

DISTRICT COURT, BOULDER COUNTY, COLORADO 1777 Sixth Street Boulder, CO 80302	DATE FILED: August 9, 2023 8:09 PM
<b>PEOPLE OF THE STATE OF COLORADO</b>  v.  <b>AHMAD AL ALIWI ALISSA</b> Defendant	<b>COURT USE ONLY</b>
Michael T. Dougherty, District Attorney Kenneth E. Kupfner, First Assistant District Attorney 1777 Sixth Street Boulder, CO 80302  Phone Number: (303)441-3700 FAX Number: (303)441-4703 E-mail: kkupfner@bouldercounty.org Atty. Reg. #29924	Case No. 21CR497  Div:13
<b>Joint Motion to Continue Restoration Hearing</b>	

Based on recent occurrences in this case, the parties jointly request this Court to continue the competency hearing currently set to for August 29, 2023. As grounds therefor, the parties state as follows:

The last competency review hearing in this case was set on April 28, 2023. In compliance with the statutory requirements prescribed by C.R.S. § 16-8.5-116(3), CMHIP provided a competency re-evaluation report to the Court ten days prior, on April 18, 2023.

On April 24, 2023, the Court vacated the April 28, 2023 review hearing as the Court had scheduled a restoration hearing to occur on May 23, 2023. On May 17, 2023, the Court continued the May 23, 2023 restoration hearing based on (1) the need for experts to review the neuropsychological testing results included in the April 18 competency re-evaluation report as well as other new information from CMHIP, (2) the need for experts to prepare reports, and (3) the competency re-evaluation report due in mid-July having potential relevance to any restoration hearing. The restoration hearing was reset to begin on August 29, 2023.

The parties spoke near the end of July and confirmed neither party had received the competency re-evaluation report from CMHIP as required under C.R.S. § 16-8.5-116(3). On July 31, 2023, the People reached out to CMHIP and CMHIP's counsel inquiring as to the status of the mandatory July competency re-evaluation report. The People were informed by CMHIP that the report would be provided August 19, ten days prior to the next hearing.

The People were additionally informed that, rather than calendaring the dates for producing competency re-evaluation reports based on the 91-days mandated by statute, CMHIP calculates the timing for the issuance of required 91-day reports based on the court dates set by the court presiding over any case where a defendant is currently incompetent to proceed. They then provide the re-evaluation ten days prior to the court date set on the court calendar. The People noted that, by statute, the report was due in July and asked that the report be provided as soon as possible in order to allow the Court to conduct the statutorily required 91-day review and for the parties to properly prepare for the restoration hearing. It is uncertain how soon CMHIP will be able to provide the re-evaluation, but CMHIP has stated it will be completed on or before August 19, 2023.

The restoration hearing is currently scheduled to begin in 20 days. The parties have consulted and are in agreement that even if the competency re-evaluation report is provided within the next week, this will not allow adequate time for experts to review the most recent findings and issue updated expert reports based on this information. Thus, the parties will be unable to properly prepare to proceed forward with the hearing.

WHEREFORE, the parties are jointly requesting that the Court continue the restoration hearing. Additionally, the parties request that the Court convert the August 29, 2023 date to a competency review date to ensure the Court and parties receive the legally required competency

re-evaluation report as soon as possible. Once the report is received, the parties and Court can determine if the August 29, 2023 court date can be vacated or if CMHIP's failure to provide a timely report need be addressed further.

Further, in the future, to assure that subsequent competency re-evaluation reports are received within the statutorily mandated 91-days, the parties request a review date be set by the Court so CMHIP is triggered to provide the report within that time frame.

Respectfully submitted,

MICHAEL T. DOUGHERTY  
District Attorney

By: /s/ Michael T. Dougherty  
Michael T. Dougherty  
District Attorney  
Registration No. 41831

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CERTIFICATE OF SERVICE  
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I hereby certify that a true and correct copy of the above and foregoing served via the Colorado e-filing system on August 9, 2023, and addressed as follows:

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*s/Adam D. Kendall*  
Adam D. Kendall