

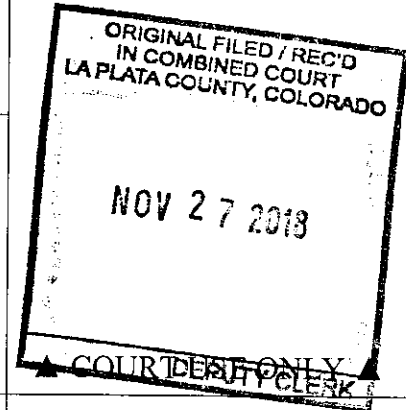
**DISTRICT COURT, LA PLATA COUNTY, COLORADO**  
Court Address: 1060 E. Second Ave., Durango, CO 81301  
Phone Number: (970) 247-2304

**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  
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Case Number: 17 CR 343

**PEOPLE'S PROPOSED SCHEDULE FOR UPCOMING MOTIONS HEARINGS ON  
DECEMBER 3, 2018 (P-12)  
[PUBLIC ACCESS]**

NOW COME the People, by and through Christian Champagne, District Attorney, in the County of La Plata, respectfully propose to the Court of the following agenda for the upcoming motions hearings.

1. This case is set for motions hearing for two weeks, starting on December 3, 2018 and possibly running through December 14, 2018. However, this amount of time was set prior to the People responding to each of the Defendant's motions with briefs.
2. Further, the Defendant has requested hearings on numerous motions that the People do not believe require hearings.
3. Finally, since the two week motions hearing was set, the Court has informed the parties that we will not be addressing any hearings regarding experts during this motions hearing. Rather, the parties will be permitted to address the Court as to whether hearings are required as to the admissibility of any of the proposed expert testimony. If any hearings are in fact granted, those will be held at a future motions hearing.
4. Based on these developments, the People believe one week is sufficient to present evidence on the motions requiring a hearing, and to address any supplementary legal arguments to the extensive briefs previously filed by both parties in the case.

### **Scheduling Agreements of the Parties**

5. Pursuant to the Court's request, the People conferred with defense counsel regarding scheduling for the upcoming hearing. The Parties have agreed to the following:
6. Starting Monday December 3, 2018 through Thursday December 6, 2018, the People will present evidence on the evidentiary motions that require testimony. This will include motions to suppress statements and motions to suppress evidence that was not obtained pursuant to a search warrant.
7. If it is acceptable to the Court, the parties will call the witnesses only once if possible, and ask questions as to all of the motions involving that witness.
8. In the event that testimony is not concluded by the end of Thursday, December 6, the parties will reserve Friday, December 7, 2018, for motions that require legal argument.
9. If additional time is needed for motions, the People can be available going into the next week. The parties disagree as to whether this additional time is likely to be needed.

### **People's Position Regarding Defendant's Motions and Requirement For Hearings**

10. The People have responded to the Defendant's motions individually and provided legal support regarding whether or not a hearing is required for each motion. In addition to those specific responses, the People note that categorically some of the Defendant's motions require hearings whereas with other motions it is within the discretion of the court to grant a hearing or to rule on the pleadings. As such, the People are respectfully requesting that the court grant and deny hearings as outlined below.
11. There have been approximately 100 motions filed by the Defendant in this case. They fall into essentially four categories:
  - a. Statements by the Defendant, and warrantless searches pursuant to warrant exceptions:
    - i. D-41
    - ii. D-47
    - iii. D-55 through D-83
  - b. Search warrants:
    - i. D-42
    - ii. D-84 through D-91
    - iii. D-95 through D-97
    - iv. D-98a
    - v. D-100

- c. Expert testimony:
  - i. D-18 through D-34
  - ii. D-36 through D-40
  - iii. D-49 through D-52
  
- d. Other motions that consist of legal argument as to issues in the case:
  - i. D-0 through D-9
  - ii. D-11
  - iii. D-13 through D-17
  - iv. D-35
  - v. D-43 through D-46
  - vi. D-48
  - vii. D-53 and D-54
  - viii. D-93 and D-94
  - ix. D-98 and D-99

12. First, with regard to statements and warrantless searches, the People agree with the Defendant that most motions that raise a legitimate legal issue as to a statement or warrantless search put the burden upon the People to present evidence in a hearing that such evidence was lawfully obtained. The People intend to present witnesses to these motions as proposed in the attached witness schedule.
  
13. It should be noted that on a few of these motions the People filed motions to strike where no fruits of the search were identified or where no legal argument was stated with specificity.
  
14. Second, with regard to search warrants, the Defendant's Motions challenges to search warrants are subject to a four corners review. They do not require hearings and the Court can rule on the pleadings filed by the parties after reviewing the warrants for probable cause. Further, where both parties have put forth their legal argument in written motions, the Court need not allow further hearings for the parties to reiterate those same arguments. The People therefore request that the Court conduct the proper four corners review for probable cause of the challenged search warrants and deny any further hearings.
  
15. In instances where the Defendant did not attach the challenged warrants and affidavits to his motions to suppress those warrants, the People have attached them to their responses for the Court's consideration of the totality of the information within their four corners.
  
16. Third, with regard to expert witnesses, these motions have been briefed extensively to include offers of proof. The People have appropriately discovered CVs and reports for their proposed experts. Based on both parties having filed motions, legal argument is unnecessary as to whether a hearing is required regarding most of these experts. The question before the Court on the vast majority of these motions is whether the witness is

qualified to opine as an expert under C.R.E. 702, and then considerations under C.R.E. 401 and 403. In most instances, the question is one of laying a proper foundation at trial.

17. To the extent that there is a question as to whether a small number of these experts would need to undergo an additional *Shreck* hearing, the Court could direct the parties to address only those witnesses in brief additional oral argument. For experts who do not fall under a *Shreck* analysis, who are commonly recognized by the Colorado courts, or who qualify as more experience based experts with specialized knowledge, the Court could preliminarily rule on their admissibility subject to a proper foundation at trial without a hearing or further argument. It is therefore the request of the People that the Court rule on the majority of these motions without a hearing and identify for legal argument those that the Court thinks may require a hearing, if any.
18. Fourth, with regard to the remaining motions and correlating responses before the court that consist of legal issues and argument, the written motions and responses put the issues and relevant law before the Court for a determination. It is neither required nor efficient to reiterate all of these written pleading in an oral fashion at a hearing. Further, because there is typically an expectation that the parties include their arguments and legal authority in their pleading to give notice to the court and opposing counsel, there should not be a need for extensive additional argument to be made.
19. The People understand that the Court will likely have specific questions about certain aspects of certain motions. The People would therefore respectfully request that rather than allowing a hearing on every motion as requested by the Defendant, the Court rule on the majority of these motions on the pleadings without a hearing, and where the court requires additional argument on a specific topic the Court could direct the parties to that specific issue for oral argument.
20. As it pertains to each individual motion, the People defer to the more specific arguments as articulated in the individual responses as to whether a hearing is required.
21. At this time, the People anticipate presenting evidence on the following motions at the motions hearing on December 3, 2018: D-41, D-47, and D-55 through D-83.

#### **People's Proposed Witness Schedule**

22. Since it is the People's belief and position that the motions should take one week, the People have attached a proposed witness schedule for the Court. Exhibit 1. This includes ending at the time the Court indicated is the preference each day, and includes the scheduling agreement the parties were able to reach regarding testimony and legal argument.

WHEREFORE, the People respectfully submit the following witness schedule to aid the Court and the parties in preparing for the hearings that require testimony.

Further, the People respectfully request that the Court rule without hearing on all motions that require only a four corners review.

Additionally, the People respectfully request that the Court deny hearings as to the experts challenged by the Defendant, or in the alternative, identify only those experts for which further argument is required on whether or not a hearing is appropriate.

Finally, rather than granting hearings on every motion as requested by the Defendant, the People respectfully request that the Court reasonably limit the legal argument to only motions and issues that require a further record on those remaining motions that have been filed in this case.

Respectfully submitted this March 27, 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 November 27, 2018, I delivered a true and correct copy of the foregoing to the parties of record via e-service.

/s/ Christian Champagne  
Christian Champagne