

Boulder District Court, Boulder County, State of Colorado 1777 Sixth Street Boulder, Colorado 80302	DATE FILED: January 12, 2024 4:14 PM
<b>People of the State of Colorado,</b>  v.  <b>AHMAD AL ALIWI ALISSA,</b> Defendant.	<b>▲ COURT USE ONLY ▲</b>
<i>Attorneys for the People:</i> Michael Dougherty, Esq., Ken Kupfner, Esq., and Adam Kendall, Esq.  <i>Attorneys for Defendant:</i> Kathryn Herold, Esq., and Sam Dunn, Esq.	Case Number: <b>2021CR497</b>  Division <b>13</b> Courtroom <b>G</b>
<b>MINUTE ORDER RE: STATUS CONFERENCE</b>	

This matter comes before the Court for a Status Conference on January 12, 2024. Michael Dougherty, Esq., Ken Kupfner, Esq., and Adam Kendall, Esq., appear on behalf of the People. Kathryn Herold, Esq. and Sam Dunn, Esq. appear on behalf of Defendant, Ahmad Alissa, who also appears. Ann Pogue, Esq., appears on behalf of the Colorado Department of Human Services (“CDHS”). The proceedings were recorded on the FTR. The findings and rulings made on the record are incorporated herein, and the Court now issues the following findings and orders.

### BACKGROUND

Defendant is charged with ten counts of Murder in the First Degree (F1), forty-seven counts of Attempted Murder in the First Degree (F2), one count of Assault in the First Degree (F3), ten counts of Possession of a Large-Capacity Magazine During the Commission of a Felony (F6), and forty-seven counts of Crime of Violence with a Semiautomatic Assault Weapon as a Sentence Enhancer. On September 1, 2021, Defendant’s counsel raised the issue of Defendant’s competency to stand trial. On October 1, 2021, Defendant was found not competent to proceed to adjudication. After a second competency evaluation was completed on November 26, 2021, the Court found Defendant incompetent to proceed and referred him for in-patient restoration treatment, eventually transferring him to the Colorado Mental Health Institute in Pueblo (“CMHIP”) in December 2021.

The Court held a Restoration Review Hearing on September 27, 2023. On October 6, 2023, the Court issued a ruling, finding Defendant competent to proceed to adjudication and set the matter for a

preliminary hearing on November 14, 2023. At the November 14, 2023, preliminary hearing, the Court found that the evidence was sufficient to induce a person of ordinary prudence and caution to have a reasonable belief that Defendant committed all the crimes charged as set forth in the complaint, with the exception of four of the ten charges of Possession of a Large-Capacity Magazine During the Commission of a Felony (F6). Accordingly, the Court dismissed Counts 65, 66, 67, and 68, and at Defendant's request, continued to immediate arraignment. During Defendant's immediate arraignment, Defendant pled not guilty by reason of insanity ("NGRI"). The Court ordered that Defendant be transported back to CMHIP to be examined pursuant to C.R.S. § 16-8-106 and set the matter for a status conference on January 12, 2024.

On December 29, 2023, CDHS filed a Report stating that, "given the enormity of the discovery material and case filed to be reviewed; including interviewing some collateral resources who may require an interpreter, Mr. Alissa's evaluation will not be completed prior to the January 2024 review date." CDHS requested that they be given an extension of time to April 30, 2024, to complete the sanity and mental condition evaluation of Defendant. On January 4, 2024, the People filed their Notice and Objection Regarding CDHS Request for Delay in Proceedings, noting that discovery in this matter had been in CDHS's possession since October of 2021, but they nonetheless provided it again on November 17, 2023. The People argued that CDHS's letter from December 29, 2023, contained "several concerning statements that evidence a lack of urgency on the part of CDHS to comply with the Court ordered timelines and to allow this case to proceed forward without unnecessary delays." The People requested that the Court order CDHS to appear at the January 12, 2024, hearing to explain the delay in assigning the evaluation to appropriate doctors, the delay in communicating any issue with the Court's January 8, 2024, evaluation deadline in a timely fashion, and the justification for the requested 114-day delay from the Court's original deadline. Additionally, should the Court grant CDHS's request for the delay, the People request that the Court order CDHS to provide monthly updates as to the status of Defendant's evaluation, including specific tasks and interviews completed each month as well as updates regarding the expected date of its completion. On January 8, 2024, CDHS filed a Response to the People's Objection, further elaborating upon their original Report from December 29, 2023.

### **MATTERS DURING THE STATUS CONFERENCE**

1. At the outset of the hearing, District Attorney Michael Dougherty reiterated the People's concerns about expediently getting Defendant's evaluations completed, particularly in light of the pending June motions hearing and August jury trial settings. The People noted their concerns regarding a pattern with CDHS incurring delays, failing to adhere to Court deadlines, and requiring judicial intervention in order to receive proper communication on pending matters. The People noted their appreciation for CDHS's follow-up letter in response to the People's Objection, wherein CDHS apologized and gave a much more thorough explanation than their original letter from December 29, 2023. The People noted that, had a letter similar to the January 8 Response been filed originally, the People likely would not have even filed their Objection and the Court may not have required this hearing. The People clarify that they do not blame the doctors or medical staff assigned to this matter, but argue the lack of clear communication throughout the pendency of this case has a real impact on the victims, the parties, the Court, and the sheriff's office tasked with conducting transport. The People argue the repeated delays and lack of communication convey a lack of urgency on behalf of CDHS. The People note that, particularly after the increased transparency shown in their January 8 Response, sanctions aren't

appropriate at this time, but they do request the Court order monthly updates from CDHS to keep the Court and the parties regularly apprised of the progress of Defendant's evaluation – including details on what work has been completed, what remains to be done, and the expected date of completion. The People are unclear whether the new deadline of April 30, 2024, initially requested by CDHS in their December 29, 2023, Report was a hard deadline or simply their new goal for completion of Defendant's evaluation, but the People note that they and the victims in this matter would strongly object to any further delay, including a continuance of the currently-scheduled motions hearing and jury trial settings.

2. Defendant's counsel briefly responded, stating that their ultimate concern is that Defendant's Due Process rights are protected, the evaluation is completed by CDHS properly, and they do not want the validity and the integrity of the evaluation to be hampered by the pressure put upon them by the People's urging for expedience.
3. Ms. Pogue responded on behalf of CDHS, acknowledging the seriousness of this case and that they empathize with those who are concerned with timeliness of the proceedings, reiterating CDHS's utmost priority is to move forward as efficiently as possible without undermining the integrity of the evaluation. CDHS apologized to the victims, the Court, and the parties that their communication didn't come sooner, but their request would have been the same regardless of its timing. Addressing the communication issues in this matter, CDHS offers to file bi-weekly reports with the Court to update the parties on their progress in evaluating Defendant. Part of CDHS's concern with the original timeline imposed by the Court is that they have multiple interviews already scheduled with collateral witnesses, some of whom require interpreters, who are necessary for their evaluation, and any delay in those interviews could significantly set back the creation of the final report. CDHS remarked they intend to complete these interviews in February so the report can be written in March, but they requested the April 30 deadline to give them some margin for error should any of the collateral interviews (or other scheduled meetings) need to be rescheduled. CDHS noted that, in order to expedite the completion of the report, they had already rescheduled a significant portion of Dr. Torres's other professional obligations so she could spend 50% of her time on this matter and Dr. Gray, the contract evaluator, is spending approximately 30 hours per week on this matter.
4. The Court appreciates the efforts being made by CDHS and the parties in this matter and agrees with Defendant's position that they want the report to be completed as quickly as possible but without taking any shortcuts and sacrificing any accuracy in its completion. Therefore, the Court **ORDERS** that CDHS shall file bi-weekly reports with the Court to update the parties regarding the progress being made in Defendant's evaluation, with the first update due on January 26, 2024. Reports in late February and early March shall include updates regarding the anticipated completion of the final report.
5. This matter remains set for a motions hearing for the week of June 3, 2024, with a motions filing deadline of April 29, 2024. Defendant shall be transported from CMHIP to appear in-person.

Dated January 12, 2024,

BY THE COURT

A handwritten signature in black ink, appearing to read 'Ingrid S. Bakke'. The signature is fluid and cursive, with the first name 'Ingrid' written in a large, flowing script, followed by 'S.' and 'Bakke'.

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Ingrid S. Bakke  
District Court Judge