

Redacted

District Court, El Paso County, Colorado El Paso County Combined Courts 270 South Tejon Street, Colorado Springs CO 80903	DATE FILED: October 26, 2020 5:11 PM
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff	
v.	
<b>LETECIA STAUCH,</b> Defendant	σ COURT USE ONLY σ
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
<b>D-21</b> <b>RESPONSE TO PEOPLE'S MOTION REGARDING THE USE OF VIDEO AND AUDIO RECORDING DURING A COMPETENCY EVALUATION</b>	

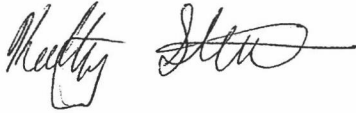
Ms. Stauch, through Counsel, files this brief about the use of video and audio recording during an accused's competency evaluation. Ms. Stauch states the following:

1. On September 8, 2020, the Defense objected to the parties viewing the video-recording of the first competency evaluation because this is not permitted by the competency statutes in title 16, article 8.5.
2. On this same date, this court ordered that the second competency evaluation be video and audio-recorded but that the parties were not to review the recording of the first competency evaluation until the parties had briefed the issue and the court had ruled on this issue.
3. Defense Counsel requested that Dr. Grimmatt conduct the second competency evaluation. Dr. Grimmatt requested to review the video of the first competency evaluation to assist her in completing the second competency evaluation.
4. On September 28, 2020, Defense Counsel filed a motion requesting that Dr. Grimmatt be permitted to review the first competency evaluation.

5. This court issued an order on October 1, 2020 denying the Defense's motion D-19. In its motion, the court explained that, "...If Dr. Grimmert were to review the video of the competency evaluation, that video would be subject to release to the People in the event competency because a contested issue or Dr. Grimmert were to testify on some matter..." The Court also gave the Defense the option to withdraw the D-19 motion.
6. Defense Counsel agrees with the court's order that it would not be practical to release the first competency evaluation video-recording to Dr. Grimmert because the video-recording could later be subject to release to the prosecution in the event competency became a contested issue.
7. The prosecution's motion correctly points out that C.R.S. 16-8-106(1)(b) requires that insanity examinations be video-recorded. The prosecution also cites a separate section of the insanity statute that requires that an interview be video and audio recorded (C.R.S. 16-8-108(1)(a)). They also cite to case law that discusses sanity evaluations in their motion.
8. The competency statutes do not include this same language. If the legislature intended to have competency evaluations video and audio recorded, they would have included this language in the competency statutes when this language was added to the insanity statutes in 2016 (effective January 1, 2017).
9. The prosecution cites Crim. P.16(a)(1)(VIII) as support for their position that the competency evaluation should be video and audio recorded. Crim. P.16(a)(1)(VIII) refers to statements made by the accused to police or the prosecution. Dr. Grimmert is a psychiatrist evaluating Ms. Stauch for competency. Any statements that Ms. Stauch makes to Dr. Grimmert are not statements to a law enforcement officer or a prosecutor.
10. The prosecution cites C.R.S. §16-3-601 as support for their position that competency evaluations should be video and audio recorded. C.R.S. §16-3-601 refers to video-recording an interrogation conducted by a law enforcement officer in a detention facility. Dr. Grimmert's competency evaluation is not a custodial interrogation. The point of the competency evaluation is to determine whether Ms. Stauch is competent to proceed in the case and not to try and obtain incriminating information to be used against Ms. Stauch.

Wherefore, Defense Counsel submits this motion in response to the prosecution's motion filed on October 16, 2020 and continues to object to the use of video and audio recording of competency evaluations because it is not authorized by statute.

RESPECTFULLY SUBMITTED,



/ \_\_\_\_\_

Kathryn Strobel (No. 42850)  
Deputy State Public Defender



\_\_\_\_\_ /

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

Dated: October 26, 2020