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District Court, Arapahoe County, Colorado Arapahoe County Courthouse 7325 S. Potomac St., Centennial, CO 80112	Filed in the Div. JUL 23 2012 District Court Arapahoe County, Colo. 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) Deputy State Public Defender 1290 Broadway, Suite 900, Denver, Colorado 80203 Phone (303) 764-1400 Fax (303) 764-1478 E-mail: daniel.king@coloradodefenders.us	Case No. 12CR1522 Division 408
<p align="center"> NOTICE OF INVOCATION OF ALL STATUTORY AND CONSTITUTIONAL RIGHTS AND PRIVILEGES AND REVOCATION OF ANY AND ALL PREVIOUSLY GIVEN WAIVERS OF PRIVILEGES [005] </p> <p align="right">(D-5)</p>	

Defendant, James Holmes, by and through counsel, hereby notifies the District Attorney's office and/or all law enforcement agencies of the following:

I. Invocation of Statutory and Constitutional Privileges

1. First, Defendant invokes the following privileges:

- a. All privileges granted under C.R.S. § 13-90-107;
- b. All medical and psychiatric (including but not limited to drug and alcohol treatment, mental health treatment, domestic violence and/or anger management treatment) privileges afforded to Defendant under the Colorado and United States Constitutions and C.R.S. § 13-90-107 as to all medical and/or psychiatric treatment Defendant has ever received; and
- c. All privileges in school, employment, military, probation, prison, parole, social services, educational, or any other records Defendant has a confidentiality expectation through federal and state statutes and case law, administrative regulations and rules, or federal and state constitutional provisions, or the agencies own statements to Defendant, either oral or written.

2. Defendant requests that this Court specifically order that no member of the Office of the District Attorney, law enforcement, or any person or agency specified in Rule 16, Part I,



(a)(3) of the Colorado Rules of Criminal Procedure or their respective agents attempt to obtain confidential information pertaining to Defendant.

3. Defendant does not authorize any person to waive said privileges on Defendant's behalf.

4. Second, Defendant hereby exercises his right to silence, right against self-incrimination, and his right to counsel under the federal and state constitutions. See U.S. Const. amend. V, VI, XIV; Colo. Const. art. II, § 16, 18, 25; *People v. Pierson*, 633 P.2d 485 (Colo. App. 1981); *People v. Pierson*, 670 P.2d 770 (Colo. 1983); *People v. Cerezo*, 635 P.2d 1197 (Colo. 1981); *People v. Lowe*, 616 P.2d 118 (Colo. 1980); *People v. Jones*, 677 P.2d 383 (Colo. App. 1983). See also *Edwards v. Arizona*, 451 U.S. 477 (1981); *Massiah v. United States*, 377 U.S. 201 (1964); *United States v. Henry*, 447 U.S. 264 (1980); *Maine v. Moulton*, 474 U.S. 159 (1985).

5. The Defendant does not wish to be interviewed, contacted or questioned unless his attorney is present. The Defendant wishes all of his contacts with state agents to take place through his legal counsel.

6. Defendant further moves this Court to enter a prophylactic order requiring the Office of the District Attorney, any other law enforcement persons, and their agents to (a) get the consent of Defendant's counsel before attempting to contact or interview the Defendant and (b) give said counsel reasonable opportunity to be present PRIOR to any contact with the Defendant.

7. Notification and consent of opposing counsel is required by the Colorado Rules of Professional Conduct, Rule 4.2.

II. Revocation of Any and All Previously Given Waivers

8. Additionally, counsel for defendant hereby notifies the court and prosecution that defendant as of today's date revokes any and all previously stated or signed purported waivers of confidentiality and/or privilege including but not limited to medical, psychological, custodial, marital, religious, educational, and/or job related waivers. Defendant does not consent to release of any records to the prosecution, law enforcement, or any agents acting on behalf of the prosecution or law enforcement.

9. Defendant further revokes any and all previously stated or signed purported waivers of his constitutional right to silence, right against self-incrimination, and right to counsel.

Mr. Holmes files this motion, 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.



Daniel King (No. 26129)
Chief Trial Deputy
Colorado Public Defender

Dated: July 23, 2012

CERTIFICATE OF SERVICE

I hereby certify that on 7/23, 2012, I

mailed, via the United States Mail,
 faxed, or
 hand-delivered

a true and correct copy of the above and foregoing document to:

Carol Chambers
Office of the District Attorney
6450 S. Revere Parkway
Centennial, Colorado 80111
Fax: 720-874-8501

skos