

DISTRICT COURT, El Paso County, Colorado Court Address: 270 South Tejon Street Colorado Springs, CO 80903	DATE FILED: July 23, 2022 DATE FILED: July 23, 2022 5:53 PM
People of the State of Colorado vs. Defendant: Leticia Stauch	▲ COURT USE ONLY ▲
District Attorney, Michael J. Allen, #42955 Senior District Attorney, Dave Young, #21118 Deputy District Attorney, Angelina Gratiano, #50674 Address: 105 E. Vermijo Colorado Springs, CO 80903 Phone Number: 520-6000	Case #: 20CR1358 Division #: 15S Courtroom #: S403
[D-45] PEOPLE'S RESPONSE TO DEFENDANT'S MOTION TO WAIVE IN COURT APPEARANCE	

The District Attorney of the Fourth Judicial District of the State of Colorado respectfully responds as follows to [D-45] Defendant's Motion to Waive in Court Appearance. In support of this response, the People state as follows:

1. The Court scheduled a status conference for July 28, 2022, at 1:30 p.m., for return of the insanity evaluation report conducted by Dr. Gray of CMHIP.
2. The Defense filed [D-45] Motion to Waive In Court Appearance, informing the Court that the Defendant does not want to be present on July 28, 2022, citing the stress that such an appearance would place upon her.
3. The People have spoken to Dr. Gray, and he will know by Tuesday, July 26, 2022, whether or not the evaluation report will be submitted to the Court by Thursday, July 28, 2022. Dr. Gray does believe that if the report is finalized next week, it will be tendered to the Court on Thursday, July 28, 2022, but not likely any sooner.

Applicable Law

4. The defendant's right to be present at all critical stages of the prosecution is guaranteed in Article II, section 16, of the Colorado Constitution, the Due Process Clause, and the Sixth Amendment of the United States Constitution. *Luu v. People*, 841 P.2d 271 (Colo. 1992).
5. While a defendant may waive the right to be present at a critical stage of a criminal proceeding, the Court is responsible for making a finding that the defendant's waiver is

knowing, voluntary, and intelligent. *People v. Wingfield*, 411 P.3d 869, (Colo. App. 2014).

6. Further, such waiver by the defendant should be done on the record to assure that the waiver is effective. *People v. Curtis*, 681 P.2d 504, 511 (Colo. 1984).

**The Defendant Should be Ordered to Appear
Because of Critical Advisements on the Record**

7. The People object to a waiver of the Defendant's appearance on July 28, 2022, as the Court may need to give critical advisements to the Defendant which should be treated as critical stages in a criminal case. If the evaluation report is tendered to the Court, the Court may need to advise the Defendant of the setting of trial, her right to a speedy trial, and/or the tolling of speedy trial should either side request a second insanity evaluation. Given the potential for these advisements, the Defendant should be ordered by the Court to appear in-person for the status conference.

Respectfully submitted on this 23rd day of July 2022.

/s/

Michael J. Allen, #42955
Senior Deputy District Attorney

Dave Young, #21118
Senior Deputy District Attorney

Angelina Gratiano, #50674
Deputy District Attorney

Certificate of Service

I hereby certify that on this 23rd day of July, 2022, a true and correct copy of the foregoing [D-45] People's Response to Defendant's Motion to Waive in Court Appearance was served via Colorado Courts E-Filing on all parties who appear of record and have entered their appearances according to Colorado Court's E-Filing.

/s/ *Kim Daniluk*

Kim Daniluk - Paralegal