



DISTRICT COURT, LA PLATA COUNTY, COLORADO 1060 East Second Avenue Durango, Colorado 81301	σ COURT USE ONLY σ
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff, v. MARK REDWINE, Defendant	
Megan Ring, Colorado State Public Defender Justin Bogan, Attorney No. 33827 John Moran, Attorney No. 36019 Deputy Public Defender 175 Mercado Street, Suite 250, Durango, CO 81301 Phone: (970) 247-9284 Fax: (970) 259-6497 E-Mail: Justin.Bogan@coloradodefenders.us Email: John.Moran@coloradodefenders.us	Case Number: 17CR343 Division: 1
[D-126] NOTICE OF INTENT TO INTRODUCE ALTERNATE SUSPECT EVIDENCE AND OFFER OF PROOF IN SUPPORT THEREOF (PUBLIC ACCESS)	

CASE LAW

1. The United States and Colorado Constitutions “guarantee a criminal defendant a meaningful opportunity to present a complete defense.” *Holmes v. South Carolina*, 547 U.S. 319, 324 (2006).
2. A defense may include evidence that someone else may have committed the crime. Specifically, presenting an alternate suspect calls into question the identity of the perpetrator, and thereby “creates reasonable doubt as to the defendant’s guilt.” *People v. Elmarr*, 351 P.3d 431, 439 (2015).
3. The admissibility of alternate suspect evidence ultimately depends on relevance. Specifically, there must be a connection between the alternate suspect and the charged crime that is admissible under CRE 401 and the probative value of the alternate suspect evidence must not be outweighed by the danger of confusing the issues or misleading the jury. *Id.*

4. A criminal defendant is entitled to all reasonable opportunities to present evidence that might tend to create doubt as to the defendant's guilt. *Elmarr* 351 P.3d at 438 (citing *People v. Bueno*, 626 P.2d 1167, 1169 (Colo.App.1981)).
5. Defense counsel cannot predict how any one of the 328 lay-witnesses currently endorsed by the prosecution will testify. Mr. Redwine, through counsel reserves the right to introduce additional alternate suspect evidence.

KENT WILSON

A. Relevancy

6. On November 26, 2012 Deputy M. Webb of the La Plata County Sheriff's Office was approached by James Adcock and Starla Johnson while he was providing scene security for a search of Vallecito reservoir. *See* Discovery Page 30.
7. Ms. Johnson told Deputy Webb that she saw Kent Wilson driving toward Bayfield with a young male in the front passenger seat around 0700 or 0800 on November 19, 2012. Ms. Johnson told Deputy Webb she tried to flag Kent Wilson down "to be nosey" but he did not stop the vehicle. Ms. Johnson described the vehicle as "a white van with no back windows". Ms. Johnson described the young male as white, with a black ball cap, curly blonde hair, and a gold or tan coat. *Id.*
8. Mr. Adcock told Deputy Webb he saw Kent Wilson on Middle Mountain road at approximately 1300 hours on November 19, 2012. Mr. Adcock told Deputy Webb that on November 25, 2012 he saw Kent Wilson outside the Shank House bar. He stated that the van had been completely cleaned inside and out, which was in Mr. Adcock's opinion, uncharacteristic of Kent Wilson. *Id.*
9. Deputy Webb conveyed this information to Investigator Gabbard. *Id.*
10. On November 26, 2012 Investigator Gabbard of the La Plata County Sheriff's Office wrote a supplemental report stating that Deputy Webb conveyed Mr. Johnson and Mr. Adcock's tip that they saw a young man "matching the description of Dylan" in a white van. Investigator Gabbard writes nothing in her report about any follow-up investigation she conducted. *See* Discovery Page 35.
11. On December 3, 2012 Investigators Patterson and Cowing were flagged down by Kallen Elkins. Ms. Elkins told the investigators that she saw a man named Kent driving up Middle Mountain Road on November 19, 2012 at 0730 or 0830 – with a boy matching Dylan Redwine's description. She further stated that she saw Kent driving back down Middle Mountain road, but she could no longer see the boy in the van. Ms. Elkins stated that Kent drives a white van with a cage in the back. She further stated that she frequently sees him driving around in his van but he is always alone. Ms. Elkins told investigators that she later saw Kent at the vigil for Dylan and asked him who the boy in his van was. "Kent muttered an expletive under his breath and said he doesn't like small communities, because everyone prys [sic] into his personal business. Kent refused to tell Ms. Elkins who the boy was. *See* Discovery Page 73.

12. Investigator Patterson conveyed Ms. Elkins' tip to then Lieutenant Phippen who said the tip "sounded familiar" and he thought the tip had already been checked out. *Id.*
13. Investigator Patterson also told Investigator Hendricks about Ms. Elkins' tip. Hendricks said he knew where Kent lived so they went to his residence the Blue Spruce Lodge – but no one was home. *Id.* at 74.
14. On December 3, 2012 Starla Johnson and James Adcock flagged down Investigator Cowing. They told investigator Cowing about seeing Kent Wilson with a boy matching Dylan's description. *See* Discovery Page 80.
15. After speaking with Ms. Johnson and Mr. Adcock, investigator Cowing attempted to locate Kent Wilson but Investigator Hendricks told him that he had been cleared after Hendricks spoke to him and searched his van. *Id.* at 81.
16. Defense counsel has been unable to locate any supplemental reports, audio recordings, or photographs capturing this conversation and search.
17. On March 21, 2013 Investigator Patterson met with William McCarty. Mr. McCarty told investigator Patterson he believed that Kent Wilson was involved in Dylan's disappearance. He called into question the authenticity of the receipts Kent Wilson provided the FBI and said that Kent Wilson is a convicted sex offender. *See* Discovery Page 411. Investigator declined to follow up on this lead when he "discovered" that two witnesses placed Kent Wilson in Utah on November 19, 2012. Review of discovery revealed that the witnesses placing Kent Wilson in Utah were his girlfriend and his girlfriend's sister. *See* Discovery Page 415.
18. Apparently cell phone location data places Mr. Wilson's cell phone in Utah on November 18, 2012 and part of November 19, 2012. The reliability and weight placed upon this information should ultimately be determined by jurors at trial.
19. On July 8, 2013 Investigator Golbricht speaks to Starla Johnson and James Adcock about what they saw on November 19, 2012. She also speaks to United States Postal Service employee, Angela Lee. Ms. Lee told Investigator Golbricht that she saw Kent Wilson driving on C.R. 500 around 1300 on November 19, 2012. Ms. Lee said she recognized Kent Wilson because she knew him and because he saw his glasses and his van. *See* Discovery Page 630.

B. Admissibility

20. Kent Wilson, Starla Johnson, James Adcock, Kallen Elkins, William McCarty, and Angela Lee have all been endorsed as witnesses by the Prosecution. They are all alive and could testify about statements made to the La Plata County Sheriff's Office. There would be no issue with regard to hearsay. If they testified the Prosecution would be able to impeach where appropriate. Further, the holding in *Elmarr* requires a "requisite non-speculative connection tying the alternate suspect to the crime charged." *Elmarr* 351 P.3d at 438. Five witnesses told members of the investigative team that they saw Mr. Wilson with a boy matching Dylan's description on November 19, 2012. This specific evidence provides more than speculation in

establishing a connection to the crime charged. Ultimately, any inconsistencies or competing narratives should be weighed and assigned merit by a jury.

MARTIN WEBSTER

A. Relevancy

21. On January 4, 2016 Investigator Gabbard of the La Plata County Sheriff's Office interviewed James Croxell regarding Dylan Redwine. Mr. Croxell told Investigator Gabbard that Martin Webster confessed to "killing a boy in Bayfield" sometime in July 2013. According to Mr. Croxell, Martin Webster did not name Dylan Redwine, but Croxell believes he was speaking of Dylan Redwine because of the timing. *See* Discovery Page 5948.
22. On September 6, 2016 – eight months after Investigator Gabbard's interview with Mr. Croxell - the La Plata County Sheriff's Office was granted a warrant for Martin Webster's AT&T cell phone records. *See* Discovery Page 6137. On December 7, 2016 Suess Beyer of the La Plata County Sheriff's Office filed a Search Warrant Return of Service stating that AT&T had no data related to Mr. Webster's phone. *See* Discovery Page 6202.
23. On September 22, 2016 Sergeant Ezzell contacted Walmart and requested Mr. Webster's time card. Sergeant Ezzell learned that Mr. Webster worked from 1300 to 2200 on November 18, 2012 and November 19, 2012. *See* Discovery Page 6144.
24. Martin Webster died of natural causes on April 6, 2014. *See* Discovery Page 19,108.
25. On May 8, 2017 Eddie Simon wrote a letter to the Prosecution stating he had information regarding the death of Dylan Redwine. *See* Discovery Page 18,600. In later interviews with the Prosecution and Defense investigators, Mr. Simon revealed he was aware of the confession Martin Webster made to James Croxell.
26. During the course of our investigation Defense investigators met with Jason Hanson. Mr. Hanson is also aware that Martin Webster confessed to killing a boy in Bayfield.
27. Defense counsel's investigation into this matter is ongoing and Counsel therefore reserves the right to file addendums to this motion.

B. Admissibility

28. Mr. Croxell and Mr. Simon are endorsed prosecution witness who could be called to testify about statements made to the La Plata County Sheriff's Office. Mr. Hanson is alive and could be called to testify. Because the Prosecution would be able to cross examine and impeach if appropriate there would be no issue with regards to hearsay rules. Further, any statements Martin Webster made to Mr. Croxell would be admissible under CRE 804(a)(4) because the declarant is unavailable due to death. Statements made to Mr. Simon and Mr. Hanson would be admissible under CRE 804(b)(3). Questions of credibility should be left to a jury.

RONALD SIMPSON

A. Relevancy

29. On November 20, 2012 Investigators spoke to Ronald Simpson, a registered sex offender, about Dylan Redwine's disappearance. Ronald Simpson lives at the Blue Spruce RV Park, which is one-half mile from Mark Redwine's home at 2343 C.R. 500. *See* Discovery Page 16. Investigators searched Ronald Simpson's residence but did not take pictures or search for any forensic evidence.
30. On March 23, 2013 Ronald Simpson informed investigators he was the only occupant at the Blue Spruce RV Park on November 18, 2012 and November 19, 2012. *See* Discovery Page 414.
31. The Vallecito community is extremely small and remote. Mr. Simpson is a registered sex offender, living alone one-half mile from Dylan Redwine the day he disappeared. Police did not take any photographs or video of their search of Mr. Simpson's home. Upon information and belief, no forensic investigation was conducted at Mr. Simpson's home. Upon information and belief, the La Plata County Sheriff's Office did not apply for any search warrants that could corroborate Mr. Simpson's whereabouts on November 18 and November 19, 2012.

B. Admissibility

32. Ronald Simpson is an endorsed prosecution witness who could be called at trial. The hearsay rules would not be in effect because he would be subject to cross examination by both parties.

MICHAEL FORD

A. Relevancy

33. In an undated report Investigator Gabbard of the La Plata County Sheriff's Office records a tip from Tricia George. Ms. George called the tip line to report that Benjamin Douglass went camping with Michael Ford. During that trip "Ford state he was the last one to see Dylan alive". *See* Discovery Page 6206.
34. On September 1, 2017 Investigator Berryhill called Ms. George. She relayed the same tip regarding Mr. Ford – adding that she saw a boy matching Dylan Redwine's description the day he disappeared. She knew Dylan Redwine, but she was not sure this boy was Dylan Redwine. *See* Discovery Page 5056.
35. On September 6, 2017 Investigator Berryhill met with Ms. George and her husband, James George at their home. The George's told Investigator Berryhill that Benjamin Douglass was at their house one week before Ms. George call the tip line. At that time, Mr. Douglass was drinking beer and possibly high on meth – but he was not observed using drugs. The George's again told Investigator Berryhill that Michael

Ford told Benjamin Douglass that he “took Dylan up to the mountain and that Dylan never left the mountain. See Discovery Page 5057. The George’s spoke to Mr. Douglass about this one week later – when Douglass was sober – and he was “adamant” that Mr. Ford made these statements. See Discovery Page 5058.

36. On September 13, 2017 Investigators Berryhill and spoke with Michael Ford. He denied making the above referenced statements and stated he was with him parents and his son at the time Dylan Redwine disappeared. *Id.*
37. On October 5, 2017 investigators spoke with Benjamin Douglass. Mr. Douglass confirmed that Mr. Ford told him that he took Dylan Redwine camping on Middle Mountain and he was the last person to see him. Mr. Douglass also told investigators that Michael Ford raised the topic of Dylan Redwine and that he believed Mr. Ford was using meth at the time. See Discovery Page 5053.
38. Upon information and belief investigators did not request cell phone data or any other information that would confirm Mr. Ford’s whereabouts on November 18 or November 19, 2012.

B. Admissibility

39. Michael Ford, Tricia George, James George, and Benjamin Douglass are all endorsed prosecution witnesses who could be called to testify. Each potential witness would be available for cross examination and hearsay exceptions apply to statements made by Michael Ford and Benjamin Douglass.

Dated: June 7, 2019

/s/ Justin Bogan
Justin Bogan, No. 33827
Deputy State Public Defender

/s/ John Moran
John Moran, No. 36019
Deputy State Public Defender

Certificate of Service
I hereby certify that on June 7, 2019
I served the foregoing document by e-filing
same to all opposing counsel of record.
/s/ Justin Bogan /s/ John Moran