

DISTRICT COURT LA PLATA COUNTY COLORADO 1060 EAST SECOND AVENUE DURANGO COLORADO 81301	<div style="border: 2px solid black; padding: 5px; text-align: center;"> ORIGINAL FILED / REC'D IN COMBINED COURT LA PLATA COUNTY, COLORADO DEC 12 2018 DEPUTY CLERK </div> <p style="text-align: center;">σ COURT USE ONLY σ</p>
PEOPLE OF THE STATE OF COLORADO PLAINTIFF VS. MARK ALLEN REDWINE	
Megan Ring, Colorado State Public Defender Justin Bogan #33827 John Moran #36019 Deputy Public Defender 175 Mercado Street, Suite 250 Durango, Colorado 81301	Case No. 17CR343 Division : 1
<p>[D105]</p> <p>DEMAND FOR DISCOVERY, MOTION FOR ORDER REQUIRING RECORDING ALL INTERACTIONS WITH FREDERICK B. MILLER, MOTION FOR FORTHWITH HEARING AND DEMAND FOR PROOF OF COMPLIANCE WITH ORDER P-1 (PUBLIC ACCESS)</p>	

Undersigned counsel moves this Court to order the prosecution to immediately provide discovery material it has been developing through exchanges with Frederick B. Miller since at least December 5, 2018. *See Brady v. Maryland*, 373 U.S. 83 (1963); CRCP Rule 16. Mr. Redwine, through counsel, moves this court to order that all interactions with Frederick B. Miller be recorded. Lastly, Mr. Redwine demands that the prosecution certify to the court that the government has complied with court orders during exchanges with Mr. Miller. As grounds:

1. Frederick B. Miller called and spoke with Public Defender Investigator Les Lister at 8:58am today, December 12, 2018. Mr. Miller states that after several exchanges with law enforcement working on the Redwine case he is concerned he has become a suspect. He made remarks indicating experiencing intimidation. Specifically he said, "I did do one thing wrong but I didn't murder anyone." The tenor of his remarks, after speaking with biased and motivated law enforcement officials, is a sea change from the letter he

sent to the Honorable Chief Judge Jeffery Wilson, December 11, 2018, where he remarked,

“I know this opens up a whole new direction. I can’t help that, I can only deal with truth. With truth – comes justice – that is why I am writing to you.”

- Frederick B. Miller, Letter to Honorable Chief District Court Judge Jeffrey Wilson Describing Seeing Dylan on Middle Mountain Road Before his Disappearance (Dec. 11, 2018)[herinafter Letter Describing Seeing Dylan on Middle Mountain Road Before his Disappearance].

The defense is demanding to know how this citizen went from cooperating witness with critical exculpatory information, to somebody worried about being a suspect in Dylan’s disappearance, and about his wrongdoing with respect to witnessing Dylan after the government says he was dead.

2. Mr. Redwine moves this Honorable to Court order that any further correspondence with Mr. Miller be recorded. If said correspondence is in person Mr. Redwine moves that this Court order the interaction be video recorded and audio recorded. If correspondence is telephonic, Mr. Redwine moves that this Court order it be audio recorded.
3. La Plata County Sheriff’s Office, Lieutenant Jim Ezzell has been in possession of exculpatory material since December 5, 2018. Counsel has contacted the prosecution demanding immediate disclosure of all material related to government interaction with Mr. Miller. *See*. CRCP Rule 16 Part III(b)(continuing duty to disclose requires promptly notifying the defense about exculpatory material). As of the writing of this motion the prosecution has not provided the material nor have they met their duty to promptly notify counsel of it. Prosecutors Champagne, Durkin and Johnson have all been contacted by the defense. A voicemail was left with the lead investigator. Mr. Miller tells counsel that the conversations were recorded. Mr. Redwine moves this Court to order immediate disclosure of the recordings.
4. Mr. Redwine moves this Honorable Court order immediate disclosure of all notes, whether handwritten, dictated or typed consistent with this Court’s September 9, 2017 “Order Regarding Initial Defense Motions.” Further, Mr. Redwine moves that the prosecution disclose all emails and texts generated by the government respecting Mr. Miller and his relation to the Redwine case.
5. Given the remarks made by Mr. Miller, and his refusal to speak about what he witnessed without a lawyer, counsel has grave concerns that the Court’s Order on People’s Motion to Limit Pretrial Statements by Attorney, Staff, And Law Enforcements [sic] Pursuant to Rules of Professional Conduct 3.6.and 3.8 (-1), has not been adhered to. In relevant part the order, demanded by the government, requires that law enforcement shall make no extrajudicial statement regarding:
 - a. The existence of contents of any confession, admission, or statement given by the accused or refusal or failure of the accused to make any statement.
 - b. The prior criminal records (including arrests, indictments, or other charges or crime), **the character or reputation of the accused, or any opinion as to the**

guilt or innocence, or as to the merits of the case or evidence in the case.
(emphasis added).

- c. The performance of, or the results of, any examinations or tests, or the refusal of, or failure of the accused to submit to examinations or tests.
 - d. The identity, testimony, or credibility of any prospective witness.
6. Furthermore, that Mr. Miller, a citizen who came forward because, “[he] can only deal with truth” now thinks he is a suspect and is acknowledging his wrongdoing connected to seeing Dylan, strongly indicates that the government has impeded defense counsel’s investigation of the case. *See*. CRCP Rule 16 Part III(a)(prosecution agents shall not cause persons having relevant information to impede defense investigation of the case.) Prior to the government’s contact with Mr. Miller he was willing to provide the Court his home address, home phone number and a detailed written description of seeing Dylan before his disappearance. Mr. Miller also describes making a statement at the La Plata County Sheriff’s Office so openly that “several heard the interchange.” Letter Describing Seeing Dylan on Middle Mountain Road Before his Disappearance.
7. Mr. Redwine respectfully moves for a forthwith hearing on these matters.

WHEREFORE, Mr. Redwine makes this motion pursuant to the Due Process, Trial by Jury, Right to Counsel, Equal Protection, Cruel and Unusual Punishment, Confrontation, Compulsory Process, Collateral Estoppel, Double Jeopardy, Right to Remain Silent and Right to Appeal Clauses of the Federal and Colorado Constitutions, and the First, Fourth, 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.

Respectfully submitted,

/s/ John Moran
John Moran, No. 36019
Deputy State Public Defender
Dated: November 28, 2018

/s/ Justin Bogan
Justin Bogan, No. 33827
Deputy State Public Defender
Dated: November 28, 2018

Certificate of Service
I hereby certify that on December 12, 2018
I served the foregoing document by e-filing
same to all opposing counsel of record.
/s/ Justin Bogan /s/ John Moran