this case and to allow “adequate time” for the assigned doctors to complete their evaluation of Defendant. While the 21-day deadline for a court-ordered, in-custody competency evaluation is arguably waivable by Defendant, extending the deadline for the completion of the evaluation will only lead to further unnecessary delay of the proceedings in this case and such action by the Court is not warranted under the circumstances described by the Motion. The People strongly oppose any additional delay.

A defendant is competent to proceed if he “does not have a mental disability or developmental disability that prevents the defendant from having sufficient present ability to consult with the defendant's lawyer with a reasonable degree of rational understanding in order to assist in the

defense or prevents the defendant from having a rational and factual understanding of the criminal proceedings.” C.R.S § 16-8.5-101 (emphasis added). This Court ordered Defendant be evaluated for competency in accord with C.R.S. § 16-8.5-103(2).

As discussed by Defendant, pursuant to C.R.S. § 16-8.5-105, the competency evaluation of Defendant is due within 21 days of the Department of Human Services (the “Department”) receiving the Court’s order for the evaluation and all collateral material. Collateral material is defined as the “relevant police incident reports and the charging documents.” C.R.S. § 18-8.5-101(1). The Court issued its order on September 7, 2021, and the People sent collateral material to the Department on September 8, 2021 which was received by the Department on September 9, 2021. Thus, the competency evaluation is due on September 30, 2021. Here, in an effort to be thorough, the People provided more than what is required by statute for the Department to complete the Court-ordered evaluation.

On September 16, 2021, the People spoke with the two assigned doctors completing the evaluation of Defendant. The doctors discussed the specific type of material in discovery that they were looking for, and the People provided guidance to allow them to more easily find and review such information. Given the significant amount of discovery in this case, this conversation allowed the doctors to identify which files required immediate attention for their review. During the conversation with the doctors, they never indicated to the People that the statutorily prescribed deadline was an issue or that they were unable to submit a reliable evaluation within the prescribed time frame. It is the People’s understanding that the doctors have spoken with the defense attorneys, as well. While the Motion states that the doctors completing the evaluation of Defendant indicated to his counsel that “more time would be helpful,” the Motion does not detail what sort of delay

Defendant is requesting, nor does it assert that the doctors indicated that they are unable to produce a valid, viable, and reliable evaluation under the current statutorily prescribed timeframe.

As noted in past motions, the vast majority of charges pending in this case fall under the Victims' Rights Act, codified under C.R.S. § 24-4.1-301, et. seq. The victims named in those counts, or those victims' representatives, are protected by the Victims' Rights Act. Pursuant to C.R.S. § 24-4.1-303(3), the People have an obligation to inform such victims of "any pending motion that may substantially delay the prosecution." Further, the People "shall inform the court of the victim[s'] position on the motion . . . [i]f the victim has objected, then the court . . . shall state in writing or on the record that the victim[s'] objection was considered and state the basis for the court's decision." C.R.S. § 24-4.1-303(3).

The victims and victims' families involved in this case desire no further delay in the proceedings in this case and request that this evaluation process proceed as dictated by Colorado law.

WHEREFORE, the People request that the Court deny the Motion for the reasons stated above.

Respectfully submitted,

MICHAEL T. DOUGHERTY
DISTRICT ATTORNEY

By:
s/Adam D. Kendall
Adam D. Kendall
September 23, 2021

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing served via the Colorado e-filing system on September 23, 2021, and addressed as follows:

Kathryn Herold
Daniel King
Sam Dunn
Office of the Colorado State Public Defender – Boulder
2555 55th Street Suite. D-200
Boulder, CO 80301

s/Adam D. Kendall
Adam D. Kendall