

District Court, Weld County, Colorado Court Address: 901 9th Avenue, Greeley, CO 80631	DATE FILED: August 17, 2018 9:55 AM
THE PEOPLE OF THE STATE OF COLORADO Plaintiff v. CHRISTOPHER WATTS, Defendant	
James E. Merson - 36996 Deputy State Public Defender 822 7th Street, Suite 300 Greeley, CO 80631 Phone: (970) 353-8224 Fax: (970) 352-8293 E-mail address: james.merson@coloradodefenders.us Attorney Registration Number: 36996	σ COURT USE ONLY σ Case Number: 18CR2003 Division: 5
MOTION TO COMPEL PATHOLOGIST TO TAKE DNA SWAB OF THROATS OF DECEDENT CHILDREN (D-20)	

(THE AUTOPSIES FOR THIS CASE ARE SCHEDULED TO BEGIN IN 20 MINUTES. THE COURT HAS ASKED COUNSEL TO NOT EMAIL TO COURT AND ADVISE THE COURT ABOUT UPCOMING PLEADINGS. COUNSEL HAS EMAILED THE CLERK TO SO THAT SHE CAN HOPEFULLY LET THE COURT KNOW ABOUT THIS ISSUE QUICKLY.)

1. Defense counsel had an opportunity to speak with a DNA expert this morning. This expert advised that even though the bodies of two of the decedents have been in an oil well filled with crude oil for several days, DNA would still be present.
2. Attached to this pleading is the curriculum vitae for Richard Eikelenboom. Also attached is an email which contains Mr. Eikenbloom's expert opinion that DNA evidence would remain on the necks of the decedent children in spite of the fact that the remains were in oil for four days. (Exhibits A and B)
3. Counsel has contacted the prosecution, advised them of this opinion, and asked whether or not they intend to take a DNA swab of the necks on the remains of the two children. It does not seem clear that the coroner, pathologist, or anyone working on behalf of the prosecution team in autopsy plan to take swabs of the necks of the two decedent children.
4. Mr. Watts, through counsel, moves this Court to order that he pathologist take swabs of the remains of the two decedent children at the following locations:
 - (1) Several swabs of the neck;
 - (2) Several control swabs on another part of the body.
5. Counsel has a good faith belief that once the autopsies are finished, the remains of the two children—and more importantly, this evidence—will be turned over and lost forever. In other this concerns consumptive testing on the part of the government.

Instead of deciding whether evidence will be suppressed, the court's role prior to testing is to oversee the preservation of evidence. The authority of the court to supervise the preservation of evidence originates in the court's

role to protect the “civilized standards of procedure and evidence.”

People v. Wartena, 156 P.3d 469, 472 (Colo. 2007), quoting *McNabb v. United States*, 318 U.S. 332, 340, (1943).

MEGAN A. RING
COLORADO STATE PUBLIC DEFENDER



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Certificate of Service

I hereby certify that on 8/17/18, I served the foregoing document by e-service through ICCES to all opposing counsel.