

DISTRICT COURT, BOULDER COUNTY, COLORADO Court Address: 1777 SIXTH STREET P.O. BOX 4249, BOULDER, CO, 80306-4249	DATE FILED: May 4, 2023 4:27 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:
<p style="text-align: center;">Order:MR. ALISSA'S OBJECTION TO ANY WITNESS TESTIFYING REMOTELY AT THE MAY 23RD, 2023 HEARING (D-022)</p>	

The motion/proposed order attached hereto: ACTION TAKEN.

The Court will authorize Dr. Scott Bender to testify via webex during the May 23rd restoration hearing. If either side anticipates any other witnesses will need to testify remotely, a motion must be filed establishing good cause why that witness will not be testifying in person and opposing counsel will be afforded an opportunity to take a position prior to the Court ruling. All requests must be filed w/in 14 days of the hearing.

Issue Date: 5/4/2023



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 OBJECTION TO ANY WITNESS TESTIFYING REMOTELY AT THE MAY 23RD, 2023 HEARING (D-022)	

AHMAD ALISSA, through counsel, objects to any witness testifying remotely at the hearing scheduled to commence May 23-May 25. 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 continuously been found incompetent to proceed, including as recent at April 18, 2023. Since the inception of this case, there has never been a doctor who has opined 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 informed counsel for Mr. Alissa that they intend on having Dr. Scott Bender appear remote at the hearing. They have not requested permission from the Court.

7. It is not totally clear to Mr. Alissa what the purposes of Dr. Bender's testimony is at the hearing considering he has never evaluated Mr. Alissa. That said, 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.
8. From the information Mr. Alissa currently has, it appears Dr. Bender will be the government's main witness in their attempt to demonstrate Mr. Alissa is restored to competency.
9. 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.
10. The government is attempting to use a "blind" expert to discredit CMHIP and their findings as the basis of evidence of Mr. Alissa being competent. Mr. Alissa has a right to confront such accusations, face-to-face, not over video. The Court cannot make the appropriate findings of Dr. Bender's credibility if he is appearing remote.

WHEREFORE, Mr. Alissa objects to Dr. Bender appearing remote at the May 23, 2023, hearing.

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
25_____, 2023, I served the foregoing
document through Colorado E filing to all
opposing counsel of record.

KH

Dated: April 25, 2023

Attachment to Order - 2021CR497