

REDACTED

District Court, El Paso County, Colorado El Paso County Combined Courts 270 South Tejon Street, Colorado Springs CO 80903	FILED IN THE DISTRICT AND COUNTY COURTS OF EL PASO COUNTY, COLORADO
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff	S/K JAN 20 2016
v.	DR. LYNETTE CORNELIUS CLERK OF COURT ♦ COURT USE ONLY ♦
ROBERT LEWIS DEAR, Defendant	Case No. 15CR5795
DOUGLAS K. WILSON, Colorado State Public Defender Daniel King (No. 26129) Chief Trial Deputy State Public Defender 1300 Broadway, Suite 400 Denver, Colorado 80203 Phone (303) 764-1400 Fax (303) 764-1478 E-mail: state.pubdef@coloradodefenders.us	Division 10
D-017	
MOTION TO STAY COMPETENCY EVALUATION UNTIL MOTIONS D-15 AND D-16 ARE RESOLVED	

Robert Dear, through counsel, respectfully moves this Court to stay the competency evaluation it ordered on December 23, 2015, until the Court resolves the outstanding issues raised in Motions D-15 and D-16. In support of this motion, he states the following:

1. On January 11, 2016, defense counsel filed Motions D-15 and D-16. Motion D-15 is a request to limit the scope of the competency evaluation to an inquiry into Mr. Dear's present competency, and to preclude the examiner from inquiring about or discussing with Mr. Dear the facts surrounding the charged offenses in this case, or Mr. Dear's mental state at the time of the alleged offenses. Motion D-16 requests a protective order prohibiting the Colorado Mental Health Institute at Pueblo from disclosing the evaluation and materials relied upon by the examiner at this time.

2. The Court has not yet ruled on these motions.

3. Undersigned counsel has now received information that Mr. Dear has been transported to Pueblo.

4. Motions D-15 and D-16 raise issues that must be resolved prior to the competency evaluation of Mr. Dear taking place.

5. Therefore, the defense respectfully requests that the Court issue the attached order forthwith to ensure that these important legal issues are resolved and Mr. Dear's rights to due process, the effective assistance of counsel, and a fair trial are protected. *See People v. McGlotten*, 134 P.487, 490 (Colo. App. 2005) ("Courts have inherent authority to issue orders that are necessary for the performance of judicial functions This inherent authority extends

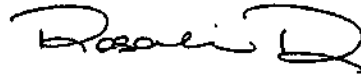
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beyond the power to control litigants, lawyers, and court personnel.”); *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (“The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.”); U.S. Const. amends V, VI, XIV; Colo. Const. art. II, secs. 16, 18, 23, 25.

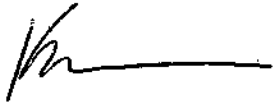
Mr. Dear files this motion, and makes all other motions and objections in this case, whether or not specifically noted at the time of making the motion or objection, on the following grounds and authorities: the Due Process Clause, the Right to a Fair Trial by an Impartial Jury, the Rights to Counsel, 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.



Daniel King (No. 26129)
Chief Trial Deputy State Public Defender



Rosalie Roy (No. 26861)
Deputy State Public Defender



Kristen M. Nelson (No. 44247)
Deputy State Public Defender

Dated: January 20, 2016

I hereby certify that on 1-20, 2016, I

mailed, via the United States Mail,
 faxed, or
 hand-delivered

a true and correct copy of the above and foregoing document to:

Dan May
Donna Billek
Jeff Lindsey
Office of the District Attorney
105 East Vermijo Avenue
Colorado Springs, Colorado 80903
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