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District Court, Arapahoe County, Colorado Arapahoe County Courthouse 7325 S. Potomac St., Centennial, CO 80112	7230 JUN - 8 2013 COURT CLERK σ COURT USE ONLY σ
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff v. JAMES HOLMES, Defendant	
DOUGLAS K. WILSON, Colorado State Public Defender Daniel King (No. 26129) Tamara A. Brady (No. 20728) Chief Trial Deputy State Public Defenders 1300 Broadway, Suite 400 Denver, Colorado 80203 Phone (303) 764-1400 Fax (303) 764-1478 E-mail: state.pubdef@coloradodefenders.us	Case No. 12CR1522 Division 26
MOTION TO LIMIT INFLAMMATORY IMAGES SHOWN TO JURORS [D-098]	

CERTIFICATE OF CONFERRAL

The District Attorney states that they object to the motion, and that they will file a response.

Mr. Holmes is charged with multiple counts of first degree murder and attempted murder in connection with the July 20, 2012, shooting at the Century 16 Theater in Aurora. The prosecution seeks to kill Mr. Holmes. Mr. Holmes, through counsel, hereby moves to limit the inflammatory images shown to jurors. In support of this motion, he states the following:

1. As the Court is aware, there are approximately 82 named victims with varying degrees of injuries, ranging from superficial injuries to death.
2. Discovery contains graphic images of the victims' injuries in various states of medical treatment.
3. Counsel for Mr. Holmes requests a pretrial hearing at which the prosecution specifies which images it intends to introduce at trial, so that defense counsel can request limitations on that type of evidence.
4. Of particular concern to counsel are the numerous photographs and video of the deceased victims and severely injured victims, many of which have little or no probative value, and are likely to have the improper effects of offending the jurors, causing them trauma, evoking sympathy for the victims' families, arousing passion against Mr. Holmes, and causing jurors to

convict or impose a death sentence for constitutionally improper reasons. Such inappropriate effects of unnecessary images would distract the jurors from their true function of finding the facts in the case.

5. Many of the images have little, if any, probative value, and after hearing the State's proposed theories of what relevance each particular photo has, the defense can respond, so that the State's claims can be properly litigated. It is likely, after hearing the State's offers of proof, that the defense may offer evidentiary stipulations which would render admission of some images unnecessary.

6. It would be impractical and a waste of defense time to now specify objections to each of the hundreds of images obtained from the State in discovery, since the State certainly will not seek to admit but a small fraction of those images. The Court should act to prevent such a waste of limited defense resources.

7. This Court will eventually have to make the necessary determination, outside of the jury's presence, whether offered photographs will or will not be admitted. CRE 103,104. If the Court makes that determination prior to the beginning of trial, rather than during trial, the trial will run more efficiently and without unnecessary delay.

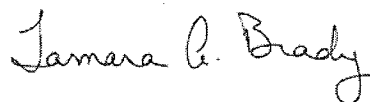
Request for a Hearing

8. Mr. Holmes moves for a hearing on this motion.

Mr. Holmes files this motion, and makes all other motions and objections in this case, whether or not specifically noted at the time of making the motion or objection, on the following grounds and authorities: the Due Process Clause, the Right to a Fair Trial by an Impartial Jury, the Rights to Counsel, Equal Protection, Confrontation, and Compulsory Process, the Rights to Remain Silent and to Appeal, and the Right to be Free from Cruel and Unusual Punishment, pursuant to the Federal and Colorado Constitutions generally, and specifically, the First, Fourth, Fifth, Sixth, Eighth, Ninth, Tenth, and Fourteenth Amendments to the United States Constitutions, and Article II, sections 3, 6, 7, 10, 11, 16, 18, 20, 23, 25 and 28 of the Colorado Constitution.



Daniel King (No. 26129)
Chief Trial Deputy State Public Defender



Tamara A. Brady (No. 20728)
Chief Trial Deputy State Public Defender



Kristen M. Nelson (No. 44247)
Deputy State Public Defender

Dated: June 3, 2013

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ORDER RE: MOTION TO LIMIT INFLAMMATORY IMAGES SHOWN TO JURORS [D-098]	

Defendant's motion is hereby GRANTED _____ DENIED _____.

BY THE COURT:

JUDGE

Dated

I hereby certify that on June 3, 2013, I

mailed, via the United States Mail,
 faxed, or
 hand-delivered

a true and correct copy of the above and foregoing document to:

George Brauchler
Jacob Edson
Rich Orman
Karen Pearson
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Alex