

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: 26
ORDER REGARDING DEFENDANT’S MOTION FOR INDIVIDUAL SEQUESTERED VOIR DIRE (D-78)	

The defendant requests an Order allowing his attorneys to question prospective jurors individually and outside the presence of other prospective jurors. For the reasons set forth in this Order, the motion is granted in part and denied in part without a hearing.¹

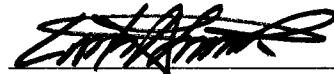
“Generally, trial courts have considerable discretion in fashioning voir dire.” *People v. Lefebre*, 5 P.3d 295, 299 (Colo. 2000) (citing *People v. Harlan*, 8 P.3d 448, 462 (Colo. 2000)). A trial judge has “significant leeway in conducting voir dire . . . because the judge is ultimately responsible for providing an impartial panel of jurors.” *Id.* (citing *People v. Rodriguez*, 914 P.2e 230, 260 (1996)).

¹ In denying the defendant’s request for a hearing, the Court considers that he is the only party who was heard on motion D-78, as the time allotted for the People’s response will not expire for a couple of weeks.

The Court will allow counsel to question prospective jurors individually and outside the presence of other prospective jurors on the following limited topics: (1) death qualification issues;² and (2) publicity issues.³ Denial of the defendant's request for individual sequestered voir dire on these topics would risk tainting the entire panel of prospective jurors. On the other hand, allowing the attorneys to ask all of their jury selection questions during individual sequestered voir dire is unnecessary and would be impractical and inefficient.⁴

Dated this 14th day of June of 2013.

BY THE COURT:



Carlos A. Samour, Jr.
District Court Judge

² “‘Death qualification’ refers to a juror’s ability to impose the death penalty according to the jury instructions if he feels it is warranted.” *People v. Dunlap*, 975 P.2d 723, 757 n. 37 (Colo. 1999) (citation omitted). The Court may excuse a prospective juror “because of his opinions regarding capital punishment ‘if the juror’s views would prevent or substantially impair the performance of his duties as a juror in accordance with [the Court’s] instructions and his oath.’” *Id.* (quoting *Wainwright v. Witt*, 469 U.S. 412, 105 S.Ct. 844, 83 L.Ed.2d 844, 83 L.Ed.2d 841 (1985)).

³ On the rare occasion that a prospective juror’s answers to the jury questionnaire raise an issue unrelated to death qualifications or publicity which is of a sensitive nature, the Court, in its discretion, may expand the scope of individual sequestered voir dire.

⁴ The defendant states that the People plan to file a response to motion D-78. Although the deadline for the People’s response has not yet expired, the Court resolves the motion because, even if the People object to it, the Court will nevertheless allow limited individual sequestered voir dire.

CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2013, a true and correct copy of **Order regarding defendant's motion for individual sequestered voir dire (D-78)** was served upon the following parties of record:

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