

DISTRICT COURT, ARAPAHOE COUNTY, STATE OF COLORADO 7325 S. Potomac St. Centennial, Colorado 80112	▲ COURT USE ONLY ▲
<b>PEOPLE OF THE STATE OF COLORADO</b>  v.  <b>JAMES EAGAN HOLMES,</b> <b>Defendant</b>	Case No. <b>12CR1522</b>  Division: <b>201</b>
<b>FURTHER ORDER REGARDING ORAL MOTION FOR VIDEO          DEPOSITION TESTIMONY OF CERTAIN MITIGATION WITNESSES          (D-293-B)</b>	

The Court started selecting a jury on January 20, 2015. On July 16, the jury returned its verdicts. Because the jury returned guilty verdicts on all 24 counts of Murder in the First Degree, a capital sentencing hearing commenced on July 22. The next day, on July 23, the jury returned Phase 1 sentencing verdicts, finding that the prosecution had proven four aggravating factors with respect to each count of Murder in the First Degree. The defense started presenting mitigation evidence in Phase 2 of the sentencing hearing on July 23.

In Order D-293-A, the Court denied without prejudice the defendant's Motion D-293, which sought the video recorded deposition testimony of six potential sentencing witnesses who reside in California. *See* Order D-293-A.

Thereafter, the defense submitted an affidavit in response to Order D-293-A. *See* Pleading D-294. That affidavit addressed only one of the six witnesses identified in Motion D-293, Witness Number 4. On July 16, the Court orally granted the defendant's request for the video recorded deposition testimony of Witness Number 4. That video recorded deposition was taken on July 20. On July 24, the Court granted the defendant's oral request to take the video recorded deposition of eight additional witnesses. Those depositions were taken on July 24.

The Court provides the defense notice that, to the extent it experiences any difficulty securing the presence of a witness at any phase of the sentencing hearing, the Court will provide whatever assistance it can provide under the law. This includes: (1) issuing subpoenas (including for out-of-state witnesses); (2) enforcing any subpoenas previously served (including for out-of-state witnesses); (3) authorizing the video recorded deposition of a witness; (4) accommodating a witness's schedule and otherwise working with a witness's schedule, including to allow the witness to avoid being in Colorado overnight; and (5) allowing a witness to be called out of order, early in the day, during the lunch hour, afterhours, or whenever it is most convenient to the witness. This Order applies not only to all of the witnesses discussed in Motion D-293, but to any defense witnesses, including but not limited to, the two witnesses who were the subject of the defendant's April 8, 2015 oral motion to reconsider Order P-109.

The Court has no way to know whether there are any witness issues that are interfering with the defense's ability to present evidence in this sentencing hearing. If such issues exist, the defense may orally bring them to the Court's attention at any time. As indicated, in that event, the Court will provide any assistance allowable by law and will entertain any other requests by the defense. Otherwise, the Court will infer that no such issues exist and that the defense is able to call all of the witnesses it wishes to call during the sentencing hearing.

Dated this 27<sup>th</sup> day of July of 2015.

BY THE COURT:



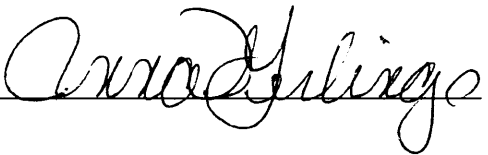
Carlos A. Samour, Jr.  
District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on July 27, 2015, a true and correct copy of the Court's **Further Order Regarding Oral Motion for Video Deposition Testimony of Certain Mitigation Witnesses (D-293-B)** was served upon the following parties of record:

Karen Pearson  
Christina Taylor  
Rich Orman  
Jacob Edson  
Lisa Teesch-Maguire  
George Brauchler  
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