

DISTRICT COURT, LA PLATA COUNTY, COLORADO Court Address: 1060 E. Second Ave., Durango, CO 81301 Phone Number: (970) 247-2304	DATE FILED: December 6, 2018
Plaintiff: PEOPLE OF THE STATE OF COLORADO v. Defendant: MARK ALLEN REDWINE	▲ COURT USE ONLY ▲
	Case Number: 17CR343
C-22 ORDER DENYING THE MOTION OF THE INNOCENCE PROJECT FOR LEAVE TO FILE AMICUS BRIEF	

A non-party to this case, the Innocence Project, has filed a motion for leave to file an *amicus curiae* brief in support of the defendant, seeking to convince the Court not to allow the introduction of proposed expert testimony, asserting such evidence is unreliable and unduly prejudicial to the defendant.

There is no provision in Colorado law or procedure that allows the filing of *amicus* briefs in criminal cases on the trial court level. There are sound policy reasons not to allow the filing of *amicus* briefs on the trial court level.

The reasons militating against permission to file *amicus* briefs, irrespective of any considerations applicable to these two particular requests, are compelling. First, *amicus* briefs pose a significant additional burden on the court and likely on the opposing party, who often deems it necessary to respond to the arguments the briefs have advanced. Second, more often than not, *amicus* participation is not truly for the benefit of the court, but rather to bolster the advocacy of a party and provide that party additional briefing to which it would not be entitled under the applicable rules of the court. Third, *amicus* practice tends to drive up the costs of litigation.

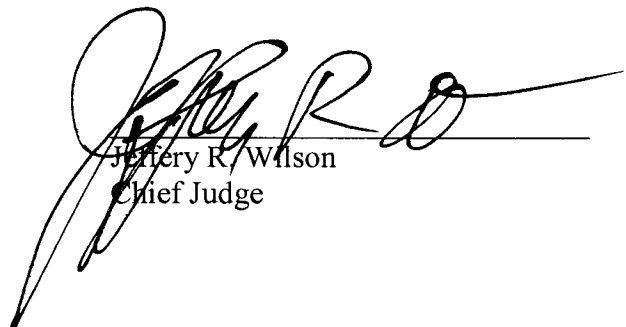
McCarthy v. Fuller, No. 1:08-CV-994-WTL-DML, 2012 WL 1067863, at *1 (S.D. Ind. Mar. 29, 2012).

Amicus briefs are normally filed at the appellate level after the record has been fully developed and the trial court has made factual findings regarding the issues the *amicus* brief addresses. The motion for leave to file an *amicus curiae* brief makes numerous factual assertions regarding the state of the evidence. The proposed brief cites various articles from what appear to be scientific journals, as well as newspaper articles, to present facts for the Court to consider. These facts are being presented for the Court's consideration before any evidentiary hearing has been held and before the Court has made any factual findings. This Court does not find it particularly helpful to consider an *amicus* brief which will make arguments which may not be accurate or consistent with the findings the Court may make after evidence is presented to the Court at the motions hearings.

In this case, the defendant is represented by experienced and competent counsel. Defense counsel is free to seek any technical assistance they desire from the Innocence Project. Allowing the filing of an *amicus* brief will accomplish little other than to increase the complexity of a case that already faces a multitude of factual and legal issues.

Done this 6th day of December, 2018.

BY THE COURT:



Jeffrey R. Wilson
Chief Judge