

DISTRICT COURT, LA PLATA COUNTY, COLORADO Court Address: 1060 East 2nd Avenue, Room 106, Durango, CO, 81301-5157	DATE FILED: February 19, 2019
The People of the State of Colorado v. MARK ALLEN REDWINE	<div style="text-align: center;"> <p>△ COURT USE ONLY △</p> <p>Case Number: 2017CR343 Division: 1 Courtroom:</p> </div>
<p>Order Regarding Motions to Suppress Evidence Obtained as a Result of an August 5, 2013, Warrantless Entry by a Law Enforcement Official Crawling Through a Second Floor Window and to Suppress Evidence Derived from a Search Warrant Supported by Affidavit Generated Through Illegal Police Conduct D-41 and D-42</p>	

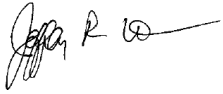
The defendant is charged with murder in the second degree and child abuse resulting in death in relation to the death of the defendant's thirteen-year-old son, Dylan. The defense has filed D-41, a motion to suppress the search of August 5, 2013, and a motion seeking to suppress the fruits of that search, D-42. On August 5, 2013, La Plata County Sheriff's Investigators wanted to have a cadaver dog and the dog's handler conduct a dog sniff search of the defendant's home and surrounding property. Investigator Cowing called the defendant to ask permission to conduct the search in and around the defendant's home. The defendant was driving to Illinois at the time of the telephone call and the defendant gave permission for the dog to search outside of the house but informed Investigator Cowing that the house was locked and searching the interior of the house with the dog would have to wait until he was home.

Investigator Cowing and Investigator Goldbricht then drove to the defendant's house with the dog and its handler where they discovered that a second-floor window was open, covered only by a screen. Investigator Cowing then called the defendant a second time to see if he could obtain permission to enter the house through the open window. The defendant gave permission for law enforcement to do so as long as there was no damage to the defendant's house. Investigator Cowing removed the screen without causing any damage and Investigator Goldbricht climbed through the window. Investigator Goldbricht then opened the door to the house from the inside for Investigator Cowing and the dog and its handler and a dog sniff search was conducted.

The Defendant argues that the search was conducted without a warrant or exigent circumstances and that the consent obtained from the defendant was coerced. The Court finds that by August 5, 2013, the defendant had had numerous contacts and interrogations by law enforcement with regard to the disappearance of his son. The defendant, upon reporting his son being missing, had dogs searching around his property for several days in multiple attempts to locate Dylan. The defendant, by August 5, 2013, had substantial experience with the investigation and knew his rights. There was no evidence presented at the suppression hearing that the defendant, who was not even in the State of Colorado when he gave consent to search his home, was coerced in any manner. Searches conducted after a valid grant of consent are lawful despite the fact that no search warrant was obtained. *Schneckloth v. Bustamonte*, 412 U.S. 218, 219, 93 S. Ct. 2041, 2043-44, 36 L. Ed. 2d 854 (1973). The Court finds by a totality of the circumstances that the defendant's consent was voluntarily given and therefore denies the motion to suppress the search of August 5, 2013 (D-41).

Because the Court has ruled that the search of August 5, 2013, was conducted after the defendant voluntarily consented to the search, any evidence obtained by such a search is not subject to suppression as the fruits of an illegal search and can be used to support the issuance of a future search warrant. Therefore, defense "Motion to Suppress Evidence Derived from Search Warrant Supported by Affidavit Generated Through Illegal Police Conduct" (D-42) is also denied.

Issue Date: 2/19/2019

A handwritten signature in black ink, appearing to read 'Jeffrey R. Wilson', with a long horizontal stroke extending to the right.

JEFFREY RAYMOND WILSON
District Court Judge