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DISTRICT COURT, ARAPAHOE COUNTY STATE OF COLORADO Arapahoe County Justice Center 7325 S. Potomac Street Centennial, Colorado 80112	Filed DEC 01 2014 CLERK OF THE COMBINED COURT ARAPAHOE COUNTY, COLORADO
THE PEOPLE OF THE STATE OF COLORADO vs. Defendant(s): JAMES EAGAN HOLMES	COURT USE ONLY
Attorney: GEORGE H. BRAUCHLER 18 th Judicial District Attorney 6450 S. Revere Pkwy. Centennial, CO 80111 Phone: (720) 874-8500 Atty. Reg. #: 25910	Case Number: 12CR1522 Division: 201
STATEMENT OF NO-OBJECTION AND REPLY TO DEFENSE OBJECTIONS TO COURT'S PROPOSED SCRIPT C-162	

This pleading is filed by the District Attorney for the 18th Judicial District.

1. The People have conferred with the defense counsel pursuant to the Court's Order C-162, and have been informed of the defendant's objections to the court's script for the video introduction.
2. The People do not object to the Court's proposed script for the video introduction, and are not requesting any modifications, and the People do not object to two of the defendant's requested alterations.
3. Counsel for the defendant has indicated to the People that they will be submitting numerous objections or requests for modification.
4. Defense counsel have indicated that they will request that the court inform jurors of the potential length of individual jury selection on page two of the Court's proposed script, specifically that the court inform the jurors that "The process of questioning individual jurors could take up to four months." The People do not object to this addition.
5. The defendant also objects to language beginning on page two of the Court's proposed script regarding insanity, specifically regarding the source of evidence that can support the affirmative defense of insanity. The People agree that evidence supporting the affirmative defense of insanity can come from any admissible evidence presented during the trial, not just

from evidence presented by the defendant, and do not object to the request that the court modify the script to reflect this.

6. The People object to the remainder of the defendant's objections and request for additions, deletions, and other modifications. The People believe that most of these modifications essentially repeat legal assertions regarding the law on capital punishment that have been previously rejected by this court, and that the majority of the remainder are contrary to law. The defendant has cited no cases as far as the People have been able to discern which examine a video orientation introduction as part of juror selection.

7. The defendant objects to the use of the phrase "qualification as a juror" on page one of the Court's proposed script. The People believe that the Court's proposed language is an appropriate means of informing the jurors of the purpose of jury selection, and does not in any sense indicate that the potential juror would have failed at anything. Also on page one the defendant objects to the phrase "Because we are questioning a lot of prospective jurors today." The People believe that this language is informative and places the process of jury selection in the proper perspective for the jurors.

8. On page two of the Court's proposed script, the defendant objects to the language "We need to know whether you can be a fair and impartial juror notwithstanding the media's coverage of the case." The defendant asserts that this statement improperly suggests an answer, but the People do not believe that this language is capable of such an interpretation. Instead of the Court's suggested language, the defendant suggests language informing jurors that they will be questioned as to whether they have already formed opinions about the defendant's "culpability" and about what the appropriate punishment will be. The defendant's suggestion would actually imply to jurors that the inquiry will be contrary to the language of C.R.S. § 16-10-103(1)(f), which states: "[N]o person summonsed as a juror shall be disqualified by reason of a previously formed or expressed opinion with respect to the guilt or innocence of the accused, if the court is satisfied from the examination of the juror or other evidence, that he will render an impartial verdict according to the law and the evidence submitted to the jury at trial." The defendant also objects to the court's language on page two (and onto page three) regarding sanity. Except as stated in Paragraph 5, above, the People believe that the court's proposed language regarding sanity is accurate and brief, and does not need to be modified.

9. The language used on pages three and four is clear and correct, and the court should reject the defendant's proposed changes.

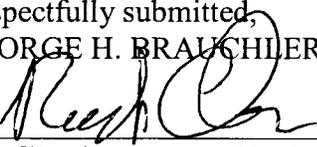
10. The paragraph on page five of the proposed script that the defendant objects to provides a clear and concise description of the process in the case, and provides valuable information to the jurors about why they are in court and what they should expect. Because the jurors will be fully advised at the appropriate time as to what the aggravating factors are, there is no reason to provide a definition in these introductory comments.

11. The defendant's objections to pages six through ten of the Court's proposed script are without merit. The Court's proposed order correctly describes the capital sentencing phase, mitigation, deliberations, and is consistent with what the People believe will be the final instructions given by the Court at any sentencing phase. Much of the defendant's argument asserts that the jurors would have no duty to deliberate during any sentencing phase. This is contrary to the Court's order granting Motion P-50.

12. The language that the defendant objects to regarding the court informing that non-selection as a juror should not be a cause for embarrassment is a proper acknowledgment that some jurors may feel embarrassment, due to human nature, in being excused, and properly attempts to alleviate any such concerns that they may have. The defendant's objection should be rejected.

13. The language that the defendant objects to on page 12 properly informs jurors of the importance of obeying the rules set by the court, and would not encourage them to lie to the court. If anything, the court's proposed language is a forthright warning that jurors should take their duties, and the duties of other jurors, seriously.

Respectfully submitted,
GEORGE H. BRAUCHLER, District Attorney

By: 

Chief/Senior Deputy District Attorney
Registration No. 20935

CERTIFICATE OF MAILING

I hereby certify that I have deposited a true and correct copy of the foregoing in the Public Defender's Mailbox located at 6450 S. Revere Pkwy., Centennial, CO 80111, addressed to:

TAMARA BRADY, ESQ.
DANIEL KING, ESQ.
KRISTEN NELSON, ESQ.
OFFICE OF THE PUBLIC DEFENDER

Dated: 12/1/14

By: 