

EL PASO COUNTY COMBINED COURT, FOURTH JUDICIAL DISTRICT, STATE OF COLORADO

[2018-2] STANDING JUVENILE PRESIDER ORDER CONCERNING MISCELLANEOUS PRIVILEGED OR CONFIDENTIAL FILINGS

There has been a practice in this district whereby the Office of County Attorney will submit a “Notice of Filing” to the Court along with various documents- many of which are privileged or confidential. These documents have included, but are not limited to, kinship studies, ICPC reports, psychological assessments, and urinalysis results related to various participants or potential participants in the proceedings.

While these were filed with the court, because of privilege they were not typically shared with the other participants in the case – except perhaps the subject of the report. The court practice in this jurisdiction has been to not look at the documents and instead have these items filed into a “sealed” envelope. The document possibly may never be looked at through the course of the case or if it became of evidentiary value, it might be reviewed as part of a hearing where, depending upon releases and/or implied or direct waivers, it may be made available to all of the participants.

There is no good reason that such filings should continue as they could result in inadvertent viewing by a judicial officer or confusion as to what precisely constitutes the court file and/or record for purposes of future hearings and appeal.

As of the date of this order, there shall be no more such “filings” of these kinds of documents from the County Attorney, Department of Human Services or any other party in the case until such time as they are materially relevant for a filed motion or evidence in a case: If there remains a question whether the privilege or confidentiality has been waived for purposes of the hearing or motion, the ability to release that document, shall first be addressed with the other parties and the court prior to filing.

In lieu of the actual document being filed, a simple Notice of Completion or some other similarly titled document which just simply indicates the report has been completed as to a certain person and date is sufficient. All parties shall be copied in on the notice. However, the OCA may provide a filing stating whether an ICPC or Home Study has been approved or disapproved, with the actual document not being filed.

The person or persons to whom the report pertains will be provided a copy of the report by the Office of the County Attorney.

DONE AND SIGNED on this 7th day of December, 2018.



G. DAVID MILLER
Presiding Juvenile Judge
Fourth Judicial District