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| District Court, Arapahoe County, Colorado Arapahoe County Courthouse 7325 S. Potomac St., Centennial, CO 80112 | Filed OCT 23 2014 CLERK OF THE COMBINED COURT ARAPAHOE COUNTY, COLORADO σ COURT USE ONLY σ |
| THE PEOPLE OF THE STATE OF COLORADO, Plaintiff v. JAMES HOLMES, 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: state.pubdef@coloradodefenders.us | Case No. 12CR1522 Division 202 |
| REPLY IN SUPPORT OF DEFENDANT'S MOTION TO CONTINUE THE TRIAL [D-245] | |

Mr. Holmes, through counsel, submits the following in reply to the prosecution's response to the defense's motion to continue the trial [D-245]:

1. The prosecution indicates that given the potential issues raised by the second sanity examination, it does not oppose a brief continuance until the third week of January.

2. The defense appreciates the prosecution's acknowledgment that it is reasonable to allow an additional amount of limited time to address issues raised by the second sanity examination. However, the defense opposes the specific, short amount of additional time the prosecution is proposing.

3. The defense wishes to emphasize that it is not attempting to unnecessarily delay this trial. As explained in Motion D-245, the delays that have arisen in this case thus far are primarily, if not exclusively, attributable to the prosecution's decision to request an additional sanity examination and the Court's decision to grant that motion, both of which were vigorously opposed by the defense. Now that the second sanity examination has been completed, it is only fair, as well as constitutionally required, that the defense be given an adequate opportunity to consider, respond to, and litigate issues pertaining to this examination. *Strickland v. Washington*, 466 U.S. 668 (1984); *Holmes v. South Carolina*, 547 U.S. 319, 324 (2006); *Beck v. Alabama*, 447 U.S. 625, 637-638 (1980); *People v. Young*, 814 P.2d 834, 846 (Colo. 1991); U.S. Const. amends. VI, XIV; Colo. Const. art. II, secs. 16, 18, 25.

4. That said, it is highly unlikely that all matters pertaining to the second sanity examination will be resolved by the third week in January.

5. Based on the defense's understanding, it is improbable that the parties will receive a complete set of records from CMHIP prior to November 7, 2014.¹ Accounting for the time it will take for the defense to reproduce and send these materials to its experts,² as well as the Thanksgiving holiday and the amount of time the defense experts have requested to review the material, it is unlikely that the defense will be able to consult with its experts in earnest until mid to late December.

6. Inasmuch as the defense did not explicitly request an extension of the October 29, 2014 deadline for filing all motions related to Dr. Reid's report in its original pleading, it does so now. The defense needs an opportunity to thoroughly review all underlying materials from CMHIP and to consult with its experts before filing any motions pertaining to the second sanity examination.³ Although the defense indicated in its original motion that it could draft some motions by October 29, 2014 that pertain to general legal issues in Dr. Reid's report, upon further reflection, the defense believes it is necessary and prudent to review all supporting materials from CMHIP, speak with Dr. Reid, and consult with its experts first, so that it can make a more informed decision about which motions actually need to be filed. It is the defense's understanding that Dr. Reid is currently out of the office and unavailable to meet.

7. Given all of these factors, defense counsel anticipate requiring until early January to file motions pertaining to the second sanity examination. The motions will presumably then need to be briefed and resolved prior to trial.

¹ The defense is aware of the Court's order C-154 issued today directing CMHIP to produce all materials related to the second sanity examination to the parties by October 27, 2014, or to submit a pleading explaining why it needs until November 7, 2014 to produce a complete set of these materials. The defense anticipates that CMHIP will file a separate pleading with the Court explaining the situation, but it is the defense's understanding that Dr. Reid is out of the office and unavailable.

² It would be extremely difficult for the defense to provide its experts with these materials in a piecemeal fashion, even if such records are received that way from CMHIP. The defense's many experts reside out of state, and each time the defense transmits material pertaining to this case to these experts, it must do so in a highly secure fashion. Each separate transmission of information increases the risk that material is lost and/or does not reach its intended recipient. The defense must also keep meticulous track of which materials have been provided to which experts, in the event this ever becomes relevant in the future, which becomes difficult and cumbersome when transmission is done in a piecemeal fashion.

³ Even if CMHIP were to provide a complete set of materials to the defense on October 27, 2014, motions are currently due October 29, 2014. Counsel cannot review these materials and be prepared to file all motions arising out of these materials in just two days.

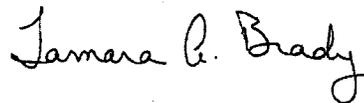
8. Additionally, depending on what its experts advise, the defense may need additional time to conduct further testing or evaluation of Mr. Holmes. The amount of time required will depend on the recommendations of its experts.

9. The defense therefore respectfully requests that the Court grant the defense's motion to continue the trial, extend the deadline for filing motions pertaining to Dr. Reid's report to early January, and set a date for a status hearing shortly thereafter to discuss a new trial date.

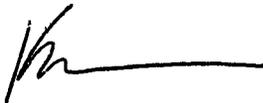
Mr. Holmes files this reply, and makes all other motions and objections in this case, whether or not specifically noted at the time of making the motion or objection, on the following grounds and authorities: the Due Process Clause, the Right to a Fair Trial by an Impartial Jury, the Rights to Counsel, 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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Dated: October 23, 2014

I hereby certify that on 10/23, 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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