

District Court, Boulder County, Colorado Court Address: 1776 6 th Avenue Boulder, CO 80306	
THE PEOPLE OF THE STATE OF COLORADO v. Ahmad Alissa, Defendant.	DATE FILED: March 23, 2021 2:47 PM <p style="text-align: center;">σ COURT USE ONLY σ</p>
Megan Ring, Colorado State Public Defender Samuel Dunn #46901 Senior Deputy State Public Defender Kathryn Herold #40075 Supervising 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. 21CR497 Division 13
MR. ALISSA'S MOTION FOR DISCOVERY (D-004)	

Pursuant to Colo. R. Crim. P. 16, the Fifth, Sixth and Fourteenth Amendments to the United States Constitution, Article II, Section 16 and 25 of the Colorado Constitution and *Brady v. Maryland*, 373 U.S. 83 (1963), Mr. Alissa moves for an order directing the prosecution to make inquiry and disclose all of the following within their possession, custody and control, or the existence of which is known or by the exercise of due diligence could become known to the prosecution:

Witness Information

1. Mr. Alissa requests current names, addresses, and telephone numbers of all prosecution witnesses.
2. Mr. Alissa requests all records, police reports and information regarding prior criminal convictions, guilty verdicts, juvenile adjudications, or pending criminal or juvenile cases of all prosecution witnesses in Colorado or other states. This information is discoverable under Colorado law, as outlined below:
 - a. Colo. R. Crim. P. 16 (I)(a)(I) requires production of "prior criminal convictions" of all prosecution witnesses. This rule is not by its terms limited to felony convictions.
 - b. Felony convictions may be used for impeachment purposes. Section 13-90-101.

- c. Juvenile adjudications may be used for impeachment purposes. *People v. Pate*, 625 P.2d 369 (Colo. 1981).
 - d. Misdemeanor convictions probative of untruthfulness or dishonesty may be used for impeachment purposes. C.R.S. 608; *People v. Armstrong*, 704 P.2d 877 (Colo. App. 1985).
 - e. The fact of probation or parole at any time during the pendency of this case is probative of bias or motive, and is admissible regardless of the type of underlying conviction. *Davis v. Alaska*, 415 U.S. 308 (1974); *Pate*, supra; *People v. Bowman*, 669 P.2d 1369 (Colo. 1983).
 - f. The existence of cases pending at any time during the investigation of pendency of this case is admissible as to bias or motive. *People v. Jones*, 675 P.2d 9 (Colo. 1984); *People v. King*, 179 Colo. 94, 498 P.2d 1142 (1972).
 - g. Mr. Alissa has no reasonable means to obtain such information other than through the prosecution. Only the prosecution has access to the various sources for establishing their witnesses' criminal records or the existence of a pending charge, such as thorough F.B.I. records, NCIC, CCIC, and COSIN listings, and the prosecution's own records, and Mr. Alissa has no access to the juvenile records of any of the prosecution witnesses.
3. Any and all records or information revealing prior misconduct or bad acts attributed to any prosecution witnesses. Such misconduct may be admissible under C.R.E. 608(b) even though no conviction resulted, or may lead to the discovery of character evidence admissible under C.R.E. 608(a).

Oral Statements of Witnesses

4. Counsel requests discovery of all oral statements made to any government entity or agent by witnesses or other involved parties.
5. Mr. Alissa requests that this Court order the prosecution to disclose any and all hearsay statements which the prosecution intends to offer as evidence at trial and the basis for their admission.
6. Said discovery is authorized by the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, by Article II, Sections 16 and 25 of the Colorado Constitution, and by Colo. R. Crim. P. 16. Rule 16 provides for discovery in the Court's discretion of any relevant material not specifically described in Rule 16.
7. Without this discovery, defense counsel will be unable to adequately confront prosecution witnesses and to properly prepare for trial.

8. A pretrial hearing would be necessary to determine the admissibility of any hearsay statements. *People v. Dement*, 661 P.2d 675 (Colo. 1983). Defense counsel needs notice of the District Attorney's intent in order to prepare for this hearing.
9. Defense counsel cannot effectively defend against the admission of hearsay statements unless notified that the District Attorney intends to introduce such statements at trial. This implicates Mr. Alissa's Constitutional rights to due process of law, and effective assistance of counsel.
10. Mr. Alissa requests that all such statements be reduced to writing and be provided to counsel prior to introduction.

Exculpatory Statements and Evidence

11. Rule 16 requires that the prosecution provide to the accused all potentially exculpatory information and material in its possession. This includes potential impeachment or contradiction of the state's witnesses and evidence. *People v. Thatcher*, 638 P.2d 760 (Colo. 1981). Non-recorded statements could also fall into this category and are therefore discoverable. Mr. Alissa requests discovery of all such materials in the possession of the prosecution or agents of the prosecution, including investigators, victim advocates, etc.

MEGAN A. RING
COLORADO STATE PUBLIC DEFENDER

 /s/Samuel Dunn
Samuel Dunn #46901
Deputy State Public Defender

 /s/Kathryn Herold
Kathryn Herold #40075
Supervising Deputy State Public Defender

Certificate of Service

I hereby certify that on March 23, 2021, I served the foregoing document by E filing same to all opposing counsel of record.

 /s/ Sam Dunn

Dated: March 23, 2021