

4. After arriving at the King Soopers, Mr. Alissa shot and killed ten people, including a Boulder police officer. Witnesses heard very few statements from Mr. Alissa. Statements believed to be made by Mr. Alissa were described as “gibberish.”
5. Mr. Alissa would be shot in the leg and surrender. Law enforcement placed Mr. Alissa under arrest and transported him to the hospital.
6. During their initial investigation, law enforcement immediately spoke to a number of Mr. Alissa’s family members. Mr. Alissa’s family members were in shock and disbelief with what Mr. Alissa did that day. They would describe Mr. Alissa as someone who was quiet, non-violent. Someone who irrationally believed he was being followed by the FBI and would talk to himself in a way that was like he was talking to someone who wasn’t there.
7. In addition to speaking with Mr. Alissa’s family, on March 22, 2021, law enforcement submitted a search warrant for his home in Arvada. *See Exhibit A*. The Honorable Judge Mulvahill signed the warrant that same day. *See id.* During the execution of this warrant law enforcement seized thirty-nine items from all different areas of the home.
8. Following the initial search of Mr. Alissa’s home, on March 26th, 2021 Investigator Weisbach submitted a second warrant to reenter Mr. Alissa’s home. *See Exhibit B*. Honorable Judge Mulvahill signed that warrant that same day.
9. In the second warrant, they asked for similar items as noted in the initial warrant. The only difference was the addition of “any and all” play station gaming systems.

LAW AND ARGUMENT

10. The Fourth Amendment of the United States Constitution and Art II, Sec. 7, of the Colorado Constitution “provides protections against unreasonable searches and seizures.” *People v. Williams*, 192 Colo. 249, 253 (Colo. 1976).
11. The United States Constitution states in pertinent part, “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause...” U.S. Const. Amend IV.
12. “The Fourth Amendment protects people, not places.” *Katz v. United States*, 389 U.S. 347, 351 (1967). Information that a person “seeks to preserve as private, even in an area accessible to the public, may be constitutionally protected.” *Id.*
13. “As in the case of the Fourth Amendment to the United States Constitution...the purpose of the Colorado constitutional provision is to protect a person's legitimate expectation of privacy from unreasonable governmental intrusions.” *People v. Sporleder*, 666 P.2d 135, 139-40 (Colo. 1983); *Charnes v. DiGiacomo*, 612 P.2d 1117 (1980); *People v. Bement*, 567 P.2d 382 (1977); *People v. Counterman*, 556 P.2d 481 (Colo. 1973).
14. The determination of the legitimacy of a defendant’s expectation of privacy turns on the question of whether a person expected that their property would be free from

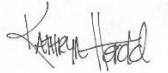
governmental intrusion, and if so, whether that expectation is one that society is prepared to recognize as reasonable.” *Sporleder*, 666 P.2d at 140.

15. Generally, the Warrant Clause of the Fourth Amendment has three basic requirements that must be met in order for a warrant to issue: “[1] probable cause, [2] supported by Oath or affirmation, and [3] particularly describing the place to be searched, and the persons or things to be seized.” *Whiteley v. Warden*, 401 U.S. 560, 564 (1971); U.S. Const. amend. IV.
16. The Colorado Constitution, state statutes, and rules governing the issuance of search warrants provide additional requirements for a search warrant. *See* Colo. Const. art. II §§ 7, 8; *see also* C.R.S. §§ 16-3-301 to 16-3-308; Crim. P. 41.
17. Section 16-3-303(1) provides in relevant part: “a search warrant shall issue only on affidavit sworn to or affirmed before the judge and relating facts sufficient to: . . . (c) establish the grounds for issuance of the warrant or probable cause to believe that such grounds exist; and (d) establish probable cause to believe that the property to be searched for, seized, or inspected is located at, in, or upon the premises, person, place, or thing to be searched.”
18. “Under the Colorado Constitution, the facts supporting probable cause must be reduced to writing, and so probable cause must be established within the four corners of the warrant or its supporting affidavit.” *People v. Scott*, 227 P.3d 894, 897 (Colo. 2010).
19. The affidavit must therefore supply a sufficient nexus between criminal activity, the things to be seized, and the place to be searched. *People v. Kazmierski*, 25 P.3d 1207, 1211 (Colo. 2001); *People v. Randolph*, 4 P.3d 477 (Colo. 2000).
20. “Probable cause for a search implicitly requires both sufficient grounds to connect the sought after items to a crime and ground to believe those items will be located in the place to be searched at the time of the search.” *People v. Gall*, 30 P.3d 145, 150 (Colo. 2001); *see also United States v. Wald*, 216 F.3d 1222, 1226-28 (10th Cir. 2000).
21. The warrant did not meet the requirements required by the United States and Colorado Constitutions, case law, and state law because probable cause did not exist for the issuance of the warrant. *See People v. Pannebaker*, 714 P.2d 904 (Colo. 1986).
22. The fruits of the search must further be suppressed because the warrant lacked the particularity required by the Fourth Amendment of the United States Constitution. In this case, the warrant describes a broad, generalized list of items to be searched for which could arguably include almost anything. The United States and Colorado Constitutions require more.

WHEREFORE, Mr. Alissa requests this Court suppress all evidence obtained through the defective search warrant for his home on March 26, 2021. 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



Kathryn Herold #40075
Supervising Deputy State Public Defender



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 23, 2024