

District Court, El Paso County, State of Colorado Address: 270 S. Tejon St., Colorado Springs, CO 80903	DATE FILED: February 7, 2023 4:09 PM FILED IN: 20CR1358
<hr/> People of the State of Colorado, Plaintiff, vs. LETECIA STAUCH, Defendant. <hr/> Attorneys for Defendant: BARKER & TOLINI, by Josh Tolini 115 E. Costilla, Colorado Springs, CO 80903 Phone Number: (719) 227-0230 E-Mail: joshuatolini@hotmail.com Atty. Reg. #: 30119	<hr/> <p style="text-align: center;">↑ COURT USE ONLY ↑</p> <hr/> Case Number: 20CR1358 Div.: 15
MOTION FOR EXTENDED VOIR DIRE (D-49)	

COMES NOW the above-named Defendant, Ms. Letecia Stauch, by and through her attorney, Josh Tolini, Esq., in the above referenced matter, and moves this court for extended voir dire. As grounds therefore, undersigned counsel states as follows:

1. Due to the pervasive, intensive, and prejudicial publicity and public commentary concerning the charges against Ms. Stauch and the public outcry against Ms. Stauch, Ms. Stauch cannot receive a fair trial in the Fourth Judicial District.

2. It is fundamental to a defendant's constitutional right to a fair trial that he be provided with an impartial jury. People v. Loscutt, 661 P.2d 274, 276 (Colo. 1983); accord Skilling v. United States, 561 U.S. 358, 377 (2010). Ms. Stauch's case presents numerous challenges in finding a fair and impartial jury. Ms. Stauch's case has received a significant

amount of pretrial publicity. The publicity began with the disappearance of Gannon Stauch and continues to this day. Every court appearance by Ms. Stauch is covered by all four news channels in Colorado Springs, both major papers in Colorado, and extensive followings on social media. The community was galvanized in their search for Gannon Stauch, and became enraged by the murder and perceived deception by Ms. Stauch. Further Ms. Stauch has entered a plea of Not Guilty by Reason of Insanity, which carries a negative perception by many members of the community. The Court has indicated that it will only give defense counsel one hour to question over 70 jurors regarding these issues. Ms. Stauch asserts this is not nearly enough time.

3. In Colorado, a trial judge is authorized to “limit or terminate repetitious, irrelevant, unreasonably lengthy, abusive, or otherwise improper examination” during *voir dire*. Crim.P. 24(a)(3). A one hour time limitation would be unreasonable given the size of the panels, the seriousness of this case, and the obvious issues that merited exploration, including: exposure to pretrial publicity; attitudes about and victimization of children; potential prejudices against mental illness.

4. Colorado law provides that a trial court may reasonably limit the time available for *voir dire* “[s]o long as the *voir dire* examination is conducted in a manner that will facilitate an intelligent exercise of challenges for cause and peremptory challenges.” People v Rudnick, 878 P.2d 16 at 21(Colo. App. 1993). A one hour time limitation precluded counsel from questioning many prospective jurors about entire topics altogether, violating Ms. Stauch's client's rights to due process and a fair trial by an impartial jury. See Ham v. South Carolina, 409 U.S. 524, 527 (1973) (due process requires that defendant be permitted to question prospective jurors about potential racial bias in cases where facts raise race issues); Maes v. District Court, 180 Colo. 169, 175-76, 503 P.2d 621, 624-25 (1972)

5. Courts in other jurisdictions have repeatedly reversed convictions where the trial court unreasonably limited *voir dire*. See, e.g., Village of Plainfield v. Nowicki, 854 N.E.2d 791, 794-95 (Ill. App. 2006) (reversing DUI conviction; trial court's refusal to question venire regarding potential religious or moral objections to alcohol use "denied defense counsel an informed and intelligent basis on which to exercise his peremptory challenges"); Rios v. State, 4 S.W.3d 400, 401-04 (Tex. App. 1999) (reversing aggravated robbery conviction; trial court maintained 45-minute time limitation even though defense counsel still had proper questions to ask); Morris v. State, 1 S.W.3d 336 (Tex. App. 1999) (reversing conviction for aggravated assault with a deadly weapon; trial court abused its discretion by maintaining forty-five minute time limit notwithstanding defense request for further questioning of specific prospective jurors); Helton v. State, 719 So. 2d 928 (Fla. Dist. App. 1998) (in armed-robbery case, trial court abused discretion by limiting *voir dire* of thirty-four member venire to thirty-eight minutes); Clements v. State, 940 S.W.2d 207 (Tex. App. 1996) (in child-injury case, trial court erred by maintaining one-hour time limit although defense asked for more time, had relevant questions to ask, and had no opportunity to individually question four members of venire who actually sat on jury); State v. Larsen 923 P.2d 1001 (Idaho App. 1996) (vacating convictions for sale of obscene matter; trial court denied defendants' requests for additional *voir dire* time beyond the one-hour limit, and one of the six jurors had not been individually questioned by the defense); Wilson v. State, 676 So. 2d 1000 (Fla. Dist. App. 1996) (reversing burglary conviction; trial court abused its discretion by maintaining thirty minute time limit per side); Perry v. State, 675 So.2d 976, 977-79 (Fla. Dist. App. 1996) (reversing murder conviction where trial court rigidly adhered to limit of ninety minutes per side to question panel of forty-five venire members who had already been screened for taint related to pretrial publicity).

6. Ms. Stauch has identified three particular areas needed to question potential jurors about: pretrial publicity, child victim, and mental illness. Ms. Stauch requests that she be given three minutes per juror to conduct a meaningful voir dire.

Respectfully submitted this February 17, 2023

By: s/ Joshua Tolini
Joshua Tolini #30119