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DISTRICT District Court, El Paso County, Colorado Court Address: 270 S. Tejon St. Colorado Springs, Colorado 80903	DATE FILED: October 24, 2016 3:51 PM
People of the State of Colorado vs. Defendant: Robert Dear, Jr.	▲ COURT USE ONLY ▲ Case #: 15CR5795 Division #: 10
District Attorneys: Daniel H. May, #11379, Jeffrey Lindsay, #24664, and Donna Billek, #30721 105 E. Vermijo Colorado Springs, CO. 80903 Phone Number: 719-520-6000 District Attorney: Daniel H. May, #11379	
P-014	
PEOPLE'S SUBMISSION OF PROPOSED ORDER REGARDING RECORDS REQUESTED PURSUANT TO A SUBPOENA DUCES TECUM TO THE COLORADO MENTAL HEALTH INSTITUTE AT PUEBLO AND NOTICE TO COURT	

COMES NOW, DANIEL H. MAY, by and through his duly appointed deputy and hereby submits the following People's Submission of Proposed Order Regarding Records Requested Pursuant to a Subpoena Duces Tecum to the Colorado Mental Health Institute at Pueblo and Notice to Court. The People provide the following notice to the Court:

1. The People issued a subpoena duces tecum to obtain records from the Colorado Mental Health Institute at Pueblo on August 12, 2016. No objection was stated by the Defendant at the time the return date for the subpoena duces tecum was requested. Following the issuance of the subpoena duces tecum and on August 22, 2016, the Defendant filed D-027 Motion to Quash Subpoena Duces Tecum. The People filed a Response on August 24, 2016.
2. At the October 18, 2016 hearing, the Court heard additional arguments by the parties. At the hearing the Court ordered the parties to confer with each other and draft a proposed order for the Court. The Defendant and his counsel raised no objection to this procedure. The People notified the Court the parties would provide the proposed order to the Court by the end of the week. The People obtained a transcript of the October 18, 2016 hearing for purposes of creating the proposed order.
3. On Thursday, October 20, 2016 at 11:39 a.m., via email, the undersigned submitted to Ms. Roy, the Defendant's counsel at the hearing, proposed language for the Order. Having received no response to the email, the undersigned contacted Ms. Roy via email for a status on Friday, October 21, 2016, at 3:37 p.m. The People received no response until Sunday, October 23, 2016 when Ms. Roy notified the Prosecution via email that she had been out of the office on October 21, 2016.

4. On October 24, 2016, at 11:39 a.m., the People received a response from Ms. Nelson, one of the Defendant's attorneys, indicating that the defense was maintaining their objection to the release of any records as they have stated in their D-027 motion to quash. Ms. Nelson informed the People that if the proposed order was submitted to the Court she wanted any pleading to the Court to include the following language:

the prosecution has conferred with defense counsel regarding the language of the proposed order. The defense responded that it continues to maintain all of the objections is previously raised in D-27. In additional, the defense specifically objects to the inclusion of the following sentence in the order: *Such documents may include, by way of example, any and all reports, whether in a formal report format or not, completed by the evaluators or treatment team; any and all reports, whether in a formal report format or not, completed by experts or professionals provided to the evaluators and/or treatment team at the Colorado Mental Health Institute at Pueblo that has been reviewed by or relied on by the evaluators and/or treatment team; observation logs; notes; medication logs; food logs; working files; testing results (include raw data); security reports; grievance forms; or other documentation that is associated with Defendant and his competency and restoration to competency and in relation to his diagnosis of delusional disorder.*

5. Based on the response received from defense counsel, it would be fruitless for the People to attempt any further communication regarding working with the defense to develop language for the proposed order. The communication from the defense made no suggestions of proposed language that would be amenable to them.
6. As to the sentence that defense counsel "specifically objects to" in the proposed order, the language tries to delineate the types of documents the People and the defense know should be included in the Defendant's file at the Colorado Mental Health Institute at Pueblo. For instance, the parties know of the existence of medication logs, food logs, security reports, and grievance forms filed by the Defendant as such items were discussed at the hearing regarding forced medications held in Pueblo on October 13, 2016. The People believe that defense counsel may very well be in possession of these types of documents already based on statements they made at the October 13, 2016 hearing. The remaining documents in the paragraph of the proposed order reference items mentioned in the subpoena duces tecum.
7. Additionally, the People attempted to limit the language as noted by the Court at the October 18, 2016 hearing regarding other opinions, reports, and/or medical records relied on the treatment team or staff at the Colorado Mental Health Institute at Pueblo.
8. The People submit the attached proposed Order for the Court.

WHEREFORE, the People ask this Court to allow for the information to be provided to the People and sign the proposed Order.

Respectfully submitted this 24th day of October 2016.

