

District Court, Arapahoe County, Colorado Arapahoe County Courthouse 7325 S. Potomac St., Centennial, CO 80112	
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 201
NOTICE TO COURT REGARDING PARTIES' COMBINED WITNESS LIST FOR JUROR QUESTIONNAIRE [D-260] **SUPPRESSED FILING**	

1. The Court requested that the parties provide a combined list of witnesses to attach to the questionnaire that will be given to potential jurors in this case.

2. The defense asked the prosecution to provide a list of its witnesses and offered to submit the combined list to the Court. The prosecution responded by providing a list of its good faith witnesses to the defense, rather than its complete list of endorsed witnesses. When the defense asked the prosecution for clarification, it indicated that it was concerned that if potential jurors had to read through over 4,000 names, they might overlook people they actually do know, and that therefore, the prosecution's preference was to include only those names on its good faith witness list.

3. The defense's position is that potential jurors must be provided with a list of all names of endorsed witnesses in this case, in order to ensure that Mr. Holmes's constitutional rights to due process, a fair trial by an impartial jury, and a reliable sentencing proceeding are fully protected. *See, e.g., People v. Zurenko*, 833 P.2d 794 (Colo. App. 1991) (“[W]hen, as here, a juror’s final responses to questions on voir dire indicate a clear expression of bias in favor of a significant prosecution witness, we may not assume that the juror will render an impartial verdict.”); U.S. Const. amends V, VI, VIII, XIV; Colo. Const. art. II, secs. 16, 20, 23, 25. Therefore, the defense is submitting the attached list to the Court, which includes, to the best of its knowledge, all witnesses from the prosecution’s previous endorsements (which should necessarily include all names on the prosecution’s good faith witness list), as well as additional witnesses the defense intends to call who have not been endorsed by the prosecution.

4. After the defense informed the prosecution of its intention to file a list including all endorsed witnesses, the prosecution responded by indicating that it planned to file a separate pleading with the Court including “just the good faith witness lists from both parties.” The

prosecution asked the defense to “send us your list of good faith witnesses.” The defense responded by explaining that it does not have a “good faith” witness list that includes not only defense witnesses who have not been endorsed by the prosecution, but also witnesses the defense may call who have been endorsed by the prosecution but who are not on the prosecution’s good faith witness list.

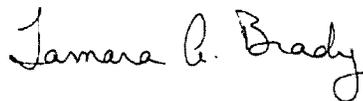
5. If ordered to produce such a list by the Court, the defense will do so to the best of its ability. However, it is the defense’s position that such a list is not necessary, because all endorsed witnesses should be included in the list attached to the juror questionnaire.

6. Finally, the majority of the names in the attached list have not yet been made public. The defense requests that the Court suppress the names attached to this pleading because of the high publicity the case has received, out of concern for the privacy and safety of the witnesses on this list, because this list will be part of the juror questionnaire (which has not been released to the public), and because suppression is necessary to protect Mr. Holmes’s constitutional rights to due process, to present a complete defense, and to a fair trial and reliable sentencing proceeding. *See* U.S. Const. amends V, VI, VIII, XIV; Colo. Const. art. II, secs. 16, 20, 23, 25. The prosecution joins in the defense’s request to suppress the list.

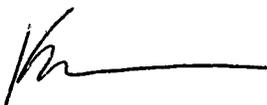
Mr. Holmes files this notice, and makes all other motions and objections in this case, whether or not specifically noted at the time of making the motion or objection, on the following grounds and authorities: the Due Process Clause, the Right to a Fair Trial by an Impartial Jury, the Rights to Counsel, 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: December 16, 2014

I hereby certify that on December 16, 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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Jacob Edson
Rich Orman
Karen Pearson
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