

DISTRICT COURT, BOULDER COUNTY, COLORADO Court Address: 1777 SIXTH STREET P.O. BOX 4249, BOULDER, CO, 80306-4249	DATE FILED: January 5, 2024 2:02 PM
THE PEOPLE OF THE STATE OF COLORADO v. Defendant(s) AHMAD AL ALIWI ALISSA	<p style="text-align: center;">△ COURT USE ONLY △</p> Case Number: 2021CR497 Division: 13 Courtroom:
Order: People's Notice and Objection Regarding CDHS Request for Delay in Proceedings	

The motion/proposed order attached hereto: ACTION TAKEN.

Any responses to the Notice and Objection shall be filed no later than 1/8/24. CDHS is ordered to send a representative to appear at the January 12, 2024 1:30 PM hearing in order to address the concerns raised by the People. The Court is assuming Defense counsel intends to have the Defendant present for the hearing unless notice is filed no later than 1/8/24 indicating that his appearance is waived in order provide sufficient time for transport. This Order is subject to reconsideration given the timing of the CDHS Request, the People's Notice and Objection, Response time, and the next hearing date.

Issue Date: 1/5/2024



INGRID SEFTAR BAKKE
 District Court Judge

DISTRICT COURT, BOULDER COUNTY, COLORADO 1777 Sixth Street Boulder, CO 80302	COURT USE ONLY
PEOPLE OF THE STATE OF COLORADO v. AHMAD AL ALIWI ALISSA Defendant	
Michael T. Dougherty, District Attorney Adam Kendall, Chief Trial Deputy District Attorney 1777 Sixth Street Boulder, CO 80302 Phone Number: (303)441-3700 FAX Number: (303)441-4703 E-mail: akendall@bouldercounty.org Atty. Reg. #38905	Case No. 21CR497 Div:13
People’s Notice and Objection Regarding CDHS Request for Delay in Proceedings	

On September 27, 2023, the Court held a restoration hearing for Ahmad Al Aliwi Alissa (the “Defendant”). On October 6, 2023, the Court found Defendant restored to competency and that this case should move forward. In its October 6, 2023 order finding Defendant’s competency had been restored, the Court “strongly urge[d]” CDHS to house Defendant prior to his trial. Ultimately, given the clinical opinions of evaluators and Defendant’s treatment team, coupled with the Boulder County Jail’s inability to provide involuntary medications and Defendant’s unwillingness to voluntarily take medication, the Colorado Department of Human Services (“CDHS”) determined that it was necessary to maintain custody of Defendant while the case proceeds pursuant to the CDHS’ statutory authority in § 16-8.5-111(3)(a), C.R.S. and as decided by the Colorado Court of Appeals in *People in Interest of Joergensen*, 524 P.3d 293, 298 (Colo. App. 2022). Since that time, Defendant has continued to remain within CDHS’s custody and care.

On November 14, 2023, Defendant entered a plea of not guilty by reason of insanity (“NGRI”) immediately following the preliminary hearing held in this case. Due to the fact that the case is nearing three years old, the parties both indicated a desire to obtain the required CDHS NGRI evaluation of Defendant as expediently as possible. The People requested a date in December. Following some discussion, the Court ordered that CDHS was to complete the required evaluation by January 8, 2024. After the Court entered its order, the People immediately contacted CDHS to ensure that they were aware of the deadline for the required evaluation. CDHS did not communicate or share any concerns about the deadline.

The People provided CDHS all discovery in the case on November 17, 2023. It is important to note that the discovery was previously provided – in whole – to CDHS in October of 2021 after Defendant’s competency was raised. At that time, CDHS reviewed the case file in preparing the competency evaluation for the Court. In short, discovery has been in their possession for well over two years. Nonetheless, the People provided it again on November 17, 2023.

The People were contacted by CDHS on November 23, 2023, as CDHS requested the password necessary to access the discovery provided by the People. At that time, because the material provided by the People is voluminous, the People offered to assist CDHS in navigating the discovery and providing any assistance necessary in order to allow CDHS to complete the evaluation in accord with the Court ordered timeline. The People did not hear from CDHS again.

Instead, CDHS filed a letter with the Court dated December 29, 2023 requesting a *114-day* extension of time to complete the evaluation of Defendant. The letter contains several concerning statements that evidence a lack of urgency on the part of CDHS to comply with Court ordered timelines and to allow this case to proceed forward without unnecessary delays.

First, the letter incorrectly states that the Court ordered CDHS to perform the evaluation of Defendant on “November 22, 2023” – in fact, the Court issued its order on November 14, 2023. Regardless, CDHS waited nearly three weeks from November 22, 2023 (until December 11, 2023) to assign doctors to complete Defendant’s evaluation. Then, it took an additional three weeks for CDHS to draft a letter and inform the Court and the parties that the evaluation would not be completed by January 8, 2024.

Finally, and most concerning, despite housing Defendant for two years, having obtained and reviewed the discovery in this case in 2021, preparing for the restoration hearing in September, and treating Defendant over this entire time, CDHS requests a nearly *four-month* extension (until April 30, 2024) to complete the evaluation. The basis for this request stems from, in part, a need for time to complete “more than one interview with [Defendant]” about the incident – a topic which Defendant has remained nearly silent about in multiple interview attempts by CDHS over the last two years. A further delay in this case predicated by the need for hypothetical interviews with Defendant on a topic he has historically refused to discuss would be devastating for the victims in this case.

This matter has been pending since *March 22, 2021*. After a lengthy delay in the proceedings while Defendant was deemed incompetent, the case began to finally lurch forward when this Court found him restored to competency on October 6, 2023. Now, just weeks later, the case appears stalled once again. This case must proceed forward without further, unnecessary delay. The victims in this case have been awaiting trial for too long and strongly object to any further delays. The People object to any further delay, particularly one that appears arbitrary and unjustified based on CDHS’s December 29, 2023 letter to the Court.

WHEREFORE, the People file this Notice and Objection, requesting that the Court order CDHS to appear at the January 12, 2024 hearing to explain (1) the delay in assigning the evaluation to appropriate doctors (2) the delay in communicating any issue with the Court's January 8, 2024 evaluation deadline in a timely fashion and (3) the justification for the requested 114-day delay from the Court's deadline to provide an evaluation in this case. Further, if the Court approves CDHS's delayed submission of the evaluation, the People request the Court order CDHS to provide monthly updates as to the status of Defendant's evaluation, to include specific tasks and interviews completed each month, along with updates regarding the expected date of its completion.

Respectfully submitted,

MICHAEL T. DOUGHERTY
DISTRICT ATTORNEY

By:

s/Adam Kendall
Adam Kendall
Chief Trial Deputy District Attorney
January 4, 2024

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing served via the Colorado e-filing system on January 4, 2024, and addressed as follows:

Kathryn Herold
Sam Dunn
Office of the Colorado State Public Defender – Boulder
2555 55th Street Suite. D-200
Boulder, CO 80301

s/Adam D. Kendall
Adam D. Kendall

Attachment to Order - 2021CR497