

REDACTED

District Court, Arapahoe County, Colorado Arapahoe County Courthouse 7325 S. Potomac St., Centennial, CO 80112	Filed JUN - 8 2015 DISTRICT COURT ARAPAHOE COUNTY COLORADO 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
OBJECTION TO THE SUBMISSION OF WRITTEN QUESTIONS BY JURORS [D-086]	

CERTIFICATE OF CONFERRAL

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

Mr. Holmes objects to the submission of juror questions at trial. The grounds in support of this motion are as follows:

1. Mr. Holmes has entered Not Guilty By Reason of Insanity pleas to the 166 charges in this case and the prosecution is seeking the death penalty.

2. Pursuant to Crim. P. 24(g), the Court is vested with the discretion to prohibit or limit questioning based on "the severity of the charges." In this case, Mr. Holmes is charged with *inter alia* first-degree murder and the State is seeking to execute him. More severe charges and/or penalties do not exist. Based on severity of the charges in this case and the ultimate punishment that Mr. Holmes faces, this Court must exercise its discretion under Crim. P. 24(g) and prohibit juror questioning.

3. Pursuant to Crim. P. 24(g), the Court is vested with the discretion to prohibit or limit questioning based on "the presence of significant suppressed evidence or for other good cause." There are a multitude of complex legal and evidentiary issues that will almost certainly arise in both the trial on the merits and potentially the penalty phase, if any. Undersigned counsel expects that this Court will issue many pre-trial rulings limiting certain evidence against Mr. Holmes and suppressing other evidence altogether. Given this likelihood, this Court must exercise its discretion under Crim. P. 24(g) and prohibit juror questioning.

4. Juror questioning sanctions the shifting of the burden of proof from the prosecution to the defense and violates Mr. Holmes' right to due process of law under the state and federal constitutions. *In re Winship*, 397 U.S. 358, 359 (1970).

5. Juror questioning impacts Mr. Holmes' right to testify under the state and federal constitutions. *See, e.g., Rock v. Arkansas*, 483 U.S. 44 (1987); *People v. Curtis*, 681 P.2d 504, 512 (Colo.1984).

6. Crim. P. 24(g) lacks any guidelines for screening or excluding improper questions.

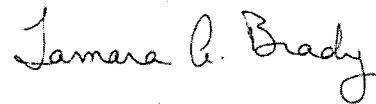
Request for a Hearing

7. 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

District Court, Arapahoe County, Colorado Arapahoe County Courthouse 7325 S. Potomac St., Centennial, CO 80112	
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff v. JAMES HOLMES, Defendant	σ COURT USE ONLY σ
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
<p style="text-align: center;">ORDER RE: OBJECTION TO THE SUBMISSION OF WRITTEN QUESTIONS BY JURORS [D-086]</p>	

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
Office of the District Attorney
6450 S. Revere Parkway
Centennial, Colorado 80111
Fax: 720-874-8501

AK