

DISTRICT COURT, ARAPAHOE COUNTY, STATE OF COLORADO 7325 S. Potomac St. Centennial, Colorado 80112	▲ COURT USE ONLY ▲
<b>The People of the State of Colorado</b>  v.  <b>James Eagan Holmes</b>	Case No. <b>12CR1522</b>  Division: <b>26</b>
<b>ORDER REGARDING REVISED ADVISEMENTS (C-33)</b>	

On March 7, 2013, the Court issued an Order addressing Defense Motions D-28, D-29, D-30, D-31, and D-32. Pursuant to Defense Motion D-30, the March 7 Order contained an attached draft “Advisement on Plea of Not Guilty By Reason Of Insanity.” Thereafter, pursuant to the parties’ suggestions, the Court amended the draft advisement. The modified advisement, which was circulated to the parties, addressed the effects and consequences of: (1) entering a plea of not guilty by reason of insanity; and (2) entering a plea of not guilty accompanied by a notice of intent to introduce expert opinion evidence concerning mental condition.

Because a defendant may either plead not guilty by reason of insanity or may plead not guilty and provide notice of intent to introduce expert opinion evidence concerning his mental condition, the Court has split up the advisement

into the two attached documents, Exhibits A and B to C-33.<sup>1</sup> One of the attached documents is an advisement related to the entry of a not guilty by reason of insanity plea; the other is an advisement related to the entry of a not guilty plea with notice of intent to introduce expert opinion evidence concerning mental condition. The Court has made other revisions to the advisement previously distributed.

In modifying the advisement, the Court considered the People's P-37 Response and the defendant's D-33 Objections. Indeed, the Court incorporated a couple of the suggestions contained in those pleadings which the Court had previously declined to adopt. The parties need not resubmit the objections and observations advanced in those pleadings, as those pleadings are already part of the record. The parties may, however, submit additional objections or suggestions by no later than Monday, April 22, 2013.

Lastly, the Court notes that the next hearing in this case is scheduled to take place on May 13, which is more than four weeks away. If the parties are available and ready to proceed before May 13, the Court will make itself available on

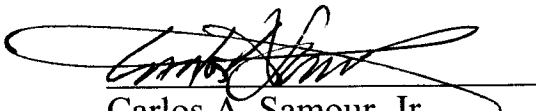
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<sup>1</sup> On March 12, over the defendant's objection, the Court entered a not guilty plea on his behalf. Under Colorado law, the defense of insanity may be raised after the arraignment if the Court permits the defendant to do so "for good cause shown." See Crim. P. 11(3)(1); § 16-8-103(1.5)(a) C.R.S. (2012). Likewise, if the defendant fails to provide at arraignment the required notice of his intent to present expert testimony regarding his mental condition, he must show good cause as to why he should be allowed to give such notice at a later date. See § 16-8-107(3)(b); *People v. Flippo*, 159 P.3d 100, 106 (Colo. 2007).

whatever date and time the parties agree upon. Although the Court will not permit this cause of action to be rushed, it is as eager as the parties to move it along expeditiously.

Dated this 16<sup>th</sup> day of April of 2013.

BY THE COURT:



Carlos A. Samour, Jr.  
District Court Judge

**C-33 Ex. A**

DISTRICT COURT, CITY AND COUNTY OF ARAPAHOE, COLORADO

Case No. 2012CR1522

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**ADVISEMENT REGARDING NOTICE OF INTENT TO INTRODUCE EXPERT  
OPINION EVIDENCE CONCERNING MENTAL CONDITION**

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**THE PEOPLE OF THE STATE OF COLORADO**

v.

**JAMES EAGAN HOLMES**

Because you have provided notice of your intent to introduce expert opinion evidence concerning your mental condition, pursuant to section 16-8-107(3)(b), Colorado Revised Statutes ("C.R.S."), the Court must advise you of the following possible effects and consequences of such notice:

1. The Court will order an examination of you pursuant to section 16-8-106, C.R.S.
2. Any period of delay caused by the Court-ordered examination and the report prepared following the examination shall be excluded from the time within which you must be brought to trial.
3. The examination ordered by the Court shall be accomplished by the entry of an order of the Court specifying the place where such examination is to be conducted and the period of time allocated for such examination. You may be committed for such examination to the Colorado psychiatric hospital in Denver, the Colorado Mental Health Institute at Pueblo, the place where you are in custody (the Arapahoe County Jail), or such other public institution as designated by the Court. In determining the place where the Court-ordered examination is to be conducted, the Court shall give priority to the place where you are in custody, unless the nature and circumstances of the examination require designation of a different facility.
4. You shall be observed and examined by one or more psychiatrists during such period as the Court directs. For good cause shown, upon your motion or motion by the prosecution, or upon the Court's own motion, the Court may order such further or other examination, including services of psychologists, as is advisable under the circumstances. Nothing in this advisement shall abridge your right to obtain a psychiatric examination as

provided in section 16-8-108, C.R.S., which states in pertinent part that if, following the Court-ordered examination, you file a timely request to be examined by a psychiatrist, psychologist, or other expert of your choice, the Court shall order that the examiner of your choice be given a reasonable opportunity to conduct an examination of you. A copy of any report of an examination of you made at your request shall be furnished to the prosecution a reasonable time in advance of trial.

5. To aid in forming an opinion as to your mental condition, it is permissible in the course of the examination to use your confessions and admissions and any other evidence of the circumstances surrounding the commission of the offenses charged, as well as your medical and social history, in questioning you.

6. It shall also be permissible to conduct a narcoanalytic interview of you with such drugs as are medically appropriate, and to subject you to a polygraph examination. The Court further advises you about these procedures as follows: (1) the physicians and other personnel conducting the examination ordered by the Court may testify to the results of any such procedures and your statements and reactions insofar as your statements and reactions entered into the formation of their opinions as to your mental condition; and (2) in a capital sentencing hearing held pursuant to section 18-1.3-1201, C.R.S., the physicians and other personnel conducting the examination may testify to the results of any such procedures and your statements and reactions insofar as your statements and reactions entered into the formation of their opinions as to your mental condition both at the time of the commission of the alleged offenses and at the present time.

7. In any trial or hearing concerning your mental condition, physicians and other experts may testify as to their conclusions reached from their examination of hospital records, laboratory reports, x-rays, electroencephalograms, and psychological test results, if the material which they examined in reaching their conclusions is produced at the time of trial or hearing.

8. You shall cooperate with psychiatrists and other personnel conducting any examination ordered by the Court. Statements you make in the course of such examination shall be protected as provided in this advisement.

9. If you do not cooperate with psychiatrists and other personnel conducting the examination, the Court shall not allow you to call any psychiatrist or other expert witness to provide evidence at your trial concerning your mental condition, including, but not limited to, providing evidence on the issue of insanity, or at any capital sentencing

hearing held pursuant to section 18-1.3-1201, C.R.S. (The test of “insanity” in Colorado is set forth in paragraph 15 of this advisement).

10. In addition, the fact of your noncooperation with psychiatrists and other personnel conducting the examination may be admissible in your trial to rebut any evidence you introduce with regard to your mental condition including, but not limited to, the issue of insanity, and in any capital sentencing hearing held pursuant to section 18-1.3-1201, C.R.S. (The test of “insanity” in Colorado is set forth in paragraph 15 of this advisement).

11. Further, if you are non-cooperative with psychiatrists and other personnel conducting the examination, an opinion of your mental condition may be rendered by such psychiatrists or other personnel based upon such confessions, admissions, and any other evidence of the circumstances surrounding the commission of the offenses charged, as well as your known medical and social history, and such opinion may be admissible into evidence at trial and in any capital sentencing hearing held pursuant to section 18-1.3-1201, C.R.S.

12. By seeking to introduce expert opinion evidence concerning your mental condition, you place your mental condition at issue and thereby waive any claim of confidentiality or privilege as to communications you made to a physician or psychologist in the course of an examination or treatment for such mental condition for the purpose of any trial, hearing on the issue of such mental condition, or at any capital sentencing hearing held pursuant to section 18-1.3-1201, C.R.S. The Court will order both you and the prosecution to exchange the names, addresses, reports, and statements of any physician or psychologist who has examined or treated you for such mental condition.

13. Except as otherwise provided in this paragraph, evidence acquired directly or indirectly for the first time from a communication derived from your mental processes during the course of a Court-ordered examination is admissible only as to your mental condition. Evidence acquired directly or indirectly for the first time from a communication derived from your mental processes during the course of a Court-ordered examination is admissible at any capital sentencing hearing held pursuant to section 18-1.3-1201, C.R.S. If you testify on your own behalf, the provisions of this paragraph shall not bar any evidence used to impeach or rebut your testimony.

14. When you have undergone the Court-ordered examination, a report of the examination must be prepared. The report of the examination shall include, but not be

limited to, the following items: (a) the name of each physician or other expert who examined you; (b) a description of the nature, content, extent, and results of the examination and any tests conducted; (c) a diagnosis and prognosis of your physical and mental condition; (d) an opinion as to whether you suffered from a mental disease or defect or from a condition of mind caused by mental disease or defect that affected your mental condition; and, if so, (e) separate opinions as to your mental condition including, but not limited to, whether you were “insane,” as that term is defined in paragraph 15 of this advisement, or are “ineligible for release,” as that term is defined in paragraph 7 of this advisement, and, because this case involves class 1 felony charges, an opinion as to how the mental disease or defect or the condition of mind caused by mental disease or defect affects any mitigating factor. The nature of the opinions required depends upon the type of examination ordered by the Court.

15. Paragraph 14 of this advisement used the term “insane.” Similarly, paragraphs 9 and 10 of this advisement referred to the issue of “insanity.” In Colorado, the applicable test of insanity is as follows:

(a) A person who is so diseased or defective in mind at the time of the commission of the act as to be incapable of distinguishing right from wrong with respect to that act is not accountable. However, care should be taken not to confuse such mental disease or defect with moral obliquity, mental depravity, or passion growing out of anger, revenge, hatred, or other motives and kindred evil conditions, for, when the act is induced by any of these causes, the person is accountable to the law;

OR

(b) A person who suffered from a condition of mind caused by mental disease or defect that prevented the person from forming a culpable mental state that is an essential element of a crime charged. However, care should be taken not to confuse such mental disease or defect with moral obliquity, mental depravity, or passion growing out of anger, revenge, hatred, or other motives and kindred evil conditions, because, when the act is induced by any of these causes, the person is accountable to the law.

“Diseased or defective in mind,” as used in the test of insanity articulated above, does not refer to an abnormality manifested only by repeated criminal or otherwise antisocial conduct.

“Mental disease or defect,” as used in the test of insanity articulated above, includes only those severely abnormal mental conditions that grossly and demonstrably impair a person’s perception or understanding of reality and that are not attributable to the voluntary ingestion of alcohol or any other psychoactive substance but does not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct.

16. Upon your motion and proof that you are indigent and without funds to employ physicians, psychologists, or attorneys to which you are entitled, the Court shall appoint such physicians, psychologists or attorneys for you at State expense. Indeed, you are currently represented by Court-appointed counsel because the Court previously concluded that you are indigent and without funds to employ an attorney to represent you in this case.



ACKNOWLEDGMENTS AND REPRESENTATIONS BY THE DEFENDANT

\_\_\_ (1) By initialing this paragraph and signing this page, I acknowledge and represent to the Court that I read, write, speak, and understand English.

\_\_\_ (2) By initialing this paragraph and signing this page, I acknowledge and represent to the Court that I have read, and that I fully understand, every word, every sentence, every paragraph, and every page of this advisement, including this page and the next page, and that I do not have any questions about this advisement.

\_\_\_ (3) By initialing this paragraph and signing this page, I acknowledge and represent to the Court that my attorneys went over this advisement with me, explained every single provision of it to me carefully, thoroughly, and completely, and answered all of my questions to my satisfaction.

\_\_\_ (4) By initialing this paragraph and signing this page, I acknowledge and represent to the Court that whenever I reviewed this advisement and discussed it with my attorneys, I was not under the influence of any drug, alcohol, or medication which in any way affected my ability to fully understand the advisement or my lawyer's comments about it.

\_\_\_ (5) By initialing this paragraph and signing this page, I acknowledge and represent to the Court that no one is forcing me, coercing me, putting undue influence or duress on me, or threatening me to get me to initial any of the paragraphs on this page, to sign this page, or to provide notice of my intent to introduce expert opinion evidence concerning my mental condition.

\_\_\_ (6) By initialing this paragraph and signing this page, I acknowledge and represent to the Court that: (a) fully understanding the effects and consequences of providing notice of my intent to introduce expert opinion evidence concerning my mental condition, I have decided to provide such notice; (b) this is my choice, and one which I have made after consulting with my attorneys for as long as I felt was necessary; (c) I do not need additional time to discuss this choice or this advisement with my attorneys or anyone else; and (d) fully understanding this advisement, I have expressly asked my attorneys to stand by the not guilty plea entered by the Court on my behalf on March 12, 2013, and to provide oral notice in open Court of my intent to introduce expert opinion evidence concerning my mental condition.

\_\_\_ (7) By initialing this paragraph and signing this page, I acknowledge and represent to the Court that I am intelligently, knowingly, and voluntarily standing by the not guilty plea entered by the Court on my behalf on March 12, 2013, and providing notice of my intent to introduce expert opinion evidence concerning my mental condition.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
James Eagan Holmes

## ACKNOWLEDGEMENTS AND REPRESENTATIONS BY DEFENSE COUNSEL

By signing this page, we make the following acknowledgements and representations to the Court as Mr. Holmes' counsel of record: (1) based on our observations of, and interactions with, Mr. Holmes, we believe Mr. Holmes has read every word, every sentence, every paragraph, and every page of this advisement; (2) we carefully and thoroughly explained this advisement in its entirety to Mr. Holmes; (3) to the best of our knowledge, we accurately and completely answered any questions Mr. Holmes had about this advisement, and, based on our observations of, and interactions with, Mr. Holmes, we believe we did so to Mr. Holmes' complete satisfaction; (4) based on our observations of, and interactions with, Mr. Holmes, we believe Mr. Holmes understood all of the answers we provided to any questions asked; (5) based on our observations of, and interactions with, Mr. Holmes, we believe Mr. Holmes fully understands every word, every sentence, every paragraph, and every page of this advisement; (6) based on our observations of, and interactions with, Mr. Holmes, we believe that whenever Mr. Holmes reviewed this advisement and discussed it with us, he was not under the influence of any drug, alcohol, or medication which in any way affected his ability to fully understand the advisement or our comments regarding the advisement; (7) it is at Mr. Holmes' request that we are providing oral notice in open Court that Mr. Holmes intends to introduce expert opinion evidence at trial concerning his mental condition; (8) Mr. Holmes does not have any questions for the Court about this advisement; (9) based on our observations of, and interactions with, Mr. Holmes, we do not believe Mr. Holmes was forced, coerced, placed under undue influence or duress, or threatened to provide notice of his intent to introduce expert opinion evidence concerning his mental condition; (10) based on our observations of, and interactions with, Mr. Holmes, we believe Mr. Holmes is providing notice of his intent to introduce expert opinion evidence concerning his mental condition intelligently, knowingly, and voluntarily; (11) the initials and signature on the previous page of this advisement are Mr. Holmes' initials and signature; (12) before initialing and signing the previous page of this advisement, Mr. Holmes reviewed the contents of that page, and, based on our observations of, and interactions with, Mr. Holmes, we believe Mr. Holmes understood those contents; (13) based on our observations of, and interactions with, Mr. Holmes, we believe that whenever Mr. Holmes reviewed, initialed, and signed the previous page of this advisement, he was not under the influence of any drug, alcohol, or medication which in any way affected his ability to fully understand the contents of that page; and (14) based on our observations of, and interactions with, Mr. Holmes, we do not believe Mr. Holmes was forced, coerced, placed under undue influence or duress, or threatened to initial or sign the previous page of this advisement.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2013.

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Attorneys for James Eagan Holmes

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

BY THE COURT:

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Carlos A. Samour, Jr.  
District Court Judge

**C-33 Ex. B**

DISTRICT COURT, CITY AND COUNTY OF ARAPAHOE, COLORADO

Case No. 2012CR1522

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**ADVISEMENT REGARDING PLEA OF NOT GUILTY BY REASON OF  
INSANITY**

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**THE PEOPLE OF THE STATE OF COLORADO**

**v.**

**JAMES EAGAN HOLMES**

Because you have tendered a plea of not guilty by reason of insanity, the Court must advise you of the following possible effects and consequences of such a plea:

1. The applicable test for insanity shall be:

(a) A person who is so diseased or defective in mind at the time of the commission of the act as to be incapable of distinguishing right from wrong with respect to that act is not accountable. However, care should be taken not to confuse such mental disease or defect with moral obliquity, mental depravity, or passion growing out of anger, revenge, hatred, or other motives and kindred evil conditions, for, when the act is induced by any of these causes, the person is accountable to the law;

OR

(b) A person who suffered from a condition of mind caused by mental disease or defect that prevented the person from forming a culpable mental state that is an essential element of a crime charged. However, care should be taken not to confuse such mental disease or defect with moral obliquity, mental depravity, or passion growing out of anger, revenge, hatred, or other motives and kindred evil conditions, because, when the act is induced by any of these causes, the person is accountable to the law.

“Diseased or defective in mind” does not refer to an abnormality manifested only by repeated criminal or otherwise antisocial conduct.

“Mental disease or defect” includes only those severely abnormal mental conditions that grossly and demonstrably impair a person’s perception or understanding of reality and that are not attributable to the voluntary ingestion of alcohol or any other psychoactive substance but does not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct.

2. The Court will forthwith commit you for a “sanity examination,” specifying the place and period of commitment. A “sanity examination” is a Court-ordered examination of a defendant who has entered a plea of not guilty by reason of insanity, directed to developing information relevant to determining the sanity or insanity of the defendant at the time of the commission of the act with which he is charged and also his competency to proceed.

3. Any period of delay caused by the Court-ordered examination and the report prepared following the examination shall be excluded from the time within which you must be brought to trial.

4. The examination ordered by the Court shall be accomplished by the entry of an order of the Court specifying the place where such examination is to be conducted and the period of time allocated for such examination. You may be committed for such examination to the Colorado psychiatric hospital in Denver, the Colorado Mental Health Institute at Pueblo, the place where you are in custody (the Arapahoe County Jail), or such other public institution as designated by the Court. In determining the place where the Court-ordered examination is to be conducted, the Court shall give priority to the place where you are in custody, unless the nature and circumstances of the examination require designation of a different facility.

5. You shall be observed and examined by one or more psychiatrists during such period as the Court directs. For good cause shown, upon your motion or motion by the prosecution, or upon the Court’s own motion, the Court may order such further or other examination, including services of psychologists, as is advisable under the circumstances. Nothing in this section shall abridge your right to obtain a psychiatric examination as provided in section 16-8-108, C.R.S., which states in relevant part that if, following the Court-ordered examination, you file a timely request to be examined by a psychiatrist, psychologist, or other expert of your choice, the Court must order that the examiner of your choice be given a reasonable opportunity to conduct an examination of you. A copy of any report of an examination of you made at your request shall be furnished to the prosecution a reasonable time in advance of trial.

6. To aid in forming an opinion as to your mental condition, it is permissible in the course of the examination to use your confessions and admissions and any other evidence of the circumstances surrounding the commission of the offenses charged, as well as your medical and social history, in questioning you.

7. It shall also be permissible to conduct a narcoanalytic interview of you with such drugs as are medically appropriate, and to subject you to a polygraph examination. The Court further advises you about these procedures as follows: in any trial or hearing on the issue of your sanity or "eligibility for release," as that term is defined at the end of this paragraph, and in any capital sentencing hearing held pursuant to section 18-1.3-1201, C.R.S., the physicians and other personnel conducting the examination may testify to the results of any such procedures and your statements and reactions insofar as your statements and reactions entered into the formation of their opinions as to your mental condition both at the time of the commission of the alleged offenses and at the present time. ("Eligibility for release" refers to a defendant's eligibility to be released from the Department of Human Services after being committed to that Department as a result of a trier of fact finding him not guilty by reason of insanity; a defendant is "ineligible for release" if he is suffering from a mental disease or defect which is likely to cause him to be dangerous to himself, to others, or to the community, in the reasonably foreseeable future, if he is permitted to remain at liberty).

8. In any trial or hearing concerning your mental condition, physicians and other experts may testify as to their conclusions reached from their examination of hospital records, laboratory reports, x-rays, electroencephalograms, and psychological test results, if the material which they examined in reaching their conclusions is produced at the time of trial or hearing.

9. You shall cooperate with psychiatrists and other personnel conducting any examination ordered by the Court. Statements you make in the course of such examination shall be protected as provided in this advisement.

10. If you do not cooperate with psychiatrists and other personnel conducting the examination, the Court shall not allow you to call any psychiatrist or other expert witness to provide evidence at your trial concerning your mental condition, including, but not limited to, providing evidence on the issue of insanity, or at any capital sentencing hearing held pursuant to section 18-1.3-1201, C.R.S.

11. In addition, the fact of your noncooperation with psychiatrists and other personnel conducting the examination may be admissible in your trial to rebut any evidence you

introduce with regard to your mental condition including, but not limited to, the issue of insanity, and in any capital sentencing hearing held pursuant to section 18-1.3-1201, C.R.S.

12. Further, if you are non-cooperative with psychiatrists and other personnel conducting the examination, an opinion of your mental condition may be rendered by such psychiatrists or other personnel based upon such confessions, admissions, and any other evidence of the circumstances surrounding the commission of the offenses charged, as well as your known medical and social history, and such opinion may be admissible into evidence at trial and in any capital sentencing hearing held pursuant to section 18-1.3-1201, C.R.S.

13. By pleading not guilty by reason of insanity, you place your mental condition at issue and thereby waive any claim of confidentiality or privilege as to communications you made to a physician or psychologist in the course of an examination or treatment for such mental condition for the purpose of any trial, hearing on the issue of such mental condition, or at any capital sentencing hearing held pursuant to section 18-1.3-1201, C.R.S. The Court will order both you and the prosecution to exchange the names, addresses, reports, and statements of any physician or psychologist who has examined or treated you for such mental condition.

14. Except as otherwise provided in this paragraph, no evidence acquired directly or indirectly for the first time from a communication derived from your mental processes during the course of a Court-ordered examination is admissible against you on the issues raised by a plea of not guilty, if you are put to trial on those issues, unless such evidence is used to rebut evidence you have introduced of your mental condition to show incapacity to form a culpable mental state; and in that case, the evidence acquired directly or indirectly for the first time from a communication derived from your mental processes during the course of a Court-ordered examination may be considered by the trier of fact only as bearing upon the question of capacity to form a culpable mental state, and the jury, at the request of either party, shall be so instructed. Evidence acquired directly or indirectly for the first time from a communication derived from your mental processes during the course of a Court-ordered examination is admissible at any capital sentencing hearing held pursuant to section 18-1.3-1201, C.R.S., only to prove the existence or absence of any mitigating factor. If you testify on your own behalf upon the trial of the issues raised by the plea of not guilty or at a capital sentencing hearing held pursuant to section 18-1.3-1201, C.R.S., the provisions of this paragraph shall not bar any evidence used to impeach or rebut your testimony.

15. Except as otherwise provided in this paragraph, evidence acquired directly or indirectly for the first time from a communication derived from your mental processes during the course of a Court-ordered examination is admissible only as to the issues raised by your plea of not guilty by reason of insanity, and the jury, at the request of either party, shall be so instructed. Evidence acquired directly or indirectly for the first time from a communication derived from your mental processes during the course of a Court-ordered examination is admissible at any capital sentencing hearing held pursuant to section 18-1.3-1201, C.R.S. only to prove the existence or absence of any mitigating factor. If you testify on your own behalf, the provisions of this paragraph shall not bar any evidence used to impeach or rebut your testimony.

16. When you have undergone the Court-ordered examination, a report of the examination must be prepared. The report of the examination shall include, but not be limited to, the following items: (a) the name of each physician or other expert who examined you; (b) a description of the nature, content, extent, and results of the examination and any tests conducted; (c) a diagnosis and prognosis of your physical and mental condition; (d) an opinion as to whether you suffered from a mental disease or defect or from a condition of mind caused by mental disease or defect that prevented you from forming the culpable mental state that is an essential element of any crime charged; and, if so, (e) separate opinions as to whether you were “insane” or are “ineligible for release,” as those terms have been defined in paragraphs 1 and 7 of this advisement respectively, and, because this case involves class 1 felony charges, an opinion as to how the mental disease or defect or the condition of mind caused by mental disease or defect affects any mitigating factor. The nature of the opinions required depends upon the type of examination ordered by the Court.

17. Upon your motion and proof that you are indigent and without funds to employ physicians, psychologists, or attorneys to which you are entitled, the Court shall appoint such physicians, psychologists or attorneys for you at State expense. Indeed, you are currently represented by Court-appointed counsel because the Court previously concluded that you are indigent and without funds to employ an attorney to represent you in this case.



ACKNOWLEDGMENTS AND REPRESENTATIONS BY THE DEFENDANT

\_\_\_ (1) By initialing this paragraph and signing this page, I acknowledge and represent to the Court that I read, write, speak, and understand English.

\_\_\_ (2) By initialing this paragraph and signing this page, I acknowledge and represent to the Court that I have read, and that I fully understand, every word, every sentence, every paragraph, and every page of this advisement, including this page and the next page, and that I do not have any questions about this advisement.

\_\_\_ (3) By initialing this paragraph and signing this page, I acknowledge and represent to the Court that my attorneys went over this advisement with me, explained every single provision of it to me carefully, thoroughly, and completely, and answered all of my questions to my satisfaction.

\_\_\_ (4) By initialing this paragraph and signing this page, I acknowledge and represent to the Court that whenever I reviewed this advisement and discussed it with my attorneys, I was not under the influence of any drug, alcohol, or medication which in any way affected my ability to fully understand the advisement or my lawyer's comments about it.

\_\_\_ (5) By initialing this paragraph and signing this page, I acknowledge and represent to the Court that no one is forcing me, coercing me, putting undue influence or duress on me, or threatening me to get me to initial any of the paragraphs on this page, to sign this page, or to enter a plea of not guilty by reason of insanity.

\_\_\_ (6) By initialing this paragraph and signing this page, I acknowledge and represent to the Court that: (a) fully understanding the effects and consequences of my not guilty by reason of insanity plea, I have decided to enter such plea; (b) this is my choice, and one which I have made after consulting with my attorneys for as long as I felt was necessary; (c) I do not need additional time to discuss this choice or this advisement with my attorneys or anyone else; and (d) fully understanding this advisement, I have expressly asked my attorneys to enter a plea of not guilty by reason of insanity on my behalf.

\_\_\_ (7) By initialing this paragraph and signing this page, I acknowledge and represent to the Court that I am intelligently, knowingly, and voluntarily entering a plea of not guilty by reason of insanity.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
James Eagan Holmes

ACKNOWLEDGEMENTS AND REPRESENTATIONS BY DEFENSE COUNSEL

By signing this page, we make the following acknowledgements and representations to the Court as Mr. Holmes' counsel of record: (1) based on our observations of, and interactions with, Mr. Holmes, we believe Mr. Holmes has read every word, every sentence, every paragraph, and every page of this advisement; (2) we carefully and thoroughly explained this advisement in its entirety to Mr. Holmes; (3) to the best of our knowledge, we accurately and completely answered any questions Mr. Holmes had about this advisement, and, based on our observations of, and interactions with, Mr. Holmes, we believe we did so to Mr. Holmes' complete satisfaction; (4) based on our observations of, and interactions with, Mr. Holmes, we believe Mr. Holmes understood all of the answers we provided to any questions asked; (5) based on our observations of, and interactions with, Mr. Holmes, we believe Mr. Holmes fully understands every word, every sentence, every paragraph, and every page of this advisement; (6) based on our observations of, and interactions with, Mr. Holmes, we believe that whenever Mr. Holmes reviewed this advisement and discussed it with us, he was not under the influence of any drug, alcohol, or medication which in any way affected his ability to fully understand the advisement or our comments regarding the advisement; (7) it is at Mr. Holmes' request that we are entering a plea of not guilty by reason of insanity on his behalf; (8) Mr. Holmes does not have any questions for the Court about this advisement; (9) based on our observations of, and interactions with, Mr. Holmes, we do not believe Mr. Holmes was forced, coerced, placed under undue influence or duress, or threatened to enter a plea of not guilty by reason of insanity; (10) based on our observations of, and interactions with, Mr. Holmes, we believe Mr. Holmes is entering a plea of not guilty by reason of insanity intelligently, knowingly, and voluntarily; (11) the initials and signature on the previous page of this advisement are Mr. Holmes' initials and signature; (12) before initialing and signing the previous page of this advisement, Mr. Holmes reviewed the contents of that page, and, based on our observations of, and interactions with, Mr. Holmes, we believe Mr. Holmes understood those contents; (13) based on our observations of, and interactions with, Mr. Holmes, we believe that whenever Mr. Holmes reviewed, initialed, and signed the previous page of this advisement, he was not under the influence of any drug, alcohol, or medication which in any way affected his ability to fully understand the contents of that page; and (14) based on our observations of, and interactions with, Mr. Holmes, we do not believe Mr. Holmes was forced, coerced, placed under undue influence or duress, or threatened to initial or sign the previous page of this advisement.

Dated this \_\_\_ day of \_\_\_\_\_, 2013.

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Attorneys for James Eagan Holmes

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

BY THE COURT:

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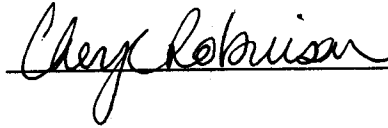
Carlos A. Samour, Jr.  
District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on April 16, 2013, a true and correct copy of **Order regarding revised advisements (C-33)** was served upon the following parties of record.

Karen Pearson  
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