

District Court, El Paso County, Colorado El Paso County Combined Courts 270 South Tejon Street, Colorado Springs CO 80903	DATE FILED: July 6, 2020
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff  v.  <b>LETECIA STAUCH,</b> Defendant	σ COURT USE ONLY σ
MEGAN A. RING, Colorado State Public Defender Kathryn Strobel (No. 42850) Deputy State Public Defender 30 E Pikes Peak Ave Suite 200 Colorado Springs, Colorado 80903 C. Colette LeBeau (No. 43164) Deputy State Public Defender 132 W B St #200 Pueblo, CO 81003 Phone (720) 475-1235 Fax (719) 7475-1476 E-mail: Kathryn.strobel@coloradodefenders.us Colette.LeBeau@coloradodefenders.us	Case No. 20CR1358           Division 15S Ctrm: S403
<p><b>[P-09 RESPONSE]</b></p> <p>DEFENSE OBJECTION TO P-09 AS OVERBROAD BECAUSE IT VIOLATES LETECIA STAUCH'S RIGHTS AGAINST MANDATORY DISCLOSURE OF HER PROTECTED MEDICAL AND SOCIAL HISTORY INFORMATION BY UNCONSTITUTIONALLY EXPANDING THE COMPETENCY STATUTE BEYOND THE SCOPE FOR WHICH IT WAS INTENDED</p>	

On June 5, 2020, the defense filed a motion under seal raising competency in both 20CR1358 and 20CR3170. The court, pursuant to requests by both the people and the defense, ordered Ms. Stauch to be transported to the Colorado Mental Health Institution in Pueblo (CMHIP) in order to undergo competency evaluation as a Tier One patient.

The prosecution requests in their P-09 motion that the prosecution be permitted to violate Ms. Stauch's rights to privilege of her private medical, school, and "social history" records and information because her attorneys have raised the issue of her competence to stand trial in this case. The people move this court to allow them to subpoena various unnamed, protected, and privileged information that necessarily encompasses records outside the scope of competency. They argue that because the evaluator is permitted to question Ms. Stauch about her social history during her

interview, a waiver as to her medical and “social history” is thus deemed authorized in C.R.S. 16-8.5-104 and 16-8.5-105. Nowhere in either statute is such a waiver provided, discussed, or authorized.

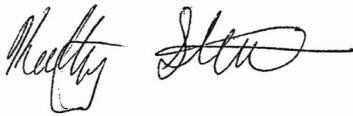
The only waivers authorized in Article 8.5 are narrowly defined as those relied upon by an evaluator in authoring the competency evaluation. The People’s request to broaden the scope of this waiver to allow the people to directly retrieve any and all information that they alone deem to be “social history” or “medical history” from whichever source they elect is nothing more than an attempt to use the Competency Statute to access Ms. Stauch’s private information and records in order to prosecute her for First Degree Murder. This sweeping violation of privilege without written authorization of Ms. Stauch violates both the Federal and Colorado laws protecting such information.

C.R.S. 16-8.5-104 is void of any authority granting the prosecution direct access to Ms. Stauch’s social or medical history – nor does it give authorization for the prosecution to subpoena records directly from Ms. Stauch’s medical or psychological providers, her schools, her employers or anyone else without a signed waiver by Ms. Stauch. The scope of the waiver discussed in the statute authorizes only disclosure of that information relied upon by an evaluator for purposes of assessing competency. The statute further provides that the proper procedure for the people to follow is to request that information relevant to company and relied upon by the evaluator through the evaluator and not directly from the sources from which the people wish for authority to enforce subpoenas. That procedure in C.R.S. 16-8.5-104 further ensures that the only otherwise-privileged information disclosed is actually relevant to the limited issue of Ms. Stauch’s competency.

C.R.S. 13-90-107(1)(g) provides that Ms. Stauch’s private medical and psychological information are protected from disclosure due to the privileged nature of that information without the necessary waiver from Ms. Stauch. C.R.S. 22-1-123 and 20 U.S.C. 1232 (g) protect Ms. Stauch’s educational records from disclosure without a waiver by Ms. Stauch. The Health Insurance Portability and Accountability act of 1996 protect Ms. Stauch’s private medical information. The waiver mentioned in C.R.S. 16-8.5-104 applies only to the records, notes, documents and information that is specifically relied upon by a competency evaluator for their evaluation, and nothing more. To broaden the above-mentioned waiver as the people request is a violation of the privileges cited herein.

Allowing the Prosecution to subpoena otherwise protected information, or granting their motion would be a violation of Colorado State law and Federal privacy laws. Such broad disclosure as requested by the prosecution violates Ms. Stauch's right to counsel pursuant to the Sixth Amendment to the United States Constitution and Article 2 Section 16 of the Colorado Constitution, her right to Remain Silent, the Due Process Clause, the Right to a Fair Trial, and the right to Effective Assistance of Counsel, under the United States Constitution Fourth, Fifth, Sixth, and Fourteenth Amendments and the Colorado Constitution Article II, sections Six, Seven, Sixteen, Eighteen and Twenty-five. Therefore, the Defense Objects.

RESPECTFULLY SUBMITTED,



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Kathryn Strobel (No. 42850)  
Deputy State Public Defender



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C. Colette LeBeau (No. 43164)  
Deputy State Public Defender

Dated: July 6, 2020