

<u>DISTRICT</u> District Court, El Paso County, Colorado Court Address: 270 S. Tejon Colorado Springs, CO. 80903	DATE FILED: November 28, 2022 4:46 PM
People of the State of Colorado	
vs.	
Defendant: ANDERSON LEE ALDRICH	▲ COURT USE ONLY ▲ Case #: 22CR6008
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-6]</p> <p style="text-align: center;">PEOPLE'S RESPONSE TO DEFENSE MOTION FOR THE COURT TO ORDER THE PROSECUTION TO PROVIDE ONGOING DISCLOSURES TO THE DEFENSE PURSUANT TO BOTH THE MANDATORY AND DISCRETIONARY PROVISIONS OF CRIM. P. RULE 16 REGARDING POTENTIAL EXPERT TESTIMONY TO ALLOW THE DEFENSE TO INVESTIGATE ANY SUCH EXPERT AND HIS/HER OPINION AND FOR THE COURT TO HOLD A PRETRIAL HEARING ON THE ADMISSIBILITY OF ANY SUCH PROFFERED TESTIMONY</p>	

COMES NOW, Michael J. Allen, District Attorney for the Fourth Judicial District, and his duly appointed Chief Deputies, respectfully submits the following, [D-6] People's Response To Defense Motion For The Court To Order The Prosecution To Provide Ongoing Disclosures To The Defense Pursuant To Both The Mandatory And Discretionary Provisions Of Crim. P. Rule 16 Regarding Potential Expert Testimony To Allow The Defense To Investigate Any Such Expert And His/Her Opinion And For The Court To Hold A Pretrial Hearing On The Admissibility Of Any Such Proffered Testimony. In support thereof, the People state:

1. The People would object to the defense motion and entry of a court order at this point in the process of the case as being extraordinarily premature and untimely.
2. Defense acknowledges that they have not received discovery in this case. As of the date of this response, the People have not filed charges either.
3. The People will comply with Rule 16 as to proper timing of expert witness disclosures. This case is still under investigation and the necessity for expert witnesses will continue as

the evidence develops. Rule 16 requires disclosure of witnesses *then known* (emphasis added) to the District Attorney whom he or she intends to call at trial. Clearly, the People do not know who they will call as expert witnesses in trial at this time. This demand is premature.

4. Defense is preemptively requesting *Shreck* hearings on any expert before any witness endorsement is even required to be filed. Defense should not be allowed to request such a hearing without having read any of the discovery which would include any experts report. For example, if this motion were to be granted, it would require a *Shreck* hearing regarding the testimony of the forensic pathologist/medical examiner. This order would lead to preposterous results. Additionally, it should be noted that the discretionary provisions for expert disclosures exists to enable a reviewing Court to determine the necessity of these disclosures – the Defendant is in effect short-circuiting this process by demanding for the entirety of these disclosures.
5. Finally, the People would object to a timeline beyond what is required pursuant to Rule 16. The People are cognizant of their on-going discovery obligations and will comply with those. As expert reports are prepared, they will be released. Rule 16 requires disclosure of, “any reports or statements of experts made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments, or comparisons,” as soon as practicable but not later than 35 days before trial. The People request that this Court follow Rule 16 and not require some arbitrary timeline concocted by the Defense before charges have even been filed or a preliminary hearing held.

WHEREFORE, the People request that this Court Deny Defense’s Motion.

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 [D-6] People's Response to Defense Motion for the Court to Order the Prosecution to Provide Ongoing Disclosures to the Defense Pursuant to Both the Mandatory and Discretionary Provisions of Crim. P. Rule 16 Regarding Potential Expert Testimony to Allow the Defense to Investigate Any Such Expert and His/Her Opinion and for the Court to Hold a Pretrial Hearing On the Admissibility of Any Such Proffered Testimony, 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/
Kim Daniluk, Paralegal