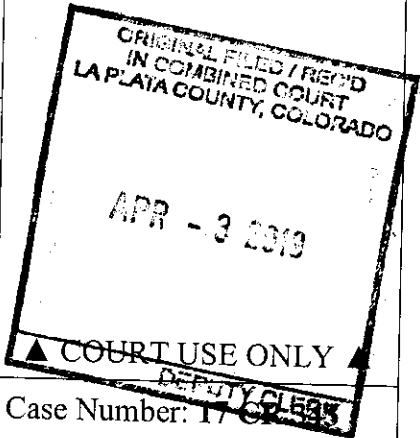


DISTRICT COURT, LA PLATA COUNTY, COLORADO Court Address: 1060 E. Second Ave., Durango, CO 81301 Phone Number: (970) 247-2304	
Plaintiff: PEOPLE OF THE STATE OF COLORADO v. Defendant: MARK ALLEN REDWINE	
Christian Champagne - District Attorney, #36833 Matthew Durkin, Special Deputy District Attorney, #28615 Fred Johnson, Special Deputy District Attorney, #42479 P.O. Drawer 3455, Durango, Colorado 81302 Phone Number: (970) 247-8850 Fax Number: (970) 259-0200	Case Number: 17-6153
PEOPLE'S MOTION TO STRIKE DEFENDANT'S [D-109] BRIEF SUPPLEMENTING MOTIONS TO EXCLUDE UNRELIABLE CADAVER DOG SNIFF EVIDENCE AS MOOT (P-18) [PUBLIC ACCESS]	

NOW COME the People, by and through Christian Champagne, District Attorney, in the County of La Plata, and requests that this honorable Court strike the Defendant's Brief [D-109]. AS GROUNDS for this motion, the People state as follows:

Procedural Background

1. On September 20, 2018, the Defendant filed several Motions to Suppress evidence related to human remains detection canines and their handlers. Following those motions, but prior to the December 3, 2018 motions hearing, the Innocence Project attempted to file motions on behalf of the Defendant making many of the same arguments. The parties addressed these motions briefly at the December 10, 2018 motions hearing, but the Court reserved ruling to determine what, if any, pretrial hearing was required to determine the admissibility of this evidence.
2. Shortly after the December 3, 2018 Motions Hearing, the Court denied the Innocence Project's request to file their brief in this case.
3. On February 11, 2019 the Court issued its "Order Regarding Dog Sniff Evidence D-36, D-37, D-38, D-39, D-40 and P-14," indicating that the dog related evidence would be subject to a hearing under *Brooks v. People* 975 P.2d 1105 (Colo. 1999). The Court ordered a Motions Hearing set for the week of March 11-15, 2019, and the

People coordinated to call three witnesses to testify as to the reliability of the canine evidence under *Brooks*.

4. In anticipation of this hearing, the People requested that the court order witness disclosures 14 days prior to the March 11, 2019 Motions Hearing, and the Court granted this request. Exactly 14 days prior to the scheduled hearing, the defendant disclosed that one expert witness, Dr. James Ha, would be called at the hearing. The Defendant did not file anything requesting a continuance.
5. On March 5, 2019, at a status conference set to address scheduling of the motions hearing, the Defendant announced for the first time that he was not ready to proceed on the motions hearing he had requested, and asked for another continuance. His motion was granted.
6. Then on March 11, 2019, the day that the *Brooks* hearing was set to begin, the Defendant refiled the entirety of the *amicus* filing almost verbatim, recently renamed as D-109, despite the Court's order that *Brooks v. People* is the applicable standard in Colorado.
7. In doing so, the Defendant failed to acknowledge the Court's Order regarding Dog Sniff Evidence issued on February 11, 2019, or the Court's Order C-28 re-affirming that *Brooks v. People* would be the basis for the reliability hearing on canines.
8. Notably, D-109 is an almost identical cut and paste of the same brief that had been previously submitted by the innocence project months ago, prior to the December 3, 2018 motions hearing. The Defendant made no attempt to justify this delay in filing the nearly identical brief several months later, as the Defendant instead declined to make the Court aware of the origins of the brief. Similarly to the original brief written in 2018, the Brief relies heavily on non-binding authority from out of state or non-legal authority altogether, while minimizing the importance of the Colorado Supreme Court's rulings in *Brooks* and *Shreck*.
9. Since the Innocence Project's attempted filing was denied, the Court has ruled on the issue, denying the Defendant's Motions to Suppress but granting a pretrial admissibility hearing to establish the reliability factors under *Brooks*.
10. Essentially, at this juncture the Defendant has filed a brief in support of suppression motions (D-36 through D-40) that have already been denied. As such, the brief is now moot and should be stricken.
11. In the alternative, the Court could reaffirm its previous ruling as to the proper foundation for admission of canine evidence and the People can present evidence as to the reliability of the canines pursuant to the Colorado Supreme Court's decision in *Brooks*.

WHEREFORE, the People respectfully request that the Court strike this brief, or in the alternative, reaffirm the denial of the Defendant's Motions to Suppress for which this Brief was filed in support.

Respectfully submitted this April 3, 2019

CHRISTIAN CHAMPAGNE
DISTRICT ATTORNEY
6th JUDICIAL DISTRICT

/s/ Christian Champagne
Christian Champagne #36833
District Attorney

CERTIFICATE OF SERVICE

I hereby certify that on April 3, 2019, I delivered a true and correct copy of the foregoing to the parties of record via e-service.

/s/ Christian Champagne
Christian Champagne