

DISTRICT COURT, LA PLATA COUNTY, COLORADO Court Address: 1060 E. Second Ave., Durango, CO 81301 Phone Number: (970) 247-2304	▲ COURT USE ONLY ▲
Plaintiff: PEOPLE OF THE STATE OF COLORADO v. Defendant: MARK ALLEN REDWINE	
Christian Champagne - District Attorney, #36833 Matthew Durkin, Special Deputy District Attorney, #28615 Fred Johnson, Special Deputy District Attorney, #42479 P.O. Drawer 3455, Durango, Colorado 81302 Phone Number: (970) 247-8850 Fax Number: (970) 259-0200	Case Number: 17 CR 343
PEOPLE'S MOTION FOR DISCOVERY PURSUANT TO RULE 16 (P-6) [PUBLIC ACCESS]	

COME NOW the People, by and through Christian Champagne, District Attorney in and for the Sixth Judicial District of the State of Colorado, and makes the following motion for discovery the following motion for discovery, theory of defense, and notice of alibi pursuant to Colorado Rule of Criminal Procedure 16:

1. The People request the Court order the Defense to provide the People, no later than 35 days prior to trial or 10 days prior to any hearing in the case, the following material and information in the possession, custody, or control of the defense, including all agents who participated in the investigation or evaluation of the present case and either report to or have reported to the defense with reference to this case:
 - a. Medical and Scientific Reports: Any reports or statements of experts made in connection with this matter, including but not necessarily limited to, results of physical or mental examinations and of scientific tests, experiments, or comparisons. Further, the prosecution requests that it be permitted to inspect and copy or photograph any of the above stated reports or statements. C.R.Cr.P. Rule 16(II)(b)(1).
 - b. Expert Reports: The People request the disclosure of the underlying facts or data supporting the opinion of an expert endorsed as a witness. If a report has not been prepared by an expert, the People request that

defendant be ordered to provide a written summary of the testimony to be provided by the expert witness describing the witness' opinions and the bases and reasons therefore, including the results of physical or mental examinations and of scientific tests, experiments, or comparisons. C.R.Cr.P. rule 16(II)(b)(2). "The intent of [this rule] is to allow the prosecution sufficient meaningful information to conduct effective cross-examination under CRE 705." Crim. P. Rule 16(II)(b)(2). This contemplates the need for the People to receive advance disclosure of all opinions or inferences, reasoning, and underlying facts or data for cross examination.

- c. Nature of Defense: If the defendant intends to introduce evidence that the defendant was at a place other than the location of the offense, defendant must provide a statement in writing specifying the place where he or she claims to have been and the names and addresses of the witnesses he or she will call to support the defense of alibi. C.R.Cr.P. Rule 16(II)(c). Pursuant to C.R.Cr.P. Rule 16(II)(d), such written statement shall be provided as soon as practicable but not less than 35 days before trial.
 - d. Witness Endorsements: The names and addresses of persons whom the defendant intends to call as witnesses at trial, including any and all expert witnesses and the field or area of their expertise. Pursuant to C.R.Cr.P. Rule 16(II)(c), such disclosure is required to be made not less than 35 days before trial in a felony case and not less than 7 days before trial in a non-felony case.
2. A lawyer has an affirmative duty to surrender incriminating evidence in his possession. CBA Ethics Opinion 60 (1982); See also, Robert J. Deiter, COLORADO CRIMINAL PRACTICE AND PROCEDURE §1.52 (2nd Edition, 2004). Incriminating evidence is evidence which tends to establish guilt of the accused or from which, with other evidence, his or her guilt may be inferred. Black's Law Dictionary, 6th Ed. (1995).
 3. If defense counsel comes into possession of any document or other material with potential evidentiary value, defense counsel is required to preserve the material and provide it to the People. Colo.R.P.C. Rule 3.4(a); CBA Ethics Opinion 60 (1982); See also, Robert J. Deiter, COLORADO CRIMINAL PRACTICE AND PROCEDURE §1.52 (2nd Edition, 2004).
 4. The prosecution further requests that, if subsequent to compliance with the order of the court and pursuant to the prosecution's motions, the defendant discovers additional witnesses, material, information, or changes in the theory of defense, which is encompassed by this motion, the defendant shall be under a continuing duty to notify the prosecution of the existence of such matters and shall such materials promptly to the prosecution. C.R.Cr.P. Rule 16(III)(b).

WHEREFORE, the People respectfully petition this honorable court to order the defendant to disclose and provide the above-requested materials no later than 35 days before trial.

Respectfully submitted this June 28, 2018.

CHRISTIAN CHAMPAGNE
DISTRICT ATTORNEY
6th JUDICIAL DISTRICT

/s/ Christian Champagne
Christian Champagne #36833
District Attorney

CERTIFICATE OF SERVICE

I hereby certify that on 6/28/18, I delivered a true and correct copy of the foregoing to the parties of record via e-service.

/s/ Christian Champagne
Christian Champagne