DISTRICT COURT LA PLATA COUNTY DATE FILED: September 20, 2018 1:21 PM COLORADO FILING ID: 65B61A78187D4 1060 EAST SECOND AVENUE CASE NUMBER: 2017CR343 DURANGO COLORADO 81301 THE PEOPLE OF THE STATE OF COLORADO. Plaintiff v. MARK REDWINE, Defendant σ COURT USE ONLY σ Megan Ring, Colorado State Public Defender Case No. 17CR343 Justin Bogan 33827 John Moran 36019 175 Mercado Suite 250 Durango Colorado Division 1 81301 [D- 35] MOTION FOR REALISTIC, GOOD FAITH WITNESS LIST

Mr. Redwine asks this Court to require the prosecution to provide a more realistic witness list, setting forth those witnesses the prosecution has a good faith belief it will call at trial or sentencing. In support, Mr. Redwine states:

- 1. At last count, the prosecution has endorsed no less than 932 witnesses, understanding that roughly 250 of those are duplicative, leaving roughly 782 witnesses, not including the nineteen (19) experts the prosecution endorsed yesterday.
- 2. It is highly unlikely that the prosecution has the intent to call anywhere near this number of witnesses. If the prosecution called each of the endorsed witnesses once, and the testimony of each witness was limited to only one-half hour total (which is unlikely), and the Court heard 40 hours of testimony per week, then the testimonial portion of this case would take approximately 10 weeks. Jury selection would add a significant amount of time to that. Given that many witnesses will take substantially longer than one-half hour, and may testify more than once, and that this Court will have to deal with legal issues and other matters during the trial that will interfere with ability to take witness testimony non-stop, the trial would likely take substantially more than the current time set for the trial and, realistically, last much longer based on that number of witnesses. The prosecution's current witness list would require a new, substantially longer trial setting.

- 3. Defense counsel asked for updated contact information for witnesses who are either labeled "deceased" in their endorsement or for whom no contact information has been provided. The prosecution provided some of this information in their September 12, 2018 endorsement. The prosecution also provided a list of witnesses it has endorsed but it is not calling.
- 4. The prosecution should be required to narrow its witness endorsement so that the defense may efficiently and effectively prepare to confront the witnesses who will actually be called at trial.
- 5. The prosecution should be also required to narrow its witness endorsement so that this Court and the parties can focus their time and attention on any issues, legal or otherwise, related to witnesses who are actually likely to be called at trial or sentencing.
- 6. The only reason to withhold this information from the defense is to gain an unfair strategic advantage by requiring the defense to waste its limited time and prepare for hundreds, of witnesses whom the prosecution has no intention of calling. Counsel has the obligation to effectively prepare to investigate all issues related to any witnesses who will be called at trial or any sentencing hearing, to prepare adequate examinations of such witnesses, to raise legal issues related to such witnesses, and continue to prepare the defense case in order to discharge their constitutional obligation to provide Mr. Redwine with the effective assistance of counsel. See Strickland v. Washington, 466 U.S. 668 (1984) U.S. Const. amends. VI, XIV; Colo. Const. art. II, secs. 16, 25. The prosecution's witness list appears to be an attempt to overwhelm the defense and misdirect resources.

## Request for a Hearing

7. Mr. Redwine requests a hearing on this motion.

Mr. Redwine files this motion, and makes all other motions and objections in this case, whether or not specifically noted at the time of making the motion or objection, on the following grounds and authorities: the Due Process Clause, the Right to a Fair Trial by an Impartial Jury, the Rights to Counsel, Equal Protection, Confrontation, and Compulsory Process, the Rights to Remain Silent and to Appeal, and the Right to be Free from Cruel and Unusual Punishment, pursuant to the Federal and Colorado Constitutions generally, and specifically, the First, Fourth, Fifth, Sixth, Eighth, Ninth, Tenth, and Fourteenth Amendments to the United States Constitutions, and Article II, sections 3, 6, 7, 10, 11, 16, 18, 20, 23, 25 and 28 of the Colorado Constitution.

Dated: September 20, 2018

/s/ John Moran #36019 Deputy Public Defender Dated: September 20, 2018

/s/ Justin Bogan
Justin Bogan #33827
Deputy State Public Defender
Dated: September 19, 2018

Certificate of Service
I hereby certify that on
September 20, 2018,
I served the foregoing
document by ICCES
to opposing counsel.

\_\_\_\_\_/s/ Justin Bogan