

DISTRICT COURT, BOULDER COUNTY, COLORADO Court Address: 1777 SIXTH STREET P.O. BOX 4249, BOULDER, CO, 80306-4249	DATE FILED: April 28, 2023 4:14 PM
THE PEOPLE OF THE STATE OF COLORADO v. Defendant(s) AHMAD AL ALIWI ALISSA	<p style="text-align: center;">△ COURT USE ONLY △</p> Case Number: 2021CR497 Division: 13 Courtroom:
Order:MR. ALISSA'S MOTION FOR NOTICE OF WITNESSES AND EVIDENCE (D-022)	

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

DA response due w/in 7 days of today's date. The parties are ordered to confer in order to determine if an agreement may be reached regarding disclosures for the restoration hearing. It is the Court's position that the hearing will be more efficient, thorough, and fair if the parties can agree on disclosures and timing of disclosures from both sides given the nature of the issues in a restoration hearing.

Issue Date: 4/28/2023



INGRID SEFTAR BAKKE
 District Court Judge

District Court, Boulder County, Colorado Court Address: 1776 6 th Avenue Boulder, CO 80306	<p style="text-align: center;">σ COURT USE ONLY σ</p>
THE PEOPLE OF THE STATE OF COLORADO v. AHMAD AL ALIWI ALISSA Defendant.	
Megan Ring, Colorado State Public Defender Daniel King #26129 Chief Trial Deputy State Public Defender Kathryn Herold #40075 Supervising Deputy State Public Defender Samuel Dunn #46901 Deputy State Public Defender Boulder Regional Public Defenders 2555 55 TH 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 NOTICE OF WITNESSES AND EVIDENCE (D-022)	

AHMAD ALISSA, through counsel, respectfully requests this Court order the government to provide a list of witnesses, including expert witnesses, and any evidence the government intends on presenting at the hearing scheduled for May 23rd. In support of this motion, Mr. Alissa states the following:

1. This Court found Mr. Alissa incompetent to proceed on December 3, 2021. That conclusion was made after four doctors found Mr. Alissa suffered from a mental disability that prevented him from having sufficient present ability to consult with his attorneys with a reasonable degree of rational understanding in order to assist in his defense or prevented him from having a rational and factual understanding of the criminal proceedings.
2. This Court ordered Mr. Alissa to participate in restoration services at CMHIP.
3. Mr. Alissa has been found incompetent to proceed after several reviews, including as recent as April 18, 2023. Since the inception of this case, there has never been a doctor opining Mr. Alissa competent.
4. On March 20, 2023, the government filed a motion for a restoration hearing.
5. On April 5, 2023, this Court granted the government's request for a restoration hearing.

6. The government filed a reply motion on March 31, 2023, in support of their request for a restoration hearing. In that motion they reference calling Dr. Scott Bender at a restoration hearing. Dr. Bender has never met or evaluated Mr. Alissa. The government provided a CV for Dr. Bender. In addition to calling Dr. Bender the government informed counsel that they also intend on calling Dr. Julie Gallagher. Dr. Gallagher has never met or evaluated Mr. Alissa. The government has provided Ms. Gallagher's CV and a list of cases in which she previously testified.
7. The government has not endorsed any witnesses for this hearing nor have they provided any reports or summaries of potential expert witnesses.
8. Colorado Rule of Criminal Procedure 16 outlines the government's required disclosures. These required disclosures include a list of names and addresses of any potential witnesses and any reports or statements of experts made in connection with a particular case. *See* C.R.R.C.P. 16(a)(II) and (VII). Rule 16 provides for discretionary disclosures when the interests of justice would be served. Mr. Alissa is requesting this Court order the government to comply with the discretionary disclosures in Rule 16(d)(3) which requires a "written summary of the testimony describing the witnesses' opinions and the bases and reasons thereof..."
9. Mr. Alissa is requesting an order requiring the government to provide Mr. Alissa with a list of all witnesses they intend on calling at the hearing. For any expert witness they intend to call, Mr. Alissa is requesting a curriculum vita, a list of cases they have testified in as an expert, case file notes and a report of their expected testimony, including any findings regarding the performances of CMHIP.
10. Mr. Alissa has a right to effective assistance of counsel which includes the right to effective cross-examination of witnesses under both the Colorado and United States Constitutions. Mr. Alissa will be deprived of these rights if he does not have sufficient information regarding the information of the potential witnesses the government intends on calling at the hearing.

WHEREFORE, Mr. Alissa requests this Court grant this motion and require the government provide defense, no later than 21 days prior to the hearing, a list of witnesses they intend to call at the hearing. Additionally, as to any expert witnesses, a curriculum vita, a list of cases they have testified in as an expert, case file notes and a report of their expected testimony, including any findings regarding the performances of CMHIP

MEGAN A. RING
COLORADO STATE PUBLIC DEFENDER



Daniel King #26129

Chief Trial Deputy State Public Defender



Kathryn Herold #40075
Supervising Deputy State Public Defender



Samuel Dunn #46901
Deputy State Public Defender

Certificate of Service

I hereby certify that on ___April
28_____, 2023, I served the foregoing
document through Colorado E filing to all
opposing counsel of record.

KH

Dated: April 28, 2023

Attachment to Order - 2021CR490