

REDACTED

ORIGINAL

DISTRICT COURT, EL PASO COUNTY, COLORADO 270 South Tejon Street Colorado Springs, Colorado 80903	FILED IN THE DISTRICT AND COUNTY COURTS OF EL PASO COUNTY, COLORADO NOV 30 2015 DR. LYNETTE CORNELIUS CLERK OF COURT ♦ COURT USE ONLY ♦
PEOPLE OF THE STATE OF COLORADO, Plaintiff v. ROBERT LEWIS DEAR, Defendant	Case No. 15CR5795 Division 10
DOUGLAS K. WILSON, Colorado State Public Defender Rosalie A. Roy (No. 26861) Deputy State Public Defender 19 North Tejon, Suite 105 Colorado Springs, Colorado 80903 Phone: (719) 475-1235 Fax: (719) 475-1476 Email: springs.pubdef@coloradodefenders.us	
<p style="text-align: center;">NOTICE OF INVOCATION OF ALL STATUTORY, CASE LAW, AND CONSTITUTIONAL PRIVILEGES AND REVOCATION OF ANY AND ALL PREVIOUSLY GIVEN WAIVERS OF PRIVILEGES [D-002]</p>	

JLV

1. First, Defendant, by and through counsel, the Office of the Public Defender, hereby notifies the District Attorney's Office and/or all law enforcement agencies of its intent to specifically invoke the following privileges:

- a. All medical and psychiatric, including drug or alcohol treatment, privileges afforded to Defendant under the Colorado and United States Constitutions and Section 13-90-107 of the Colorado Revised Statutes as to all medical and/or psychiatric treatment Defendant has ever received.
- b. All privileges in school, employment, military, probation, prison, parole, social services, educational, or any other records in which Defendant has a confidentiality expectation through Federal and State statutes and case law, administrative regulations or rules, or federal and state constitutional provisions, as well as these agencies' own statements to Defendant, either oral or written.

2. Defendant requests that this Court specifically order that no member of the Office of the District Attorney, law enforcement, Department of Human Services, or any person or agency specified in Rule 16(D)(a)(3) of the Colorado Rules of Criminal Procedure or their respective agents attempt to obtain confidential information pertaining to Defendant.

3. Defendant does not authorize any person to waive said privileges on Defendant's behalf.

4. Second, Defendant hereby exercises his right to silence, right against self-incrimination, and his right to counsel under the federal and state constitutions. See U.S. Const. amend. V, VI, XIV; Colo. Const. art. II, § 16, 18, 25; *People v. Pierson*, 633 P.2d 485 (Colo. App. 1981); *People v. Pierson*, 670 P.2d 770 (Colo. 1983); *People v. Cerezo*, 635 P.2d 1197 (Colo. 1981); *People v. Lowe*, 616 P.2d 118 (Colo. 1980); *People v. Jones*, 677 P.2d 383 (Colo. App. 1983). See also *Edwards v. Arizona*, 451 U.S. 477 (1981); *Massiah v. United States*, 377 U.S. 201 (1964); *United States v. Henry*, 447 U.S. 264 (1980); *Maine v. Moulton*, 474 U.S. 159 (1985).


5. Defendant further moves this Court to enter a prophylactic order requiring the Office of the District Attorney, any other law enforcement persons, and their agents to (a) get the consent of Defendant's counsel before attempting to contact or interview the Defendant and (b) give said counsel reasonable opportunity to be present PRIOR to any contact with the Defendant.

6. Notification and consent of opposing counsel is required by the Colorado Rules of Professional Conduct, Rule 4.2.

7. Third, counsel for defendant hereby notifies the court and prosecution that defendant as of today's date revokes any and all previously stated or signed purported waivers of confidentiality and/or privilege including but not limited to medical, psychological, custodial, marital, religious, educational, and/or job related waivers. Defendant does not consent to release of any records to the prosecution, law enforcement, or any agents acting on behalf of the prosecution or law enforcement.

8. Defendant further revokes any and all previously stated or signed purported waivers of his constitutional right to silence, right against self-incrimination, and right to counsel.

Mr. Dear 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.



Rosalie A. Roy (No. 26861)
Deputy State Public Defender
Dated: November 30, 2015

Certificate of Service

I certify that on 11/30/15,
I served the foregoing document by
delivering mailing same to
all opposing counsel.

