

DISTRICT COURT, LA PLATA COUNTY, COLORADO 1060 East Second Avenue Durango, Colorado 81301	DATE FILED: February 22, 2019 10:18 AM FILING ID: 78B713A46103A CASE NUMBER: 2017CR343
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff, v. MARK REDWINE, Defendant	σ COURT USE ONLY σ
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 107] RESPONSE TO ORDER TO SHOW TO CAUSE PUBLIC ACCESS	

On October 11, 2018, this Court issued C-16. That order, based in part on C-1, directs both parties to file paper copies of pleadings with the Clerk of Court within one day of e-filing pleadings. The Order goes on to say “the public access paper copy shall be redacted as deemed appropriate by the filing party . . . [t]he clerk shall screen all filings in compliance with CJD 05-01 regarding the redaction of pleadings.”

C-16 notes that the Court has reviewed all pleadings by the parties as of the date of that order. C-16 also denotes that it is the onus of the opposing party to object to specific pleadings filed for public access. It also enumerates specific pleadings that shall not be available to the public, except in redacted form, until after a verdict is rendered in this matter. Those pleadings are P-8, and D-11, and specific attached exhibits to those pleadings. In C-16 this Court ruled that redacted versions of P-8, Exhibits 1 and 2 for P-8, and D-11, and Exhibits J, T, F, and G for D-11 would be made available to the public.

On October 11, 2018, this Court issued C-17. C-17 specifically addresses this Court’s concerns regarding the tension between Mr. Redwine receiving a fair trial, the People’s Motion to Present Evidence of Singular Other Act Pursuant to 404(b), and public access to the pleadings in this matter. This Court held that public access to the allegations regarding Kathy Berri and Denise Hess, [REDACTED]

[REDACTED]

On October 29, 2018, this Court issued Order Regarding the Defendants Objection to Public Disclosure and Motion for Hearing. In denying the defense's motion, this Court ruled "that if there is any specific information contained in the documents already filed that the Court has not addressed in C-16 and C-17 that the parties were to inform the Court of their desire to suppress such information." This Court gave the parties 21 days to file notices of objection to releasing specific information to the public. No objections were filed by either party on that issue. This Court also accorded the parties 15 days to file objections to pleadings already filed by either party for public access. No objections were filed by either party.

On December 1, 2018, this Court issued C-18, directing defense counsel to file public access copies of all documents it has filed in this case by December 18, 2018. Mr. Redwine's defense team filed said copies on December 20, 2018.

On February 11, 2019, this Court issued C-26, Order to Show Cause, after reviewing a specific defense pleading and determining that it was mis-numbered and referred to an allegation enumerated in C-17 that is not to be released to the public.

After receiving this Court's Order to Show Cause, Mr. Redwine's defense team conducted an internal audit of our copies of the public access pleadings filed by defense counsel in this matter. Said audit consisted of reading every copy of every public access defense pleading to identify [REDACTED] would cause this Court concern consistent with C-17.

To further demonstrate due diligence on this issue and to comply with previous court orders, on February 21, 2019 Defense Counsel and Public Defender Investigator Les Lister went to the La Plata County Courthouse. Defense Counsel requested the Clerk of Court that he and Mr. Lister be permitted to review the "Public Access Documents" filed by Mr. Redwine's defense team. Defense Counsel explained to the Clerk of Court that the plan was for defense counsel to review the public access documents inside the courthouse, inside the clerk's office if possible, and to identify any pleadings that would cause this Court concern pursuant to C-16, C-17, and C-18, and C-26 so counsel could address those pleadings in this motion. This would have obviated the need for any clerks of court to review defense pleadings already filed for public access, as contemplated in C-26. Defense Counsel and Public Defender Investigator Les Lister were permitted to see the stack of public access documents, but were not allowed to read them.

After reviewing all our copies of all public access defense pleadings, Mr. Redwine's defense team identified some public access documents that contained numbering errors. Mr. Redwine's defense team also, in abundance of caution, and to demonstrate compliance with C-16, C-17, C-18 and C-26, will refile specific pleadings and exhibits with suggested redactions forthwith. These pleadings are enumerated below. The Defense team requests this Court to accept the revised/redacted pleadings to address the Court's concerns documented in C-26. In addition, Defense requests that the Court remove all previously filed public access copies of the motions enumerated below.

Defense will file the following corrected pleadings:

1. “[D-15] [SECOND TIME, NUMBERED CORRECTLY] MOTION TO DISMISS INDICTMENT DUE TO PRE-INDICTMENT PUBLICITY” originally filed September 20, 2018, will be re-filed as “CORRECTED: [D-15(A)] MOTION TO DISMISS INDICTMENT DUE TO PRE-INDICTMENT PUBLICITY”
2. “[D 31] OBJECTION TO ENDORSEMENT OF ERICH SMITH DEMAND FOR DISCOVERY DEMAND FOR SCHRECK HEARING” originally filed on September 20, 2018, we be re-filed as “CORRECTED: [D-31(A)] OBJECTION TO ENDORSEMENT OF ERICH SMITH DEMAND FOR DISCOVERY DEMAND FOR SCHRECK HEARING”.

Defense will re-file the following pleadings with suggested redactions:

1. D-11, D-11 Exhibit E, D-11 Exhibit F, D-11 Exhibit G, D-11 Exhibit I, D-11 Exhibit J, D-11 Exhibit K, D-11 Exhibit S, D-11 Exhibit T, D-11 Exhibit U, D-11 Affidavit, D-11 Affidavit Exhibit D, D-11 Affidavit Exhibit E, D-11 Affidavit Exhibit F, and D-11 Affidavit Exhibit G.
2. D-11 Addendum Exhibit A and D-11 Addendum Exhibit H
3. [D-15(A)]
4. D-46
5. D-47
6. D-48
7. D-60
8. D-102
9. D-103

/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 February 22, 2019
I served the foregoing document by e-filing
same to all opposing counsel of record.
/s/ Justin Bogan /s/ John Moran