

DISTRICT COURT, BOULDER COUNTY, COLORADO Court Address: 1777 SIXTH STREET P.O. BOX 4249, BOULDER, CO, 80306-4249	DATE FILED: September 21, 2023 1:44 PM
THE PEOPLE OF THE STATE OF COLORADO v. <b>Defendant(s)</b> AHMAD AL ALIWI ALISSA	<p style="text-align: center;">△ COURT USE ONLY △</p> Case Number: 2021CR497 Division: 13                      Courtroom:
<b>Order:Mr. Alissa's continued objection to Dr. Scott Bender testifying remote (D-025)</b>	

The motion/proposed order attached hereto: NO ACTION TAKEN.

DA response due by 11:00 AM 9/22/23 setting forth w/ specificity as to why the witness cannot appear in person and if ordered to do so, why that could not be accomplished.

Issue Date: 9/21/2023



INGRID SEFTAR BAKKE  
 District Court Judge

District Court, Boulder County, Colorado Court Address: 1776 6 <sup>th</sup> Avenue Boulder, CO 80306	<p style="text-align: center;">σ COURT USE ONLY σ</p>
THE PEOPLE OF THE STATE OF COLORADO  v.  <b>AHMAD AL ALIWI ALISSA</b> Defendant.	
Megan Ring, Colorado State Public Defender Kathryn Herold #40075 Supervising Deputy State Public Defender Samuel Dunn #46901 Deputy State Public Defender Boulder Regional Public Defenders 2555 55TH Street D-200, Boulder, CO 80301 Phone: (303) 444-2322 Fax: (303) 449-6432 E-mail: boulder.defenders@state.co.us	Case No. <b>21CR497</b>  Division 13
<b>MR. ALISSA'S CONTINUED OBJECTION TO DR. SCOTT BENDER          TESTIFYING REMOTE (D-025)</b>	

Mr. Alissa, through counsel, objects to Dr. Scott Bender testifying remotely. In support of this motion, Mr. Alissa states the following:

1. Mr. Alissa is set for a restoration hearing on September 27<sup>th</sup> and 28<sup>th</sup>, 2023.
2. The government is intending on calling Dr. Scott Bender. They have requested he appear remotely.
3. It is not totally clear to Mr. Alissa what the purpose of Dr. Bender's testimony is at the hearing considering he has never evaluated Mr. Alissa. Previously, in P-014, the government outlined some possible subjects that Dr. Bender may cover at a restoration hearing. These subjects include malingering and deception, neuropsychological considerations in forensic mental health assessments, and competency to stand trial. The government further stated that Dr. Bender will testify that CMHIP does not possess real, objective evidence with which to evaluate Mr. Alissa appropriately. According to the government Dr. Bender will address the utility of a forensic neuropsychological exam and the clinical need for it. By failing to conduct such an exam, according to Dr. Bender, CMHIP lacks the appropriate and objective basis for reaching their conclusion and he has never seen such a failure.
4. Since the government's initial request for a restoration hearing, CMHIP filed a report stating that they believe Mr. Alissa is restored to competency. Since the bulk of Dr.

Bender's testimony is attempting to attack the credibility of CMHIP it is unclear the relevancy of his testimony at the current hearing. That said, if the government intends on calling him, he should have to appear in person.

5. Mr. Alissa has a right to confront and cross-examine the witnesses against him. *See* U.S. Const. amend. V, XIV and Colo. Const. amend. VI. This right includes exposing bias, intent, and motive of the witness. The right to confront should be in person. The Court cannot make the appropriate findings of Dr. Bender's credibility if he is appearing remotely. The credibility of Dr. Bender's testimony will be at issue, particularly because he is making accusations Mr. Alissa may be malingering and/or is deceptive, when no other doctor who has actually met with and/or evaluated Mr. Alissa has made such an assertion.
6. Mr. Alissa has a right to confront, face-to-face, in a courtroom, a "blind" expert who is opining on the opinions of others regarding his mental health and whether he has been restored to competency.

WHEREFORE, Mr. Alissa objects to Dr. Bender appearing remote at the restoration hearing.

MEGAN A. RING  
COLORADO STATE PUBLIC DEFENDER



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Kathryn Herold #40075  
Supervising Deputy State Public Defender



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Samuel Dunn #46901  
Deputy State Public Defender

**Certificate of Service**

I hereby certify that on \_\_\_09.20\_\_\_\_\_,  
2023, I served the foregoing document  
through Colorado E filing to all opposing  
counsel of record.

Dated: September 20, 2023