

<b>DISTRICT COURT, LA PLATA COUNTY, COLORADO</b> Court Address: 1060 E. Second Ave., Durango, CO 81301 Phone Number: (970) 247-2304		<div style="border: 2px solid black; padding: 5px; text-align: center;">         ORIGINAL FILED / REC'D          IN COMBINED COURT          LA PLATA COUNTY, COLORADO   <b>APR 28 2010</b>           DEPUTY CLERK       </div>
<b>Plaintiff: PEOPLE OF THE STATE OF COLORADO</b>  v.	<b>Defendant: MARK ALLEN REDWINE</b>	
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		▲ COURT USE ONLY ▲  Case Number: <b>17 CR 343</b>
<b>PEOPLE'S SUPPLEMENTAL NOTICE OF DYLAN REDWINE'S STATEMENTS TO BE INTRODUCED PURSUANT TO C.R.E. 807 (P-20)</b> <b>[PUBLIC ACCESS]</b>		

NOW COME the People, by and through Christian Champagne, District Attorney, in the County of La Plata, and hereby respectfully submit the following notice of its intent to introduce statements by the victim, Dylan Redwine, pursuant to Colorado Rule of Evidence 807:

### PROCEDURAL BACKGROUND

1. Defendant Mark Redwine has been charged in La Plata County with Murder in the Second Degree and Child Abuse Resulting in Death following a Grand Jury Indictment.
2. The charged events took place after Dylan Redwine arrived on November 18, 2012 for a custodial visit for Thanksgiving of 2012. Dylan Redwine ceased to make communication with anyone after roughly 9:30pm that evening despite having plans with a friend the next day. His partial remains were found several months later on Middle Mountain Road roughly 8 miles from Mark Redwine's residence, and his skull was found roughly 3 years later at an entirely different location on Middle Mountain Road, with skull fractures and cut marks indicative of a tool mark from a knife or similar instrument. Dylan Redwine's blood was found inside of Mark Redwine's home, and cadaver dogs indicated that a large source of human remains had been inside the home and Mark Redwine's pick-up truck. Several witnesses noted that Dylan Redwine did not want to go on the trip

to see his father, there had been tension in their relationship, and Dylan Redwine was aware of compromising photographs that when referenced were later shown to trigger a specific violent response from Mark Redwine.

3. In the days, weeks, and months prior to his murder, Dylan Redwine made statements to multiple people regarding his relationship with his father. Specifically, he talked to his mother and his friends about not wanting to visit his father, and he discussed the custody situation with a judge and an attorney in the domestic relations case. Further, in a recent incident Dylan Redwine discussed having seen compromising photographs of his father and discussed potentially confronting his father with those photographs out of frustration and anger. Finally, Dylan Redwine conversed through his cellular phone and text messages regarding his plans prior to his murder. These plans were never realized, and pinpoint a narrow window for the time of his murder.
4. The People Previously filed (P-4) PEOPLE'S NOTICE TO INTRODUCE STATEMENTS OF DYLAN REDWINE PURSUANT TO C.R.E. 807. In that notice filing, the People outlined the relevant law and the reasons why the statements at issue are admissible. The People incorporate that motion herein by reference.
5. The purpose of this filing is to provide a more specific offer of proof regarding the statements which will be introduced pursuant to C.R.E. 807, pursuant to the Court's order C-28 issued on March 5, 2019.
6. It should be noted that with trial set in September, roughly five months out from the time of this filing, the People may supplement this filing with further statements as witness preparation meetings are conducted and the People prepare their case.
7. Therefore, this is a good faith notice filing of the statements the People intend to introduce pursuant to C.R.E. 807 at this time.
8. Finally, as noted in P-4, several other hearsay exceptions may apply to some of Dylan Redwine's statements which do not require notice, and the People may still introduce various statements through those well-recognized hearsay exceptions as well.

#### STANDARD OF REVIEW

9. Trial courts have considerable discretion in determining the admissibility of evidence, including whether the residual hearsay exception applies and whether the evidence has logical relevance. Vasquez v. People, 173 P.3d 1099, 1106 n.7 (Colo.2007); Medina v. People, 114 P.3d 845, 859 (Colo.2005). An abuse of discretion standard applies to the trial court's findings, and appellate courts will not disturb an evidentiary ruling on appeal unless it is manifestly arbitrary,

unreasonable, or unfair. Medina, 114 P.3d at 859; People v. Carlson, 72 P.3d 411, 420 (Colo.App.2003).

### PREVIOUS NOTICE OF GENERAL STATEMENTS

10. In this case, the People hereby give notice that they will introduce any and all relevant non-testimonial statements made by Dylan Redwine that appear in discovery.
11. Specifically, this includes, but is not limited to, statements regarding the relationship with his father, prior but recent interactions with his father that led to tension on November 18, 2012, the compromising photographs he observed of his father, and his plans and conversations surrounding the Thanksgiving visit. These statements will include the following witness testimony and evidence:
  - a. Elaine Redwine: Elaine Redwine will testify that Dylan Redwine was not speaking with his father for much of the time leading up to the Thanksgiving visit. She will further testify that he stated he did not want to go on the visit. She will testify as to text messages from Dylan to her that document and corroborate this around the time of his flight on November 18, 2012.
  - b. Attorney Amber Harrison: Amber Harrison had conversations with Dylan Redwine during which he told her that he did not want to visit his father leading up to November, 2012. Further, Dylan Redwine had told her the reason he was feeling uncomfortable with Mark Redwine was that he was creepy and that he had seen the compromising photographs of his father.
  - c. Judge Dickinson conversation: Dylan Redwine spoke about the custody case on September 21, 2012, specifically about his living situation prior to the court ordering the Thanksgiving visit. The People could potentially introduce a certified copy of this statement on relevant points regarding his relationship with the Defendant.
  - d. Dylan's Friends: Dylan Redwine spoke to several friends about his relationship with his father, about his reluctance to go on the Thanksgiving trip, and his plan to spend time with friends throughout the visit rather than spending the time with his father. These include but are not limited to his statements to Adam Harvey, Joe Ceballos, Amanda Saxon, and Ryan Nava that appear in discovery.
  - e. Cory Redwine: Dylan Redwine's brother Cory will also testify to discussions about the tension between Dylan and his father Mark Redwine in the months, weeks, and days leading up to the Thanksgiving trip. Cory will testify to Dylan's statements that he was aware of and had seen the compromising photographs of Mark Redwine. Cory Redwine will further testify to Dylan's statement requesting Cory send to photographs to him to

confront Mark Redwine in the context of an argument with Mark Redwine on a recent visit.

- f. Electronic communications: Dylan Redwine communicated electronically including over his phone and Ipod including in the months, weeks, days, hours, and minutes leading up to his death. These statements he made that are documented in records now in evidence corroborate and demonstrate the reliability of the above referenced statements.

## **SUPPLEMENTAL OFFER OF PROOF AND NOTICE OF STATEMENTS**

12. More specifically, the People intend to introduce the following statements at trial:

- a. Text messages between Dylan Redwine and Cory Redwine, including where Dylan references the Defendant speaking negatively of Elaine and Corey on his trip and asks for the compromising photographs for purposes of confrontation (discovery page 748-50 and discovery disc 27, Cory Redwine phone download, snapshot example attached as People's Exhibit 1).
- b. Text messages between Dylan Redwine and Elaine Redwine around the time of Dylan's flight to Durango, including where Dylan indicates he is unhappy about being picked up by the Defendant on the fatal visit (discovery disc 24, Elaine Redwine phone download, line 185, snapshot example attached as People's Exhibit 2 (in response to the question "Ur dad get u son?" Dylan wrote " yes :( ").
- c. All other relevant electronic communications made by Dylan Redwine to establish a timeline for Dylan's plans and whereabouts, including but not limited to his plans to hang out with his friends rather than his father, including Ryan Nava at 6:30am on November 19, 2012 (by way of example, Grand Jury People's Exhibit 274 A-Z has a 26 page timeline with many of these communications, much of which is not hearsay but the People are giving notice in an abundance of caution).
- d. Statements from Dylan Redwine to Joe Ceballos just before the fatal trip, that Dylan Redwine did not want to go to the Defendant's house (discovery page 924, attached as People's Exhibit 3).
- e. Statements from Dylan Redwine to Adam Harvey just before the fatal trip, where Dylan didn't seem excited to see the Defendant but rather was going to spend the time with his friends (discovery page 903, attached as People's Exhibit 4).
- f. Statements from Dylan Redwine to friend Amanda Saxon negatively describing his relationship with the Defendant in a way that contradicts the

Defendant's statements to law enforcement about the state of their relationship around the time of Dylan's fatal trip (discovery page 741-45, attached as People's Exhibit 5).

- g. Statements from Dylan Redwine to Cory Redwine's friend Lucas Fields that he didn't like being with the Defendant (discovery page 777, attached as People's Exhibit 6).
- h. Statements from Dylan Redwine to or in the presence of Mike Hall, indicating that he did not want to spend time with the Defendant but intended to spend time with his friends instead (discovery page 763, attached as People's Exhibit 7).
- i. Statements from Dylan Redwine to Cory Redwine that he did not want to go to the Defendant's home to visit, and the reasons why, contradicting the Defendant's portrayal of the relationship to law enforcement and explaining the tension that ultimately was part of the motive for the crime (discovery pages 748 and 756, attached as People's Exhibits 1 and 8).
- j. Statements from Dylan Redwine to Elaine Redwine, indicating his dislike for the Defendant following the Boston trip and his reason for refusing to communicate with the Defendant leading up to the fatal visit (discovery page 761, attached as People's Exhibit 9).
- k. Statements from Dylan Redwine to Amber Harrison (Elaine Redwine's divorce attorney) about how he was uncomfortable being with the Defendant because he had seen the compromising photographs (discovery page 772-73, attached as People's Exhibit 10).
- l. Statements from Dylan Redwine to Kathleen Sayers complaining that the Defendant had been speaking badly about Dylan's mother in Dylan's presence and that he wished the Defendant wouldn't get so angry and that he could stay away from that scary stuff (discovery page 18004-05, attached as People's Exhibit 11).
- m. Statements from Dylan Redwine to Judge Dickinson about his preference to stay with his mom and why (discovery page 3850-63 and discovery disc 185, attached as People's Exhibit 12).

### **BRIEF ADDITIONAL ARGUMENT**

- 13. The People provided a comprehensive legal outline and argument in P-4. Specifically, the People cited multiple similar cases where C.R.E. 807 permitted the admission of the deceased victim's statements in the context of a homicide case.

14. Therefore, the People only briefly readdress the admissibility of these statements below in conjunction with this new offer of proof.
15. CRE 807 provides that “[a] statement not specifically covered by Rule 803 or 804 but having equivalent circumstantial guarantees of trustworthiness, is not excluded by the hearsay rule, if the court determines that (A) the statement is offered as evidence of a material fact; (B) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and (C) the general purpose of these rules and the interests of justice will best be served by admission of the statement into evidence.” U.S. v. Farley, 992 F.2d 1122 (10<sup>th</sup> Cir. 1993); *see also* People v. Fuller, 788 P.2d 741 (Colo.1990); People v. Meyer, 952 P.2d 774 (Colo. App. 1997).
16. These statements are relevant to a material fact in the case because they further explain a motive for the crime and they contradict the Defendant’s portrayal of his relationship with Dylan Redwine to law enforcement.
17. Regarding circumstantial guarantees of trustworthiness, the People note that these statements corroborate each other in that multiple witnesses received the same information from Dylan Redwine close in time to the fatal visit.
18. Further, these statements were all made to friends, family, or professionals in a custody setting, and Dylan Redwine had no reason to fabricate any of this information in these settings. Rather, it was in his interest to be honest if he hoped to spend his time where he wanted and with whom he wanted. The fact that he was as consistent as he was under these different settings further corroborates the reliability of the statements.
19. Additionally, the People note that there is recorded audio of the Judge Dickinson conversation and electronic records of the text message conversations documenting that those statements occurred, and reliably corroborating the sentiment reflected in all the statements.
20. Regarding whether the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts, Dylan Redwine is deceased, and this is the only way to effectively communicate to the jury what he can no longer communicate himself.
21. Regarding whether the general purpose of these rules and interests of justice will best be served by the admission of the statements, it is crucial that the jury have as much relevant information as possible when determining what occurred in this case. Dylan cannot speak for himself, but he made it clear to many people that he did not want to go visit the Defendant and that there was significant tension in his relationship with his father. To allow the Defendant to downplay this tension and mis-characterize this relationship to law enforcement in interview after interview

without the jury having Dylan Redwine's input would be an injustice and thwart the fact finding, truth-seeking responsibility of the jury. It is in the interests of justice that the jury hear the statements of Dylan to understand the Defendant's motive for this crime.

22. Finally, none of these statements were made to law enforcement, and none of these statements are subject to the confrontation clause.

### CONCLUSION

23. While the People are providing proper notice under C.R.E. 807, the People in no way waive any arguments as to other hearsay exceptions that may apply to the statements offered in this motion, such as present sense impression. Similarly, the People do not concede that all of the decedent's statements are in fact hearsay offered for the truth of the matter asserted, specifically any statements of his intent to do something. Therefore, the People give this notice but reserve argument as to any other theories of admissibility that do not require the same notice.
24. Pursuant to C.R.E. 807, the People submit the following notice of intent to introduce statements by the deceased victim Dylan Redwine at trial in this case.
25. The People respectfully request that the Court find that 1) the statements above relate to a material fact in the case, 2) the statements above bear sufficient circumstantial guarantees of trustworthiness, and 3) that the general purpose of the Colorado Rules of Evidence and the interests of justice will best be served by admission of the statement into evidence, making them admissible at trial.

Respectfully submitted this April 26, 2019

CHRISTIAN CHAMPAGNE  
DISTRICT ATTORNEY  
6<sup>th</sup> JUDICIAL DISTRICT

/s/ Christian Champagne  
Christian Champagne #36833  
District Attorney

### CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2019, I delivered a true and correct copy of the foregoing to the parties of record via e-service.

/s/ Christian Champagne  
Christian Champagne