

DISTRICT COURT, LA PLATA COUNTY, COLORADO Court Address: 1060 E. Second Ave., Durango, CO 81301 Phone Number: (970) 247-2304	DATE FILED: February 19, 2019
Plaintiff: PEOPLE OF THE STATE OF COLORADO v. Defendant: MARK ALLEN REDWINE	▲ COURT USE ONLY ▲
	Case Number: 17CR343
ORDER REGARDING DEFENSE MOTIONS D-18 THROUGH D-34	

The defense has filed 17 motions (including two motions numbered D-31) objecting to the endorsement of proposed prosecution expert witnesses, arguing that the endorsements are vague and requesting the Court hold a hearing pursuant to *People v. Shreck*, 22 P.3d 68 (Colo. 2001) regarding the introduction of novel scientific evidence. The Court will deal with each motion below.

D-18 Erica Ames

At the motions hearing, the prosecution informed the Court that it did not intend to call Ms. Ames. If the prosecution decides to do so, they shall file a new endorsement of Ms. Ames.

D-19 Tanya Atkinson

Ms. Atkinson has been endorsed as an expert in crime scene analysis. Such testimony is not new or novel. The Court will therefore not hold a *Shreck* hearing for crime scene analysis. If the prosecution has not already done so, the prosecution will provide the information described in CRCrimP 16(d)(3) in the form of a report to be provided to defense counsel within 35 days of

the date of this order. The Court will limit the testimony of Ms. Atkinson to the information described in her report that has been provided to the defense in discovery.

D-20 Ashley Baloga

Ms. Baloga has been endorsed as an expert in the microscopic analysis of hair. Such testimony is not new or novel. The Court will therefore not hold a *Shreck* hearing for this expert testimony. If the prosecution has not already done so, the prosecution will provide the information described in CRCrimP 16(d)(3) in the form of a report to be provided to defense counsel within 35 days of the date of this order. The Court will limit the testimony of Ms. Baloga to the information described in her report that has been provided to the defense in discovery.

D-21 Patrick Beyer

Mr. Beyer has been endorsed as an expert in the analysis of data on computers and cell phones. Such testimony is not new or novel. The Court will therefore not hold a *Shreck* hearing for this expert testimony. If the prosecution has not already done so, the prosecution will provide the information described in CRCrimP 16(d)(3) in the form of a report to be provided to defense counsel within 35 days of the date of this order. The Court will limit the testimony of Mr. Beyer to the information described in his report that has been provided to the defense in discovery. If he has not done so already, Mr. Beyer shall identify for the prosecution and defense the programs that he used to collect data from the devices he tested.

D-22 John Buckleton

Mr. Buckleton has been endorsed as an expert in forensic biology and DNA analysis, apparently using new statistical analysis, which, to the Court's knowledge, has not been accepted previously by any appellate cases in the State of Colorado. The prosecution informed the Court

at the motions hearing that the new analysis might require a *Shreck* hearing. The Court was not informed at the motions hearing if Mr. Buckleton also utilized any new methods of testing the samples collected in the new DNA analysis. Defense counsel stated at the hearing held on December 13, 2018, that the defense would probably file a new motion arguing against the introduction of this evidence after becoming educated as to the new method of analyzing DNA. As of the date of this order, the defense has not done so. The Court would like to hold any hearings necessary regarding this evidence during the week of March 11, 2019. The Court will, by separate order, schedule a telephone status conference with the parties to determine if the parties are ready to hold such a hearing and determine what other issues the Court can address at that time.

D-23 Joe Clayton

Mr. Clayton has been endorsed as an expert in crime scene analysis. The Court issues the same order as issued in D-19 above.

D-24 Scott Eicher

Mr. Eicher has been endorsed as an expert to testify about analyzing cell phone tower data. As of the date this motion was discussed at the motions hearings, Mr. Eicher had not written a report concerning his findings. The Court will discuss whether a hearing needs to be held regarding Mr. Eicher's testimony at the telephone conference discussed above.

D-25 Kathleen Fetherston

Ms. Fetherston has been endorsed as an expert in forensic biology and DNA analysis, apparently using new statistical analysis discussed in D-22 above. The Court will discuss Ms. Fetherston's testimony at the telephone conference discussed above.

D-26 Kendra Felipe-Ortega

The defense announced at the motions hearings that it was withdrawing this motion.

D-27 Cynthia Kramer

The defense announced at the motions hearings that it was withdrawing this motion.

D-28 Krystle Rodriguez

The defense announced at the motions hearings that it was withdrawing this motion.

D-29 Dr. Robert Kurtzman

Dr. Kurtzman has been endorsed as an expert in forensic pathology. The only objection regarding Dr. Kurtzman's testimony stated at the motions hearing was that the defense did not have adequate contact information for Dr. Kurtzman. The prosecution agreed to provide better contact information at the motions hearing. If Dr. Kurtzman's contact information is still an issue, the defense shall inform the Court at the telephone conference discussed above.

D-30 Sarah Miller

Ms. Miller has been endorsed as an expert in forensic biology and DNA analysis, apparently using new statistical analysis discussed in D-22 above. The Court will discuss Ms. Miller's testimony at the telephone conference discussed above.

First D-31 Alex Rugh

Mr. Rugh has been endorsed as an expert in toolmark and crime scene analysis. Mr. Rugh also examined earbuds and fabric that were discovered during the search for Dylan. Neither crime scene analysis, the examination of toolmarks, or the examination of the earbuds or fabric are new or novel scientific evidence. The Court will therefore not hold a *Shreck* hearing for such testimony. If the prosecution has not already done so, the prosecution will provide the information described in CRCrimP 16(d)(3) in the form of a report to be provided to defense

counsel within 35 days of the date of this order. The Court will limit the testimony of Mr. Rugh to the information described in his report that has been provided to the defense in discovery.

Second D-31 Erich Smith

The defense announced at the motions hearings that it was withdrawing this motion and will rely upon the Court's ruling regarding Mr. Rugh, discussed in the first D-31 above. The Court issues the same order regarding Mr. Smith as it did above as to Mr. Rugh regarding toolmark analysis.

D-32 Rebecca Strub

The defense announced at the motions hearings that it was withdrawing this motion.

D-33 Eric Thornton

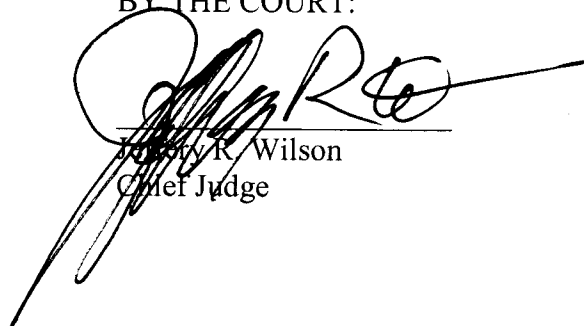
Mr. Thornton has been endorsed as an expert in crime scene analysis. The Court issues the same order as issued in D-19 above.

D-34 Kevin Torres

Mr. Torres has been endorsed as an expert in crime scene analysis. The Court issues the same order as issued in D-19 above.

DONE this 19th day of February, 2019.

BY THE COURT:



Jeffrey R. Wilson
Chief Judge