

District Court, Boulder County, State of Colorado 1777 Sixth Street, Boulder, Colorado 80302 (303) 441-3674	DATE FILED: September 7, 2021 10:33 AM
PEOPLE OF THE STATE OF COLORADO v. AHMAD AL ALIWI ALISSA, DEFENDANT	▲ COURT USE ONLY ▲
<i>Attorneys for the People:</i> Michael Dougherty, Ken Kupfner, & Adam Kendall <i>Attorneys for the Defendant:</i> Daniel King, Samuel Dunn, & Kathryn Herold	Case Number: 2021CR497 Division: 13 Courtroom: G
ORDER RE: COMPETENCY ADVISEMENT	

THIS MATTER comes before the Court for a Competency Advisement. The Court took the following actions:

BACKGROUND

On March 24, 2021, the People filed *Complaint and Information*, charging the Defendant with 10 counts of first-degree murder. The People filed *Motion to Amend Criminal Complaint and Information* and *Second Motion to Amend Criminal Complaint and Information* on April 21, 2021 and May 24, 2021 respectively. The Defendant is presently charged with 10 counts of first-degree murder, 47 counts of attempted first-degree murder, one count of first-degree assault, 10 counts of possession of a prohibited large capacity magazine, and 47 violent crime sentence enhancers. The Court held a Rule 5 Advisement on March 25, 2021. The Defendant waived his right to a Preliminary Hearing within 35 days. The Court held a Status Conference on May 25, 2021 and set a Preliminary Hearing/Proof Evident Presumption Great Hearing for September 7, 2021.

On September 1, 2021, the Defendant filed *Sealed Motion for a Preliminary Finding of Incompetence and to Suspend Proceedings* and *Notice of Raising Competency*. The Defendant moved the Court to suspend proceedings, vacate the upcoming Preliminary Hearing/Proof Evident Presumption Great Hearing, and make a preliminary determination that he is incompetent to proceed.

The People filed *People's Request for Clarification from the Court Following the Filing of Defendant's Notice of Raising Competency* on September 1, 2021. The People argued the Court can hold the Preliminary Hearing under § 16-8.5-102(1), C.R.S. before determining competency and even if the Defendant has been found incompetent. The People requested the Court proceed with the Preliminary Hearing/Proof Evident Presumption Great hearing as scheduled.

On September 2, 2021, the Defendant filed *Motion to Vacate Preliminary Hearing and Suspend the Proceedings*, requesting the Court vacate the Preliminary Hearing and use the September 7, 2021 setting to advise the Defendant of the competency procedure.

On September 2, 2021, the Court issued *Order Re: The People's Request for Clarification and the Defendant's Notice of Raising Competency and Motion to Vacate Preliminary Hearing and Suspend the Proceedings*. The Court vacated the scheduled Preliminary Hearing/Proof Evident Presumption Great Hearing but noted it could not make a preliminary finding of incompetence based on the Defendant's Motions. Accordingly, the Court converted the September 7, 2021 setting to a competency advisement.

ACTIONS

The Court ADVISED the Defendant of the competency process, pursuant to § 16-8.5-109, C.R.S. Because the evaluation will take place while the Defendant is in custody, the Court notes, under § 16-8.5-105(1)(a)(I), C.R.S., the Colorado Department of Human Services must conduct the evaluation within 21 days of receiving this Order and all collateral materials, as defined in § 16-8.5-101(1), C.R.S. Pursuant to § 16-8.5-105(1)(a)(II), C.R.S., the Court further ORDERS the parties to transmit all collateral material to CDHS within 24 hours of the issuance of this Order and provide a certificate of service to the Court and opposing counsel.

The Court DENIED the Defendant's request for the evaluation to take place at the Colorado Mental Health Institute in Pueblo, CO and ORDERED the evaluation to take place at the Boulder County Jail.

The Court notes that by raising the issue of competency, any claim to confidentiality or privilege by the Defendant is deemed waived. Thus, pursuant to § 16-8.5-104, C.R.S., the People, Defense Counsel, and the Court are granted access to reports of competency evaluations, including second evaluations; information and documents relating to the competency evaluation that are created by, obtained by, reviewed by, or relied on by an evaluator performing a court-ordered evaluation; and the evaluator, for the purpose of discussing the competency evaluation.

Similarly, Defense Counsel must divulge any competency reports written based upon their own independent evaluations to the Court and to the People, should they seek to use such reports during the duration of this case.

The Court SETS this matter for a half-day Preliminary Hearing/Proof Evident Presumption Great Hearing for **October 19, 2021 at 1:00 p.m. in Courtroom G**. The Court notes the hearing will be available to watch on WebEx.

SO ORDERED this 7th day of September, 2021.

BY THE COURT

A handwritten signature in black ink, appearing to read 'I S Bakke', with a stylized flourish at the end.

Ingrid S. Bakke
District Court Judge