

3. According to the prosecution, more time is unnecessary because (1) it gave the evaluators “guidance” on “which files required immediate attention for their review,” (2) the evaluators “never indicated to the People that the statutorily prescribed deadline was an issue or that they were unable to submit a reliable evaluation within the prescribed time frame,” (3) and the victims’ representatives object to further delay. Each of the prosecution’s arguments opposing Mr. Alissa’s request fails.
4. First, Mr. Alissa does not dispute that the prosecution spoke with the evaluators and provided “guidance” on pieces of information it believes are important. But the prosecution is not a neutral party. *See People v. Pautler*, 35 P.3d 571, 581-82 (Colo. 2001). It is seeking to convict Mr. Alissa of multiple counts of first degree murder and to ensure he dies in prison.
5. It is not for the prosecution to decide how to protect Mr. Alissa’s rights and which information is relevant to protecting his rights. *See People v. Guzman-Rincon*, 369 P.3d 752, 757 (Colo. App. 2015) (“[W]e reject the prosecution’s position, advanced at trial during the ex parte hearing, that ‘[w]e don’t believe this information itself would have any bearing upon the defendant’s right to a fair trial in this case.’ It is not the role of the prosecution to determine whether a defendant’s rights are violated.”). Therefore the prosecution’s spin and gloss on the materials given to the evaluators is not a substitute for a neutral and objective evaluation of those materials.
6. Second, the prosecution’s statement that the evaluators never told it that they needed more time rings hollow. *Response to D-018*, p.2. Despite the opportunity to do so, the prosecution apparently never asked the evaluators about the amount of time needed to complete an evaluation. Importantly, as its motion and actions “guiding” the evaluators suggest, there is a mountain of materials the evaluators need to review and that reviewing all of it and completing a reliable evaluation within 21 days would be impossible. As it does not dispute what the evaluators told Mr. Alissa’s team, the evaluators’ apparent decision not to volunteer an appropriate timeline to the prosecution has no significance.
7. Finally, the prosecution notes that the Victims’ Rights Act (VRA) requires the prosecution to inform the victims’ families and representatives of any motion that “may substantially delay the prosecution” and to inform the court of their position. *Response to D-018*. As the prosecution notes, the victims’ families understandably oppose any delay.
8. But Mr. Alissa is not seeking to delay the prosecution, nor is he seeking a “substantial one.” Counsel is seeking to have a reliable competency evaluation because he is incompetent. “[C]onstitutional rights may not be disregarded whenever it becomes inconvenient to honor them.” *State v. Fitch*, 884 N.W.2d 367, 377 (Minn. 2016). Nothing in the VRA entitles the prosecution, or anyone else, to a hasty and unreliable prosecution. Moreover, attempting to speed up a criminal prosecution and cut corners will only lead to delays. As the prosecution is aware, it is unconstitutional to try an incompetent person, and an unconstitutional prosecution is not a speedy one in the end.

materials, conduct their evaluation, and write a report and their response was an emphatic yes.” D-018, ¶ 10 (emphasis added).

9. To alleviate the prosecution's concerns about a lengthy delay, Mr. Alissa proposes giving the evaluators an additional 60 days to complete his competency evaluation.

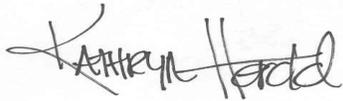
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Certificate of Service

I hereby certify that on September 24, 2021, I served the foregoing document by E filing same to all opposing counsel of record.

/s/Sam Dunn _____

Dated: September 24, 2021