

DISTRICT COURT, EL PASO COUNTY, COLORADO 270 South Tejon Street Colorado Springs, Colorado 80903	DATE FILED: September 8, 2021 5:43 PM
<hr/> Plaintiff: People of the State of Colorado, v. Defendant: LETECIA STAUCH,	<hr/> ▲ COURT USE ONLY ▲
<hr/> District Attorney: Michael J. Allen Attorney Registration #: #42955 Address: 105 E. Vermijo, Colorado Springs, Colorado 80903 Phone Number: (719) 520-6000 Fax: (719) 520-6185	<hr/> Case #: 20CR1358 Division #: 15
PEOPLE'S RESPONSE TO REQUEST TO WAIVE APPEARANCE OF DEFENDANT AT PRELIMINARY HEARING	

The District Attorney hereby responds in opposition to defendant's motion to waive her appearance at her preliminary hearing and asks that the motion be denied, or in the alternative that the Court make a finding that defendant has waived her right to a preliminary hearing by failing to appear. In support of this request, the District Attorney notes the following.

1. The law is clear that the defendant must be present at every critical stage of the proceeding in a criminal prosecution, including a preliminary hearing. *See People ex rel. Farina v. District Court*, 185 Colo. 118, 121-122, 522 P.2d 589, 590-591 (1974) (so holding). Under Crim. P. 43(a), the defendant's presence at the preliminary hearing is required. Crim. P. 43(d) states that the defendant's voluntary failure to appear at the preliminary hearing may be construed as an implied waiver of the right to a preliminary hearing.
2. Refusing to produce a defendant at the preliminary hearing should not be tolerated if it frustrates the prosecution's case. *Farina, id.*, 185 Colo. at 121, 522 P.2d at 591. Allowing the defendant in this case to waive her appearance at the preliminary hearing will frustrate the People's ability to meet their burden of proof. The People must establish that probable cause exists to believe that a crime was committed and that the defendant committed it. *See, e.g., McDonald v. District Court*, 195 Colo. 159, 161, 576 P.2d 169, 171 (1978).

3. If defendant does not appear for her preliminary hearing, the People request that her absence be treated as an implied waiver of the right to a preliminary hearing under Crim. P. 43(d).
4. The People note that defendant's preliminary hearing will also serve as the hearing at which the prosecution will establish that the proof is evident or the presumption is great that the defendant committed the crimes charged. Because such a hearing is also a critical stage, defendant's appearance is required. *Cf. People v. Blagg*, 2015 CO 2, ¶¶ 17-22, 340 P.3d 1137. If defendant fails to appear, her right to this hearing should be waived as well.

Respectfully submitted this 8th day of September, 2021.

/s/ Michael J. Allen

Michael J. Allen (#42955)
District Attorney

CERTIFICATE OF SERVICE

I certify on the 8th day of September, 2021, a true and correct copy of People's Response to Request to Waive Appearance of Defendant at Preliminary Hearing 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.

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