

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: 202
ORDER REQUIRING PARTIES TO CONFER AND TO FURTHER ADVISE THE COURT BEFORE NOVEMBER 3 (C-157)	

In Motion D-98, the defendant requests “to limit the inflammatory images shown to jurors.” Motion D-98 at p. 1. According to the defendant, “[m]any of the images” in the prosecution’s possession “have little, if any, probative value.” *Id.* at p. 2. Yesterday, the prosecution submitted for the Court’s review discs and thumbnail printouts containing thousands of photographs it may attempt to introduce at trial. *See* Motion P-95.

The prosecution appears to have submitted copies of all of the images in its possession that it intends to introduce at trial. However, Motion D-98 does not seek the exclusion of all graphic images of the victims’ injuries. Rather, the defense moves to preclude some of those images. Accordingly, the Court asks the parties to confer so that they may identify for the Court before November 3 the

specific images in dispute. Of course, while conferring, the parties must attempt in good faith to resolve any disagreements without the Court's intervention. Only those disagreements that remain after the parties confer will be addressed by the Court at the November 3 hearing.

To the extent that the defendant seeks "a pretrial hearing at which the prosecution specifies which images it intends to introduce at trial" so that he may learn about "the State's proposed theories of what relevance each photo has," *see* Motion D-98 at pp. 1-2, the request is denied. There is no need for a hearing so that the prosecution can show the defendant the images it intends to introduce at trial. Nor would it be appropriate to have a hearing so that the prosecution can explain to the defendant why it believes each image is relevant. All of that should take place outside the Court's presence. As indicated, a hearing will be held only to address the disputes the parties are unable to resolve. The alternative is to wait until the trial and to have the defense object to each image separately.

Through Motion P-95, the prosecution also filed copies of audio/visual exhibits it intends to introduce at trial. To the extent that there are disputes over redactions to audio or video exhibits, the parties must confer and attempt to resolve them without the Court's assistance. The parties should then advise the Court about the requested redactions that remain in dispute.

If there is insufficient time for the parties to comply with this Order before November 3, the parties should notify the Court. In that event, the Court will reschedule the November 3 hearing to the second or third week of November.

Dated this 30th day of October of 2014.

BY THE COURT:



Carlos A. Samour, Jr.
District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2014, a true and correct copy of the Court's **Order Requiring Parties to Confer and to Further Advise the Court Before November 3 (C-157)** was served upon the following parties of record:

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