

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 SUPPLEMENTING ORDER D-248 (D-248-A)	

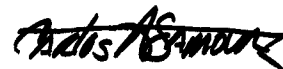
On November 3, 2014, the Court issued Order D-248. This Order supplements that Order.

In Order D-248, the Court explained that “[t]he fact that Dr. Reid did not consider, and will not opine about, mitigating factors does not mean that the jury may not consider his testimony during a capital sentencing hearing.” Order D-248 at p. 3. The Court then noted that “Colorado law specifically provides that during a capital sentencing hearing the jury may consider ‘any evidence presented in the guilt phase of the trial,’ so long as ‘the court deems [it] relevant to the nature of the crime, and the character, background, and history of the defendant.’” *Id.* (quoting § 18-1.3-1201(1)(b), C.R.S. (2014)).

As relevant here, section 16-8-107(1.5)(b) provides that “[e]vidence acquired directly or indirectly for the first time from a communication derived from the defendant’s mental processes during the course of a court-ordered examination . . . is admissible at any sentencing hearing . . . only to prove the existence or absence of any mitigating factor.” Thus, any testimony by Dr. Reid or other evidence regarding communications derived from the defendant’s mental processes during the second court-ordered examination may be admitted at a sentencing hearing only for the limited purpose of proving the existence or absence of a mitigating factor. Of course, as noted in Order D-248, Dr. Reid was not asked to assess how any mental disease or defect, or a condition of mind caused by a mental disease or defect, affects any mitigating factor. *See* Order D-248 at pp. 2-3. Consequently, he may not offer any opinions about a mitigating factor during the sentencing hearing.¹

Dated this 5th day of November of 2014.

BY THE COURT:



Carlos A. Samour, Jr.
District Court Judge

¹ Because mitigation is not relevant during the guilt phase of the trial, there is no danger that Dr. Reid’s testimony during that phase of the trial will include opinions about any mitigating factors.

CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2014, a true and correct copy of the Court's **Order Supplementing Order D-248 (D-248-A)** was served upon the following parties of record:

Karen Pearson
Christina Taylor
Rich Orman
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)

A handwritten signature in black ink, appearing to read "Anna Dulmage". The signature is written in a cursive style and is positioned on the right side of the page.