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| District Court, Arapahoe County, Colorado<br>Arapahoe County Courthouse<br>7325 S. Potomac St., Centennial, CO 80112  | Filed<br>JUL 17 2013<br>COURT USE ONLY                          |
| THE PEOPLE OF THE STATE OF COLORADO,<br>Plaintiff<br><br>v.<br><br><b>JAMES HOLMES,</b><br>Defendant  |   |
| DOUGLAS K. WILSON, Colorado State Public Defender<br>Daniel King (No. 26129)<br>Tamara A. Brady (No. 20728)<br>Chief Trial Deputy State Public Defenders<br>1300 Broadway, Suite 400<br>Denver, Colorado 80203<br>Phone (303) 764-1400 Fax (303) 764-1478<br>E-mail: <a href="mailto:state.pubdef@coloradodefenders.us">state.pubdef@coloradodefenders.us</a> | Case No. <b>12CR1522</b><br><br><br><br><br><br><br>Division 26 |
| <b>REPLY TO PEOPLE’S RESPONSE TO MOTION FOR REALISTIC, GOOD FAITH WITNESS LIST [D-096]</b>  |   |

Mr. Holmes, through counsel, submits the following in reply to the prosecution’s response to his Motion for Realistic, Good Faith Witness List:

1. The prosecution states that they do not object to providing a good faith witness list to the defense, but provides no specific time frame for doing so. Instead, they request that this Court hold this motion until the pretrial status hearing presently scheduled for January 10, 2014.

2. Mr. Holmes objects to this suggestion. If the Court waits until January 10, 2014 or beyond to resolve this issue, the defense will likely seek a continuance of the trial because they will not have had sufficient time to investigate all of the 3500 witnesses endorsed by the prosecution.

3. Counsel is obligated under the Sixth Amendment, article II, section 16 of the Colorado Constitution and the ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases to “seek out and interview potential witnesses.” See commentary to ABA Guideline 10.7 (rev. ed. 2003). See also *Powell v. Alabama*, 287 U.S. 45, 57 (1932) (noting that “thorough-going investigation and preparation” by defense counsel is “vitaly important”). Unless the prosecution (or the Court) is willing to declare which of the nearly 3,500 endorsed witnesses won’t be called at trial, the defense has a constitutional and ethical obligation to investigate and interview every one of them.

4. The Court should grant a hearing on this motion and take it up during the four weeks in October that are currently dedicated to resolving non-capital motions.

## Request for a Hearing

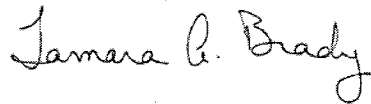
5. Mr. Holmes renews his request for a hearing on this motion.

Mr. Holmes incorporates by reference the arguments set forth in his original motion, files this reply 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.



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



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



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

Dated: July 17, 2013

I hereby certify that on July 11, 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  
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Centennial, Colorado 80111  
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AKOS