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District Court, El Paso County, Colorado Court address: 270 South Tejon Colorado Springs, CO 80903 Phone Number: (719) 452-5446	FILED-DISTRICT & COUNTY COURTS-EL PASO CO., CO JAN 23 2016 DIVISION 10
People of the State of Colorado, Plaintiff, v ROBERT LEWIS DEAR, JR, Defendant.	
Attorney or Party without Attorney(Name and Address): Phone Number: Email: FAX Number: Atty.Reg#:	Case Number: 15CR5795 Division 10 Courtroom W570
ORDER RE: (D-015) MOTION TO LIMIT SCOPE OF COMPETENCY EVALUATION	

The Court has reviewed the motion, response and reply and pursuant to said review issues the following order:

1. The defendant states that the issue before the competency evaluator and the Court is the defendant's present ability to consult with his lawyers 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. Thus, the defendant argues that the scope of any competency evaluation must not include facts surrounding the charged offenses or the defendant's mental state at the time of the alleged offenses.

2. The district attorney states the statute as a whole affords the necessary protections to the defendant and that the defendant's request does not comport with the statutes or guidelines for the determination of competency.

3. C.R.S. 16-8.5-105(3) offers the Court guidance on the issue. The statute specifically states "To aid in forming an opinion as to the competency of the defendant, it is permissible in the course of an evaluation under this section to use confessions and admissions of the defendant and any other evidence of the circumstances surrounding the commission of the offense, as well as the medical and social history of the defendant, in questioning the defendant...."

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4. The Court finds that "evidence of the circumstances surrounding the commission of the offense" may include statements the defendant may have made at or near the time of the alleged offense and how the statements if any may shed light on the defendant's competency. The Court does not find that a restriction or limiting the evaluator is authorized by the statute. The evaluator is required to consider a number of sources and information in making an opinion. Facts or events at or near the alleged offense can be considered as part of the totality of information.

5. In the case at bar the Court gave the defendant a five page detailed advisement regarding competency and said advisement along with the statute provides the defendant with appropriate safeguards. (C-005)

6. If the Court were to limit the scope of the evaluation the validity of the evaluation could then be called into question by either party.

7. The Court in its review of the competency statute as a whole did not find any language which limits the scope of questions that may be asked of defendants.

WHEREFORE, the motion is DENIED. Based upon a review of the motions, response and reply, the Court does not find it necessary to set the matter for a hearing.

DONE this 26th day of January, 2016.

BY THE COURT:


District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of January, 2016 a true and correct copy of this ORDER RE: (D-015) MOTION TO LIMIT SCOPE OF COMPETENCY EVALUATION, was delivered via EMAIL to the following:

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