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| District Court, Arapahoe County, Colorado Arapahoe County Courthouse 7325 S. Potomac St., Centennial, CO 80112 | Filed SEP 05 2014 CLERK OF THE COMBINED COURT ARAPAHOE COUNTY, COLORADO |
| THE PEOPLE OF THE STATE OF COLORADO, Plaintiff v. JAMES HOLMES, Defendant | σ COURT USE ONLY σ |
| 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: state.pubdef@coloradodefenders.us | Case No. 12CR1522 Division 202 |
| MOTION FOR COURT ORDER REQUIRING CLERK TO FURNISH RESULTS AND WRITTEN REPORT OF EXAMINATION CONDUCTED PURSUANT TO COURT ORDER P-68 TO DEFENSE COUNSEL IN ADVANCE OF ANY SUBSEQUENT DISCLOSURE TO THE PROSECUTION [D-230] | |

CERTIFICATE OF CONFERRAL

The prosecution states that it objects to this motion.

Pursuant to the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution and article II, sections 16, 18 and 25 of the Colorado Constitution, Mr. Holmes, through counsel, respectfully moves for a court order requiring the Clerk of the Court to furnish the results and report of any examination conducted pursuant to court order P-68 to the defense in advance of providing the prosecution with the same. In support of this motion, Mr. Holmes states the following:

1. In advance of Mr. Holmes's first sanity examination, which was conducted by Dr. Jeffrey Metzner, the defense filed a motion requesting a court order requiring the clerk to furnish the results and written report of the sanity examination to defense counsel in advance of any subsequent disclosure to the prosecution. *See* Motion D-93. The Court denied this request. *See* Order re: Motion D-93.

2. On February 19, 2014, this Court granted the prosecution's motion for a "further

or other” examination pursuant to C.R.S. § 16-8-106(1), and ordered CMHIP to select another psychiatrist or forensic psychologist to conduct a new sanity examination of Mr. Holmes. *See* Order re: P-68, p. 2. CMHIP selected [REDACTED] to conduct the new examination.

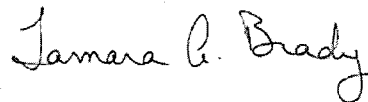
3. Guideline 10.8(B)(2) of the American Bar Association Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases requires counsel to “ensure that a full record is made of all legal proceedings in connection with the claim.” *See* 31 Hofstra L. Rev. 913, 1028-29 (2003).

4. Therefore, while the defense acknowledges that the Court previously rejected the arguments that counsel set forth in Motion D-93 with respect to the first sanity examination, in order to adequately preserve the record in this capital case, counsel hereby incorporate by reference all arguments made in Motion D-93, and request that the Court order the clerk of the court to furnish the results and written report of the sanity examination conducted by [REDACTED] to the defense in advance of any subsequent disclosure to the prosecution.

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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Chief Trial Deputy State Public Defender



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



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

Dated: September 5, 2014

I hereby certify that on 9/5, 2014, I

mailed, via the United States Mail,
 faxed, or
 hand-delivered

a true and correct copy of the above and foregoing document to:

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