

# REDACTED

District Court, Arapahoe County, Colorado Arapahoe County Courthouse 7325 S. Potomac St., Centennial, CO 80112	<b>Filed</b> <b>OCT 22 2013</b> <small>CLERK OF THE COMBINED COURT ARAPAHOE COUNTY, COLORADO</small> <b>σ COURT USE ONLY σ</b>
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff  v.  <b>JAMES HOLMES,</b> 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: <a href="mailto:state.pubdef@coloradodefenders.us">state.pubdef@coloradodefenders.us</a>	Case No. <b>12CR1522</b>  Division 201
<b>MOTION FOR EXTENSION OF TIME TO FILE MOTIONS REGARDING CMHIP REPORT [D-183]</b>	

## CERTIFICATE OF CONFERRAL

The prosecution states that they object to the relief requested in this motion.

Mr. Holmes, through counsel, respectfully requests an extension of time to file motions arising out of the report of the sanity evaluation conducted at the Colorado Mental Health Institute at Pueblo. In support of this motion, he states the following:

1. Defense counsel previously sought, and received, leave of Court to file additional motions in this case pertaining to the report of the sanity evaluation conducted at the Colorado Mental Health Institute at Pueblo.
2. The defense requested until November 20, 2013 to file such motions. *See* Motion [D-179].
3. This Court granted the defense leave to file these motions, but imposed a deadline of October 24, 2013, the day after the October motions hearings are scheduled to conclude.
4. Defense counsel have made every effort to meet this earlier deadline imposed by the Court, but at this point meeting this deadline has become an impossibility and they will require additional time to complete these motions.
5. The report of the sanity evaluation conducted in this case was provided to the

Court and the parties on September 6, 2013.

6. The month of September was an extremely busy month for the defense. Counsel had significant obligations in other cases that they were required to meet, were out of the office for a significant amount of time on work-related travel assignments, were engaged in a number of activities involving pre-trial preparations, were preparing for the October motions hearings, and filed a large number of other written pleadings in this case, including responses to capital motions filed by the prosecution on August 16, replies to the prosecution's responses to capital motions filed by the defense on August 16, as well as other assorted pleadings. Given all of counsel's other obligations in September, counsel were unable to make significant progress drafting motions pertaining to the CMHIP evaluation prior to the October motions hearings.

7. For the past several weeks, counsel have been in court nearly every day for non-capital motions hearings. These hearings, and continued preparations for these hearings, have consumed and required counsel's full attention.

8. Counsel anticipate filing approximately half a dozen motions pertaining to the CMHIP sanity evaluation. While somewhat small in number, these motions involve very important and complex legal issues, many of which pertain to the death penalty and mental illness and have never been filed or litigated before in the State of Colorado. The issues involved in these motions are issues that form the basis of the core of this case.

9. In order to discharge their ethical and constitutional obligations to Mr. Holmes effectively, counsel require additional time so they can devote the attention to these important motions that they deserve. *See Strickland v. Washington*, 466 U.S. 668 (1984); *People v. Rodriguez*, 914 P.2d 230, 294 (Colo. 1996) ("A defendant's right to effective assistance of counsel is guaranteed by the United States and Colorado Constitutions."). All of the work performed in this case must be done with the utmost amount of care and attention to detail given that this is a capital case. *See ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases* 10.8, commentary, rev. ed. 2003 ("Because of the possibility that the client will be sentenced to death, counsel must be significantly more vigilant about litigating all potential issues at all levels in a capital case than in any other case.").

10. Given all of their other obligations, counsel maintain that their original request of a November 20, 2013 deadline was a reasonable and appropriate request. Counsel have a number of obligations related to trial preparation during the last week in October, and it will be a very busy week for counsel. In addition to other trial preparations, by November 15, 2013, counsel will also have to draft and file replies to the twenty capital motions that were filed on August 30, 2013, which also involve complicated and substantive legal issues important to this case.

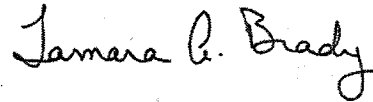
11. If the Court is still disinclined to grant that request, counsel respectfully requests that the Court give them at least until November 8, 2013 to file these motions.

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.



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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: October 22, 2013

District Court, Arapahoe County, Colorado Arapahoe County Courthouse 7325 S. Potomac St., Centennial, CO 80112	       <p style="text-align: center;">σ COURT USE ONLY σ</p>
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff  v.  <b>JAMES HOLMES,</b> 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: <a href="mailto:state.pubdef@coloradodefenders.us">state.pubdef@coloradodefenders.us</a>	Case No. <b>12CR1522</b>      Division 201
<b>ORDER RE: MOTION FOR EXTENSION OF TIME TO FILE MOTIONS          REGARDING CMHIP REPORT [D-183]</b>	

Defendant's motion is hereby GRANTED \_\_\_\_\_ DENIED \_\_\_\_\_.

BY THE COURT:

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JUDGE

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Dated

I hereby certify that on October 22, 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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