

DISTRICT COURT, LA PLATA COUNTY, COLORADO Court Address: 1060 E. Second Ave., Durango, CO 81301 Phone Number: (970) 247-2304	DATE FILED: February 22, 2019
Plaintiff: PEOPLE OF THE STATE OF COLORADO v. Defendant: MARK ALLEN REDWINE	▲ COURT USE ONLY ▲
	Case Number: 17CR343
ORDER REGARDING THE MOTION TO SUPPRESS UNRELIABLE AND SUGGESTIVE IDENTIFICATION (D-43)	

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 a motion entitled "Motion to Suppress Unreliable and Suggestive Identification." The defense seeks to prevent evidence from being introduced that a postal worker misidentified a child that she saw in the defendant's neighborhood as being Dylan. The postal worker made her initial identification shortly after Dylan's disappearance. In this case, a sheriff's deputy interviewed children who lived in the area and discovered that two children were walking in the area on the day the postal worker believed she had seen Dylan. The deputy took a picture of the two children on her cell phone and showed the picture to the postal worker. Upon seeing the picture, the postal worker believed that the person she had identified as Dylan was actually one of the two children in the picture.

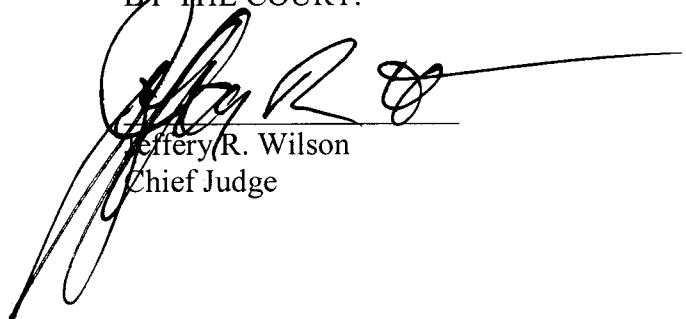
While the defendant can try to impeach the postal worker's second identification, the defendant has no standing to seek to have the evidence of the second identification excluded. A

criminal defendant has a constitutional due process right in a state prosecution to have evidence that was obtained in violation of the defendant's constitutional rights suppressed. *Mapp v. Ohio*, 367 U.S. 643, 81 S. Ct. 1684, 6 L. Ed. 2d 1081 (1961).¹ However, a defendant has no standing to seek the suppression of evidence that was illegally seized from a third person. See *Alderman v. United States*, 394 U.S. 165, 89 S.Ct. 961, 22 L.Ed.2d 176 (1969); *Wong Sun v. United States*, 371 U.S. 471, 83 S.Ct. 407, 9 L.Ed.2d 441 (1963); and *People v. Knapp*, 505 P.2d 7 (Colo. 1973).

Because the defendant does not have standing to raise the alleged illegally or unconstitutionally obtained evidence, the Motion to Suppress Unreliable and Suggestive Identification is denied.

DONE this 22nd day of February, 2019.

BY THE COURT:



Jeffery R. Wilson
Chief Judge

¹ The Court is not, by this order, finding that the second identification was obtained in an illegal or unconstitutional manner.