

DISTRICT COURT, ARAPAHOE COUNTY, STATE OF COLORADO 7325 S. Potomac St. Centennial, Colorado 80112	▲ COURT USE ONLY ▲
<b>PEOPLE OF THE STATE OF COLORADO</b>  v.  <b>JAMES EAGAN HOLMES,</b> <b>Defendant</b>	Case No. <b>12CR1522</b>  Division: <b>201</b>
<b>ORDER REGARDING MOTION REQUESTING CLARIFICATION          WITH RESPECT TO NON-CAPITAL MOTIONS HEARINGS (D-174)</b>	

The defendant seeks clarification of Notice C-51, which granted hearings on some of his non-capital motions. Motion D-174 at p. 1. More specifically, the defendant requests an explanation as to: (1) why the Court granted an evidentiary hearing only with respect to the proposed testimony of Detectives Leiker and Madonna on Motion D-108; (2) why the Court granted an evidentiary hearing only with respect to the proposed testimony of David McCollam and Pamela Reynolds on Motion D-109; (3) how the Court is planning to rule on all other aspects of Motions D-108 and D-109; (4) why the Court granted an evidentiary hearing on Motion D-122 as to the Point Loma Credit Union records, but not as to the USAA Federal Savings Bank records; and (5) whether the Court intends to hold a hearing

on any aspect of Motion D-106. *Id.* For the reasons articulated in this Order, the motion for clarification is granted in part and denied in part.

After reviewing Motion D-109 again, the Court has decided to grant the defendant's request for an evidentiary hearing on the proposed expert testimony of Andria Mehlretter. However, the Court denies the request to explain how it plans to rule on the aspects of Motions D-108 and D-109 as to which it has not granted a hearing. To provide the explanation requested would be to issue a premature and improper advisory decision about how the Court intends to rule on some aspects of the defendant's motions.

For the same reason, the Court denies the request to explain why it granted an evidentiary hearing on some portions of Motions D-108 and D-109, but not on others. The Court cannot provide this explanation without discussing the merits of the motions. After the hearing, the Court will issue orders addressing all aspects of Motions D-108 and D-109. To the extent that a hearing will not be held with respect to some of the issues raised in these motions, it is because the Court has concluded that it should resolve such issues based on the parties' submissions. In other words, the Court is convinced that a hearing is neither necessary nor warranted on those aspects of the motions.

The request for clarification with respect to Motion D-122 is denied because no clarification is necessary. Given the disclosure in pages 2 through 4 in the

prosecution's response, the Court's grant of an evidentiary hearing only on the admissibility of the Point Loma Credit Union records requires no elucidation.

The Court does grant the request for clarification with respect to Motion D-106. The Court had not yet indicated whether it would hold an evidentiary hearing on this motion because the motion was not fully briefed until the defendant filed his reply, approximately a week before Motion D-174 was filed, and the Court did not want to make a premature determination. Having reviewed the briefs submitted, the Court notifies the parties that an evidentiary hearing should be scheduled on Motion D-106.<sup>1</sup>

For all the foregoing reasons, Motion D-174 is granted in part and denied in part. It is granted to the extent that it seeks clarification as to whether a hearing will be held on Motion D-106. It is otherwise denied.

Dated this 25<sup>th</sup> day of September of 2013.

BY THE COURT:



\_\_\_\_\_  
Carlos A. Samour, Jr.  
District Court Judge

---

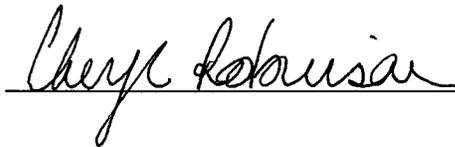
<sup>1</sup> Motion D-110 was not fully briefed until September 20. After reviewing the parties' submissions related to Motion D-110, the Court concludes that a hearing is not necessary or warranted on that motion.

CERTIFICATE OF SERVICE

I hereby certify that on September 25, 2013, a true and correct copy of the **Order regarding motion requesting clarification with respect to non-capital motions hearings (D-174)** was served upon the following parties of record:

Karen Pearson  
Amy Jorgenson  
Rich Orman  
Dan Zook  
Jacob Edson  
Lisa Teesch-Maguire  
George Brauchler  
Arapahoe County District Attorney's Office  
6450 S. Revere Parkway  
Centennial, CO 80111-6492  
(via e-mail)

Sherilyn Koslosky  
Rhonda Crandall  
Daniel King  
Tamara Brady  
Kristen Nelson  
Colorado State Public Defender's Office  
1290 S. Broadway, Suite 900  
Denver, CO 80203  
(via e-mail)

  
\_\_\_\_\_