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ARAPAHOE COUNTY
COMBINED COURT
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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 1290 Broadway, Suite 900 Denver, Colorado 80203 Phone (303) 764-1400 Fax (303) 764-1478 E-mail: state.pubdef@coloradodefenders.us	Case No. 12CR1522 Division 22
MOTION FOR IMMEDIATE ACCESS TO CLIENT AND FOR SANCTIONS PURSUANT TO C.R.S. § 16-3-403 & 404 [D-021]	

Pursuant to the Fifth and Sixth Amendments to the United States Constitution and Article II, sections 16, 18 & 25, James Holmes, through counsel, moves for a court order granting counsel immediate access to their client. As grounds for this motion, counsel state:

1. Counsel for Mr. Holmes contacted the Arapahoe County Jail this morning concerning Mr. Holmes' current condition, and was informed that the jail would not disclose any information about Mr. Holmes' current condition but that counsel would be permitted to visit with Mr. Holmes at 1:00 p.m.
2. Counsel arrived at the jail at 1:00 p.m. as requested and were told by Lieutenant Verlin Crecelius that they would not be permitted to meet with Mr. Holmes at that time. He provided no explanation. He referred them to Undersheriff Dave Walcher. Counsel contacted Undersheriff Walcher, who told counsel to await a follow-up phone call.
3. Approximately 45 minutes later, counsel received a phone call from Undersheriff Walcher informing them once again that they would not be permitted to see Mr. Holmes, and that he would provide no reason or explanation. Walcher further informed counsel that he would inform them if and when they would be permitted to see Mr. Holmes. Counsel demanded immediate access to Mr. Holmes and Walcher refused.
4. Mr. Holmes has a constitutional and statutory right to confer, consult with, and access counsel. See U.S. Const. Amends. V & VI; Colo. Const. Art. II, secs. 16, 18 & 25; C.R.S. § 16-3-403 & 404. Depriving undersigned counsel any and all access to Mr. Holmes without explanation is a clear Sixth Amendment violation. *Geders v. United States*, 425 U.S. 80, 91 (1976) (restricting access to counsel during 17-hour court recess violated Sixth Amendment); *People v. Dehmer*, 931 P.2d 460, 463 (Colo. App. 1996) ("An incarcerated criminal defendant awaiting trial has a Sixth Amendment right to counsel which includes the right to consult with

counsel in an area where private conversation is possible.”).

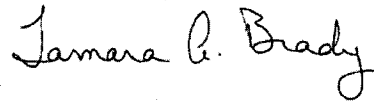
5. Mr. Holmes therefore respectfully requests that this Court issue an order immediately granting counsel access to their client, and further consider imposing sanctions upon Undersheriff Walcher and Lieutenant Crecelius for violating C.R.S. § 16-3-403 & and imposing a fine upon them of not less than one hundred dollars nor more than one thousand dollars. *See* C.R.S. §16-3-404(2).

6. Counsel for Mr. Holmes are extremely concerned about the well-being of their client and are currently being denied any information from the jail about his welfare.

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 State Public Defender



Tamara A. Brady (No. 20728)
Chief Trial Deputy State Public Defender



Kristen M. Nelson (No. 44247)
Deputy State Public Defender

Dated: November 15, 2012

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THE PEOPLE OF THE STATE OF COLORADO, Plaintiff v. JAMES HOLMES, Defendant	σ COURT USE ONLY σ
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ORDER RE: MOTION FOR IMMEDIATE ACCESS TO CLIENT AND FOR SANCTIONS PURSUANT TO C.R.S. S 16-3-403 & 404 D-[021]	

Defendant's motion is hereby GRANTED _____ DENIED _____.

BY THE COURT:

JUDGE

Dated