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COURT OF APPEALS, STATE OF COLORADO Ralph L. Carr Judicial Center 2 East 14th Ave. Denver, CO 80203 Appeal; Arapahoe District Court; Honorable Eric White; and Case Number 2019CR695	
Plaintiff-Appellee THE PEOPLE OF THE STATE OF COLORADO v. Defendant-Appellant DAVID JOSEPH CHAPEL	
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REPLY BRIEF	

CERTIFICATE OF COMPLIANCE

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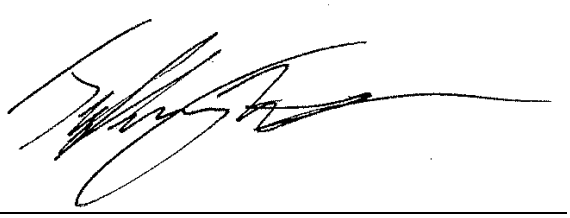

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In response to matters raised in the Attorney General's Answer Brief, and in addition to the arguments and authorities presented in the Opening Brief, Defendant-Appellant submits the following Reply Brief.

ARGUMENT

I. Mr. Chapel was entitled to the choice-of-evils defense.

A. Standard of review and preservation.

The parties agree that courts review de novo the denial of an affirmative defense. When doing so, courts must view the evidence in the light most favorable to the defendant and draw all reasonable inferences in the defendant's favor. OB, p 13; AB, p 4; *People v. Brandyberry*, 81 P.2d 674, 678 (Colo. App. 1990).

The parties agree that this claim is preserved. OB, p 13; AB, p 4.

B. When viewed in the light most favorable to Mr. Chapel, the offer of proof, the evidence and rational inferences showed he went onto another person's property to save himself from freezing to death.

When viewed in the light most favorable to Mr. Chapel, the evidence and Mr. Chapel's offer of proof raised a scintilla of evidence to support the choice-of-evils defense. The State does not dispute that Chapel's actions had a direct causal connection with the harm sought to be prevented, would have abated the harm, and were taken as an emergency measure pursued to avoid specific, definite, and imminent injury about to occur. *See* AB, pp 7-9; *see Andrews v. People*, 800 P.2d

607, 610 (Colo. 1990) (identifying what constitutes a sufficient offer of proof for choice of evils).

Still, the State views evidence and draws inferences against Mr. Chapel to contend that he "willingly left a warm place knowing the dangers the cold that night posed but without having sufficient information to assess the risks of staying inside." AB, p 8. Defense counsel proffered that Mr. Chapel—who was asleep in a neighbor's house after attending a party—awoke to a loud commotion, believed people were fighting, and saw people fleeing the house and even jumping off the balcony. Mr. Chapel was frightened and fled the house without grabbing a hat, gloves, or winter coat. Contrary to the State's belief, Mr. Chapel did not simply leave a warm place. He fled a dangerous situation he did not create. When viewed in the light most favorable to Mr. Chapel and drawing all reasonable inferences in his favor, this was a scintilla of evidence that Mr. Chapel's conduct did not "occasion[] or develop[]" the imminent injury. § 18-1-702(1), C.R.S.

The State essentially asks this Court to discredit Mr. Chapel's proffer. But "[i]t is too well settled to merit further discussion that a trial court is obliged to instruct the jury on a requested affirmative defense if there is any credible evidence, including even highly improbable testimony of the defendant himself, supporting it." *People v. Speer*, 255 P.3d 1115, 1119 (Colo. 2011). The State's suggestion

contradicts this Court's duty to view the proffer in the light most favorable to Mr. Chapel.

The State also mistakenly relies on *People v. Trujillo*, 682 P.2d 499 (Colo. App. 1984). As discussed in the Opening Brief, p 17, *Trujillo* addressed a fundamentally different question: the trial court's determination as factfinder that the prosecution had "disproved several elements of" the defendant's choice-of-evils defense "beyond a reasonable doubt." *Id.* at 501. As factfinder, the trial court had exclusive authority to assess credibility and weigh the evidence for and against the defendant. The scintilla of evidence standard, by contrast, requires courts to view the evidence in the light most favorable to the defendant. The trial court's fact-findings in *Trujillo* tell us nothing about whether Mr. Chapel's offer of proof and the trial evidence raised a scintilla of evidence to support giving the choice of evils defense. *E.g.*, *Lybarger v. People*, 807 P.2d 570, 579 (Colo. 1991) ("While the question of the availability of the defense is for the court and not the jury, it is the jury's function, and not the court's, to assess the credibility of the witnesses and the weight of the evidence with a view to determining whether the guilt of the defendant has been established beyond a reasonable doubt as to the issue involving the affirmative defense as well as all other elements of the crime charged."). And the division in *Trujillo* did not perform a scintilla of evidence analysis.

In *Trujillo*, the trial court determined that choice of evils was an applicable defense, held the prosecution to its burden to disprove the defense beyond a reasonable doubt, and therefore prevented the error that occurred in Mr. Chapel's trial. *Id.* at 501. Here the district court precluded the factfinder from applying—or even knowing about—choice of evils. Mr. Chapel's jury asked whether the law might justify his conduct "due to humanitarian reasons or extreme conditions," CF, p 84, and the district court recognized that the jury "wante[d] the theory I've decided they can't consider . . . ." TR 2/26/2020, p 136:2-4.

In any event, the facts of *Trujillo* do not help the State's contentions. There, the defendant asserted the choice-of-evils defense after he broke into a mobile home to escape poor weather. However, the trial court determined he put himself in that situation by driving at an "excessive speed" in poor conditions and losing control of his car. *Trujillo*, 682 P.2d at 501. Here, however, Mr. Chapel fled the house because he believed he was in danger and saw others running and jumping off the balcony. Unlike the driver in *Trujillo*, Mr. Chapel was asleep and responded to a dangerous situation not of his own making.

Contrary to the State's contention, Mr. Chapel's offer of proof raised a scintilla of evidence that reasonable lawful alternatives were pursued or futile.

Defense counsel made a lengthy proffer and argument for why Mr. Chapel could not simply walk home, as the State suggests on appeal:

> [T]his Court has granted the defense motion to take judicial notice of how—essentially the weather that day, which was very cold in the Denver Metro Area. That coupled with the fact that there will be evidence that will be testified to from prosecution witnesses that Mr. Chapel had a skin condition essentially, for lack of a better word, at the time. He makes numerous statements to officers that his hands are cold. He makes numerous statements that his skin is sticking to each other. He makes numerous statements that he felt as if the skin was melting off his hands. He makes numerous statements that he can't feel his fingers or his hands. He is constantly saying "ow" when being put into handcuffs and he makes a few statements that he feels as if the skin is pe[el]ing off of his hands as a sensation that he is feeling, so I would say when he is faced with the alternative of either going into a house in front of him or proceeding to his own house, there is—and there will be sufficient evidence that it would have been futile for him to continue walking because his condition at the time was so dire that he needed to take other measures; that he could not reasonably complete the walk and not suffer more serious imminent injury, and the imm[i]nency of injury is corroborated or proven by the fact that when he's in—so he's outside. He's in the cold and he's experiencing the sensation and the testimony that—or the evidence that—in the form of his statements to police on scene is that he was inside and he was trying to get warm but he wasn't at the heat source yet. He wasn't at the stove, he was just in the garage, and he tells officers that he was awoken just because of the pain in his hands, so this is when he's not in the elements, he's not outside, he's just in the garage, so it wasn't until he then was over the stove warming his hands for a number of minutes that it did get better so if he—I mean. He's experiencing that

> kind of pain and sensation when he is just not at the heat source but indoors. If he would have had, you know, several more minutes outdoors, that injury would have occurred and it would have been imminent. It would have gotten worse and worse at a very steady incline or a very high rate, so the alternative of staying outside and continuing walking was not a viable alternative to, which is the modifier, to avoid that imminent injury. He would have suffered imminent injury if he pursued the alternative making it futile.

TR 2/25/2020, pp 25-27. Additionally, counsel proffered that there was "snow on the ground that day" and that "he was trying to walk back home he lost a boot and he was experiencing issues getting home that created a further situation of him getting colder and colder." *Id.* at 28:14-18. Counsel's proffer explained why this evidence and the reasonable inferences therefrom supported that Chapel's walking home was not a reasonable alternative to seeking shelter inside the home right in front of him.

People v. Wingfield, 2014 COA 173, is distinguishable and does not guide the reasonable alternatives analysis here. There, the defendant wanted to assert choice of evils to his possession of contraband conviction after he was caught trying to break out of jail. The defendant claimed his cellmates planned to escape and threatened him if he "did anything to stop" them. *Id.* at ¶ 7. Although the defendant "fil[ed] several inmate request forms" to change cells, he "did not specify his reasons for seeking removal." *Id.* at ¶ 8. After his requests were denied, the defendant

"decid[ed] to go along with his cellmates' escape plan." *Id.* The division determined that choice of evils did not apply because the defendant "could have reached a point of safety by telling jailers at any time what was going on and by requesting to be removed from his cell." *Id.* at ¶ 61. Unlike *Wingfield*, Chapel was alone, stuck in the cold and snow, and suffering with every passing second. He did not have the luxury of filing several reports to ask for help.

Finally, this Court should not place any weight on the prosecutor's unsupported argument that Mr. Chapel's house was a "three-minute walk" from the home where he sought shelter.[1] AB, pp 5, 9. Relying on that estimate would draw several inferences against Mr. Chapel rather than in his favor. It would discount the myriad difficulties Mr. Chapel encountered after fleeing the party: the extreme cold and deep snow, his losing a boot, his difficulty finding his way home, and the pain he suffered. Mr. Chapel sought shelter immediately at the houses right in front of him. He neither roamed the neighborhood nor passed by streets and houses. The State seems to acknowledge this in its recitation of the facts. *See* AB, p 2 ("Not able

[1] The prosecutor appears to have drawn this estimate from Google Maps. The court did not admit that estimate at trial after defense counsel objected on hearsay grounds. TR 2/25/2020, pp 30-32; *see* EX, pp 1, 12-13.

to get inside, Chapel moved on from 1245 Granby by hopping the fence to the next backyard at 1244 Fraser Street.").

C. The erroneous denial of Mr. Chapel's choice-of-evils defense requires reversal.

The State agrees that the erroneous denial of an affirmative defense requires reversal because it lowers the prosecution's burden of proof. AB, p 4; *see, e.g.*, *Wingfield*, ¶ 59. Because the district court here erroneously denied Mr. Chapel's choice-of-evils defense, the error lowered the prosecutor's burden of proof and cannot be deemed harmless. *People v. Garcia*, 113 P.3d 775, 784 (Colo. 2005). Reversal is required.

II. The district court reversibly erred by applying its *Miranda* suppression order to the defense and by excluding otherwise admissible statements as "self-serving."

A. Standard of review and preservation.

The parties agree that evidentiary issues are generally reviewed for an abuse of discretion. OB, p 19; AB, p 10. Legal questions are reviewed de novo. *People v. Delgado*, 2019 CO 82, ¶ 13. When a trial court's evidentiary decision was based on its interpretation or application of the law, this Court reviews de novo the application or interpretation of the law. *People v. Dominguez*, 2019 COA 78, § 13. A district court abuses its discretion when it misapplies or misinterprets the law. *Id.*

The parties agree that this claim is preserved. OB, p19; AB, p 10.

B. The district court erred by ruling that its *Miranda* suppression order applied to the defense.

In the Opening Brief, Mr. Chapel argued that the district court erred by applying its *Miranda* suppression order to the defense to prohibit Mr. Chapel from introducing his own statements. That was error because *Miranda* violations prohibit the prosecution, not the defense, from introducing a defendant's statements in its case in chief. OB, pp 27-28, 30-32.

The State does not contend otherwise. AB, pp 14-16. This Court should hold that the district court erred by excluding Mr. Chapel's statements on this basis.

C. The district court erred by excluding Mr. Chapel's statements as "self-serving."

In the Opening Brief, Mr. Chapel argued that the district court erred by excluding his statements as "self-serving" even though they were admissible under CRE 803(3) and (4)'s exceptions to the hearsay bar. OB, pp 28-30, 32-33. The State does not argue that Mr. Chapel's statements failed to meet the foundational requirements in CRE 803(3) and (4). *See* AB, pp 14-16. And the State agrees that a so-called "self-serving limitation does not appear in the Colorado Rules of Evidence." AB, p 16.

Still, the State contends Mr. Chapel's statements were "self-serving hearsay" and therefore inadmissible. AB, pp 14-16. In doing so, the State mistakenly relies

on *People v. Cunningham*, 194 Colo. 198, 570 P.2 1086 (1977), and several cases stemming from *Cunningham*. *See* AB, pp 14-16 (citing *People v. Zubiate*, 2013 COA 69; *People v. Davis*, 218 P.3d 718 (Colo. App. 2008); *People v. Avery*, 736 P.2d 1233 (Colo. App. 1986); *People v. Abeyta*, 728 P.2d 327 (Colo. App. 1986)). Such reliance is misplaced for a host of reasons.

First, *Cunningham* predated the Rules of Evidence and neither predicted nor addressed the hearsay rules contained therein. For the past 40 years, the Rules of Evidence—not *Cunningham*—have governed the admissibility of a defendant's hearsay. *See People v. King*, 785 P.2d 596 (Colo. 1990) (rejecting the Court of Appeal's self-serving hearsay analysis and holding, "The Colorado Rules of Evidence . . . became on effective January 1, 1980, and provide the framework for resolving the evidentiary issue before us.").

As the State acknowledges, the Rules of Evidence do not even mention so-called "self-serving hearsay." This Court cannot add words to court rules. *People in Interest of R.J.*, 2019 COA 109, ¶ 8 ("We should not add words or phrases to a rule or statute, and, relatedly, we should presume that the inclusion of certain terms in a rule or statute implies the exclusion of others.").

Second, *King*—not *Cunningham*—governs a defendant's hearsay after the adoption of the Rules of Evidence. There, the defendant argued to admit his own

statements as statements for a medical diagnosis under CRE 803(4), but the Court of Appeals determined that the statements were "self-serving" and lacked "adequate guarantees of trustworthiness" and were therefore inadmissible. 785 P.2d at 599-600. The supreme court reversed. It "reject[ed] the analysis employed by the court of appeals in resolving this evidentiary issue" and looked instead to the Rules of Evidence for the "proper framework." *Id.* at 600, 603. The supreme court then determined that the court should have admitted the defendant's statements under CRE 803(4). *Id.* at 600-04; *accord. People v. Pack*, 797 P.2d 774 (Colo. App. 1990) (rejecting a "general rule excluding evidence of exculpatory hearsay statements" and concluding that "the excited utterance rule is applicable to criminal defendants"); *see also People v. Short*, 2018 COA 47, ¶¶ 43-46 (approving trial court's determination that the defendant's "otherwise inadmissible self-serving hearsay was admissible under the rule of completeness").

Third, *Cunningham* addressed a distinct, narrow issue: statements against interest. 570 P.2d at 1089. CRE 804(b)(3)(B) now governs statements against interest in criminal cases and requires that such statements be "supported by corroborating circumstances that clearly indicate its trustworthiness, if it is offered in a criminal case as one that tends to expose the declarant to criminal liability." The rules do not provide a similar requirement under CRE 803(3) or (4). The State

essentially asks this Court to add another foundational requirement to Rule 803(3) and (4). This Court cannot add words to those hearsay exceptions. *R.J.*, ¶ 8.

Fourth, even if *Cunningham* proposed a broad rule in 1977, Colorado did not adopt *Cunningham*'s language when it created the rules in 1980.

Fifth, the so-called "self-serving hearsay" rule does not advance the principles of hearsay law. Hearsay is generally inadmissible because it is unreliable. This principle applies to all declarants, not just criminal defendants. The Rules of Evidence identify 27 specific exceptions where out-of-court statements are deemed reliable and therefore admissible. *See* CRE 803, 804. If the proponent satisfies the foundational requirements of an exception, the statement is admissible and any concerns about the weight of the evidence are for the jury alone. *See, e.g.*, *Kelly v. Haralampopoulos by Haralampopoulos*, 2014 CO 46, ¶ 20 (a Rule 803(4) statement for medical diagnosis "carries with it a presumption of reliability" because a false statement may "cause misdiagnosis or mistreatment" (quoting *White v. Illinois*, 502 U.S. 346, 352 (1992)); *People v. Gash*, 165 P.3d 770, 783-84 (Colo. App. 2006) (CRE 803(3) is a firmly rooted hearsay exception and therefore such statements bear indicia of reliability).

The State acknowledges both that "the firmly rooted hearsay exceptions in CRE 803 depend on 'sufficient indicia of reliability'" and that "[r]eliability may be

inferred if the evidence falls within a firmly rooted hearsay exception." AB, p 16 (quoting *People v. Vigil*, 127 P.3d 916, 926 (Colo. 2006), and *People v. Schmidt*, 928 P.2d 805, 807 (Colo. App. 1996)).[2] If the supreme court intended to hold criminal defendants to a different standard than other declarants under the Colorado Rules of Evidence, it clearly knew how to do so and would have adopted such a rule. *Cf. People v. Anderson*, 2015 COA 12, ¶ 21 (rejecting proposed statutory interpretation because it differed from what statute actually said).

To the extent divisions of this Court have relied on *Cunningham* to hold that trial courts may exclude a defendant's hearsay as "self-serving" despite admissibility under one of CRE 803 and 804's enumerated exceptions, those decisions failed to reconcile their analysis with *King* and mistakenly relied on *Cunningham*. They were incorrectly decided and do not bind this Court. *People v. Smoots*, 2013 COA 152, ¶ 21. Those cases, although discussing self-serving statements, largely addressed other issues. *See Davis*, 218 P.3d at 731 (self-serving statements not admissible under the rule of completeness); *Abeyta*, 728 P.2d at 331 (failing to identify which

[2] *Gash*, *Vigil*, and *Schmidt* all addressed Confrontation Clause claims under *Ohio v. Roberts*, 448 U.S. 56 (1980), *abrogated by Crawford v. Washington*, 541 U.S. 36 (2004), and *People v. Dement*, 661 P.2d 675 (Colo. 1983), *abrogated by People v. Fry*, 92 P.3d 970 (Colo. 2004). Although no longer good law for confrontation purposes, their discussion of the reliability of the hearsay exceptions still applies.

hearsay exception applied if any); *Avery*, 736 P.2d at 1237 (holding defendant did not satisfy foundational requirements of prior consistent statement); *see also Zubiate*, ¶¶ 17-20, (defendant did not satisfy foundational requirements of statement against interest), ¶¶ 21-28 (any error in failing to admit defendant's hearsay under state of mind exception was not obvious plain error, given *Davis*, *Avery*, and *Abeyta*), ¶¶ 29-33 (defendant's otherwise inadmissible hearsay was not admissible under rule of completeness).

This Court should reject the State's request to uphold excluding Mr. Chapel's statements as "self-serving." Because Mr. Chapel's statements were admissible under CRE 803(3) and (4), the district court erred in failing to admit them.

D. Reversal is required.

The parties disagree on the standard of reversal. When an evidentiary error violates a defendant's constitutional rights, the error is constitutional, and this Court will reverse under the constitutional harmless error standard. *See*, *e.g.*, *Bernal v. People*, 44 P.3d 184, 200 (Colo. 2002) (erroneous admission of evidence was "subject to a constitutional harmless error analysis"). Here, Mr. Chapel contends that the district court improperly restricted the defense's evidence and violated his right to present a complete defense. *Crane v. Kentucky*, 476 U.S. 683, 690 (1986); *Krutsinger v. People*, 219 P.3d 1054, 1060-61 (Colo. 2009); *see* OB, pp 33-34. The

State does not contend the error was harmless beyond a reasonable doubt should this Court apply that standard. S*ee* AB, p 16. The State therefore has not met its burden under this standard, and reversal is required.

Reversal is required under the nonconstitutional harmless error standard. Mr. Chapel's theory of defense was that he did not knowingly trespass because he was freezing and in intense pain. In the excluded statements, Mr. Chapel repeatedly moaned in pain and told the police he was in shock, he was freezing, his hands were cold, his fingers hurt, and he felt like his fingertips were falling off. He repeatedly asked for gloves and asked the police to look at his fingers, and asked the police to determine whether he should receive medical care. Supp ENV 1, People's EX 1, Gruszeczka, Roch_2019-03-03_04-34-42.AVI, at 00:50-5:50; TR 2/26/2020, pp 67-68. Mr. Chapel made those statements moments after the alleged trespass, and they were crucial circumstantial evidence of his mental state.

Contrary to the State's contention, the statements were not just cumulative. While other witnesses testified that Mr. Chapel looked cold and was shivering, those observations cannot substitute for Mr. Chapel's near-contemporaneous account of his physical condition. Mr. Chapel's statements are evidence that the pain and damage from the cold persisted after he left the house. The court's error deprived the jury of that evidence.

Similarly, although the court admitted a later police interview with Mr. Chapel, that interview took place well after his arrest and after he had warmed up. Thus, the jury may have discredited that account as rehearsed or self-serving. The court's error prevented the jury from fully assessing Mr. Chapel's credibility in explaining his physical condition and in assessing Mr. Chapel's state of mind. Reversal is required.

III. The prosecutor mischaracterized and denigrated the defense and misled the jury.

A. Standard of review and preservation.

The parties agree on the two-step analysis articulated in *Wend v. People*, 235 P.3d 1089, 1096 (Colo. 2010). OB, pp 36-37; AB, pp 17-18.

The parties agree this claim is preserved. OB, pp 36-37; AB, p 17.

B. The prosecutor's argument was misconduct, not inartful rhetoric, and reversal is required.

In the Opening Brief, Mr. Chapel contended that the prosecutor mischaracterized and denigrated the defense and misled the jury in rebuttal closing by arguing that "the entire argument, the entire defense must be cast out. You cannot consider it." TR 2/26/2020, pp 121:18-19. Contrary to the State's contention that this was simply "inartful," the prosecutor meant what he said even when viewed in context:

> What has been asserted as argument here? Again, that the defendant was so cold that he was not aware he was trespassing. Members of the jury room, you have only heard that from one place, that's the defense counsel. No one in this case ever said that. There's not a single fact, not a single piece of evidence in this case which came from the witness stand which would support it, which means that the entire argument, the entire defense actually has to be cast out. You cannot consider it.

TR 2/26/2020, p 121:11-19.

Prosecutors know that "[d]irect evidence will rarely be available to establish a defendant's mental state at the time of the performance of allegedly unlawful acts." *People v. Frayer*, 661 P.2d 1189, 1191 (Colo. App. 1982). Rather, the parties use circumstantial evidence and reasonable inferences to establish mental states. *Id.* Here, the prosecutor pretended the jury could not consider the theory of defense absent a witness expressly testifying about Mr. Chapel's mental state. And the prosecutor essentially suggested that defense counsel was trying to hoodwink the jury or was making up evidence. Prosecutors should be held to a higher standard. *See Domingo-Gomez v. People*, 125 P.3d 1043, 1048 (Colo. 2005) (prosecutors "have a duty to avoid using improper methods designed to obtain an unjust result" and cannot use closing argument "to mislead or unduly influence the jury.").

The State's harmlessness argument is also misguided. The court overruled defense counsel's objection when the prosecutor argued the jury could not consider

Mr. Chapel's defense. This gave the prosecutor's argument the court's imprimatur. *Cf. People v. Anderson*, 991 P.2d 319, 321 (Colo. App. 1999) (by overruling defense objection and declining to instruct jury that prosecutor's "version of the instruction is incorrect, the court improperly permits the jury to adopt the prosecutor's version of the law"). That the court gave a general instruction about evidence and inferences did not overcome the court affirming the prosecutor's improper argument.

Likewise, the errors were not harmless because they were relatively brief. First, the entire trial was brief, lasting only two days. The misconduct likely stood out given the brevity of the entire trial. Second, although relatively brief, the prosecutor's misconduct told the jury it could not consider Mr. Chapel's entire defense. After the court overruled defense counsel's objection, the prosecutor did it again. In doing so, the court improperly permitted the jury to adopt the prosecutor's improper argument. *Cf. Anderson*, 991 P.2d at 321. Third, "[r]ebuttal closing is the last thing a juror hears from counsel before deliberating, and it is therefore foremost in their thoughts." *Domingo-Gomez*, 125 P.3d at 1052.

Contrary to the State's contention, the evidence was not overwhelming. Mr. Chapel presented a plausible theory of defense: he was so cold and in so much pain that he did not form the requisite mental state. An error is harmless only when the State proves that it did not substantially contribute to the verdict or affect the fairness

of the proceedings. *Hagos v. People*, 2012 CO 63, ¶ 12. The jury had to decide whether the prosecution had proved beyond a reasonable doubt that Mr. Chapel formed the knowingly mental state. Like all mental states, this element came down to circumstantial evidence and reasonable inferences. The prosecutor's misconduct directly attacked Mr. Chapel's plausible defense regarding what inferences the jury could draw from the evidence. The State has failed to show the error was harmless. The error was not harmless, and reversal is required.

CONCLUSION

For the reasons and authorities presented here and in the Opening Brief, Mr. Chapel respectfully requests this Court reverse the conviction.

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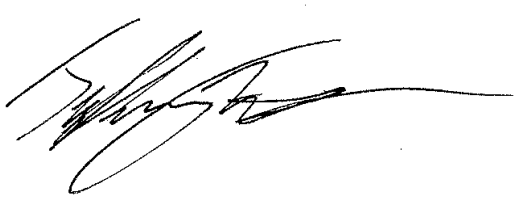

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CERTIFICATE OF SERVICE

I certify that, on August 19, 2021, a copy of this Reply Brief was electronically served through Colorado Courts E-Filing on Shelby A. Krantz of the Attorney General's Office.

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