

DISTRICT COURT, ARAPAHOE COUNTY, STATE OF COLORADO 7325 S. Potomac St. Centennial, Colorado 80112	▲ COURT USE ONLY ▲
PEOPLE OF THE STATE OF COLORADO v. JAMES EAGAN HOLMES, Defendant	Case No. 12CR1522 Division: 201
ORDER RULING ON MOTION TO RECONSIDER ORDER REGARDING DEFENDANT’S MOTION FOR REALISTIC, GOOD FAITH WITNESS LIST (D-96-B)	

On August 1, 2013, the Court granted the defendant’s motion for a realistic, good faith witness list. *See* Order D-96. The defendant’s motion did not identify a date by which the requested good faith list of witnesses should be provided. Contrary to the defendant’s assertion, the prosecution did not respond that “it could provide such a list on or about January 10, 2014.” Motion D-96a at p. 1. What the prosecution urged the Court to do is to wait until the pretrial status hearing, which was then set on January 10, 2014, to address the issue. Motion D-96 Response at p. 2. In other words, the prosecution asked the Court to defer setting a deadline until January 10.

The Court ordered the prosecution to provide a good faith list of trial witnesses, including any death penalty sentencing hearing witnesses, by no later than Monday, January 13, 2014, three weeks and three days before the first group of prospective jurors is scheduled to respond. Order D-96 at pp. 1-2. In setting this deadline, the Court considered that jury selection is likely to take months in this case. *Id.* at p. 2. The Court also noted that defense counsel are skilled and experienced, have been provided discovery, and will no doubt anticipate at least some of the witnesses the People will call at trial. *Id.*

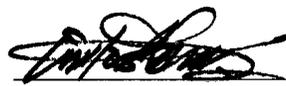
Like Motion D-96, the motion to reconsider fails to state a date by which the defense wishes to have a good faith list of witnesses. However, at a hearing held earlier today, the defense requested a deadline sometime in October. The prosecution indicated it could provide such list by December 1, 2013, because by then the Court will have ruled on all the non-capital motions. In order to afford the defense as much opportunity as possible to prepare for the February 3, 2014 trial, the Court orders the prosecution to provide a good faith witness list two weeks after the Court resolves the last of the non-capital motions set for a hearing in October or by December 1, whichever is earliest.

Because trials are not entirely predictable, and because there are thousands of witnesses endorsed and the parties are likely to be heavily engaged in trial preparation up until jury selection commences, the prosecution may supplement

their list after it is provided to the defense, as long as they act in good faith in attempting to comply with this Order. Therefore, barring a lack of good faith, this Order should not be interpreted as preventing the prosecution from calling timely endorsed witnesses simply because they were not included in their good faith list. As the defense acknowledged at today's hearing, there is no rule that requires the prosecution to provide a good faith witness list, much less a good faith witness list months in advance of trial.

Dated this 30th day of September of 2013.

BY THE COURT:



Carlos A. Samour, Jr.
District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2013, a true and correct copy of the **Order ruling on motion to reconsider order regarding defendant's motion for realistic, good faith witness list (D-96-B)** 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)