

District Court, Boulder County, Colorado Court Address: 1776 6 <sup>th</sup> Avenue Boulder, CO 80306	
THE PEOPLE OF THE STATE OF COLORADO  v.  <b>AHMAD AL ALIWI ALISSA</b> Defendant.	DATE FILED: April 26, 2024 4:00 PM     <p style="text-align: center;">σ COURT USE ONLY σ</p>
Megan Ring, Colorado State Public Defender Kathryn Herold #40075 Supervising Deputy State Public Defender Samuel Dunn #46901 Deputy State Public Defender Boulder Regional Public Defenders 2555 55TH Street D-200, Boulder, CO 80301 Phone: (303) 444-2322 Fax: (303) 449-6432 E-mail: boulder.defenders@state.co.us	Case No. <b>21CR497</b>  Division 13
<b>MR. ALISSA’S MOTION FOR CLOSED VOIR DIRE (D-0)</b>	

AHMAD ALISSA, through counsel, respectfully requests this Court close voir dire from the public. In support of this motion, Mr. Alissa states the following:

1. The right to a public trial is a right of the defendant. *U.S. Const. amends. VI, XIV; Colo. Const. art. II, § 16*. The right to a public trial extends to the jury selection process. *Stackhouse v. People*, 386 P.3d 440 (Colo.2015); *Presley v. Georgia*, 558 U.S. 209, 213 (1984).
2. Fundamental rights can be waived, regardless of whether the deprivation thereof would otherwise constitute structural error. *Stackhouse*, 386 P.3d at 443; *Perez v. U.S.*, 501 U.S. 923, 936 (1991). A defendant affirmatively waives his public trial right when he does not object to a known closure. *Stackhouse*, 386 P.3d at 443; *Anderson v. People*. 490 P.3d 47, 48 (Colo.1971). In Colorado, despite the United State Supreme Court’s decisions in *Waller* and *Presley*, the ruling in *Anderson* is controlling precedent that a defendant waives his right to a public trial during voir dire by not objecting to the trial court’s known closure. *Stackhouse*, 386 P.3d at 443-444; *Waller v. Georgia*, 467 U.S. 39 (1984); *Presley v. Georgia*, 558 U.S. 209(1984).
3. The right to a public trial “falls into the class of rights that defense counsel can waive through strategic decisions.” *Stackhouse*, 386 P.3d at 445; *Quoting Cf. Hinojos-Mendoza v. People*, 169 P.3d 662, 669 (Colo.2007).
4. Counsel for Mr. Alissa is waiving his right to a public trial during voir dire. In *Stackhouse*, the Court offered a number of rationales for waiving a defendant’s right to a public trial during voir dire that are directly relevant in Mr. Alissa’s case: privacy and secrecy of individual voir

dire is more conducive to obtaining candid answers from potential jurors, closed voir dire will prevent family members and those connected with the trial from intermingling with a large jury pool in a small courtroom, closed voir dire will help in preventing any tainting of the jury by pretrial publicity or influence from family members. *Id.*

WHEREFORE, counsel for Mr. Alissa waives his right to a public trial during voir dire to ensure that other constitutional rights of Mr. Alissa are not violated, specifically his right to a fair trial under both the United States and Colorado Constitutions.

Mr. Alissa makes these arguments and motions, and all motions and objections in this case, whether or not expressly stated at the time of the motion or objection, under the Due Process, Trial by Jury, Right to Counsel, Confrontation, Compulsory Process, Equal Protection Cruel and Unusual Punishment and Privilege Against Self Incrimination Clauses of the federal and Colorado Constitutions, and the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments of the U.S. Constitution, and Art. II, §§ 3,6,7,8,16,18,20,23 and 25 of Colorado's Constitution.

MEGAN A. RING  
COLORADO STATE PUBLIC DEFENDER



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Kathryn Herold #40075  
Supervising Deputy State Public Defender



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Samuel Dunn #46901  
Deputy State Public Defender

**Certificate of Service**

I hereby certify that on \_\_\_April  
26\_\_\_\_\_, 2024, I served the foregoing  
document through Colorado E filing to all  
opposing counsel of record.

\_\_\_\_\_KH\_\_\_\_\_

Dated: April 25, 2024