

District Court, El Paso County, Colorado El Paso County Combined Courts 270 South Tejon Street, Colorado Springs CO 80903	DATE FILED: July 16, 2020
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff v. LETECIA STAUCH, Defendant	
MEGAN A. RING, Colorado State Public Defender Kathryn Strobel (No. 42850) Deputy State Public Defender 30 E Pikes Peak Ave Suite 200 Colorado Springs, Colorado 80903 C. Colette LeBeau (No. 43164) Deputy State Public Defender 132 W B St #200 Pueblo, CO 81003 Phone (720) 475-1235 Fax (719) 7475-1476 E-mail: Kathryn.strobel@coloradodefenders.us Colette.LeBeau@coloradodefenders.us	Case No. 20CR1358 Division 15S Ctrm: S403
<p>[D-17]</p> <p>MOTION TO WAIVE LETECIA STAUCH'S APPEARANCE FOR SDT RETURN DATE ON JULY 17, 2020, AND REQUEST TO CANCEL TRANSPORTATION ORDER</p>	

This case is set for an SDT Return date on July 17, 2020 at 9:00 am. Ms. Stauch was present on June 5, 2020 when this hearing was scheduled, and at that time, the Court inquired whether or not Ms. Stauch wished to waive her appearance. Counsel indicated that Ms. Stauch was not prepared to decide at that time whether or not she wished to waive her appearance.

Ms. Stauch has carefully considered whether she wishes to waive her appearance on July 17, 2020 for the Subpoena Return Date. She has requested, after meeting and advisement from Counsel on multiple occasions that she be permitted to waive her in person appearance for this hearing. In the alternative, she requests that she be permitted to appear via remote video or phone from the Colorado Springs Justice Center.

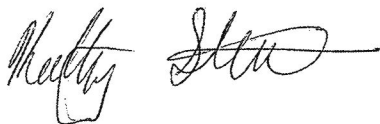
In Zoll v. People, 425 P 3d 1120, (Colo, 2018), the Colorado Supreme Court held that “whether grounded in the Sixth Amendment or the Fourteenth Amendment, the right to presence ‘is not absolute.’ Citing Luu v. People, 841 P.2d 271 (Colo. 1992). The Zoll court continued, “A defendant has the right to be present ‘whenever his presence has a relation, reasonably substantial, to the fullness of his opportunity to defend against the charge.’ Kentucky v. Stincer, 482 U.S. 730, 745, 107 S.Ct. 2658, 96 L.Ed.2d 631 (1987) (quoting Snyder v. Massachusetts, 291 U.S. 97, 105–06, 54 S.Ct. 330, 78 L.Ed. 674 (1934)). In other words,

the defendant's presence is only required 'to the extent that a fair and just hearing would be thwarted by his absence.' Id. (quoting Snyder, 291 U.S. at 108, 54 S.Ct. 330)." Thus, the right to be present is not constitutionally guaranteed when the defendant's presence would be useless or when the benefit of the defendant's presence would be 'but a shadow.' Id. (quoting Snyder, 291 U.S. at 106-07, 54 S.Ct. 330)." At this hearing on July 17, 2020, no testimony will be presented, and for every topic at issue, a pleading has been filed by each party. All that remains is for the court to rule on those motions at issue. Ms. Stauch is aware of the issues to be decided on the 17th, and her position has not changed regarding whether or not she wishes to be present for the Court's rulings. Further, her presence or absence will not change the court's ruling on those issues, and counsel does not believe that this is the type of proceeding in which Ms. Stauch's presence is vital.

It is true that a defendant has a right to be present at any critical stage and that counsel cannot waive a defendant's appearance for critical stages. However, as the court seemed to indicate, this SDT return date is likely not a critical stage. Rather, it is simply a hearing for the delivery of certain documents to the court that the prosecution has subpoenaed. A "critical stage" is "one where there exists more than a minimal risk that the absence of the defendant's counsel might impair the defendant's right to a fair trial. People v. Munsey, 232 P.3d 113 (Colo. Ap. 2009). Ms. Stauch wishes to waive her appearance for this return date.

At Letecia Stauch's request, counsel hereby requests that the court authorize this waiver of her appearance for the July 17th hearing, and cancel the order that she be transported to court from the Colorado Springs Justice Center for the SDT return date on July 17th, 2020.

RESPECTFULLY SUBMITTED,



Kathryn Strobel (No. 42850)
Deputy State Public Defender



C. Colette LeBeau (No. 43164)
Deputy State Public Defender

Dated: July 20, 2020