

DISTRICT COURT, BOULDER COUNTY, COLORADO 1777 Sixth Street Boulder, Colorado 80302	DATE FILED: August 2, 2024 2:21 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, Reg. #41831 1777 Sixth Street Boulder, CO 80302  Phone Number: (303) 441-3700 FAX Number: (303) 441-4703 E-mail: mdougherty@bouldercounty.gov	Case No. 21CR497  Div: 13
<b>Response to Defendant's Motion to Continue (D-064)</b>	

On August 2, 2024, Ahmad Al Aliwi Alissa (the “Defendant”) filed his Motion to Continue (D-064). The Court directed the People respond to the motion. In support of this response, the People further state as follows:

**BACKGROUND**

On March 22, 2021, Defendant drove to the Table Mesa King Soopers store in Boulder armed with a semi-automatic Ruger AR-556 pistol (often referred to and described as an assault rifle), another gun, large capacity magazines, and a large amount of ammunition. Soon after he arrived at the store, he began shooting victims in the parking lot before continuing into the store and shooting other victims. Ultimately, he murdered 10 people, and shot in the direction of many others.

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), six 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.

### **LEGAL ANALYSIS**

When ruling on a motion to continue, the trial court must consider the peculiar circumstances of each case and balance the equities on both sides. *People v. Fleming*, 900 P.2d 19, 23 (Colo.1995). The trial court must consider the prejudice to the moving party if the continuance is denied and if any prejudice can be cured by a continuance. *People in Interest of D.J.P.*, 785 P.2d 129, 132 (Colo.1990). Additionally, the trial court must consider the prejudice to the opposing party if the continuance is granted. *Id.* “Trial judges necessarily require a great deal of latitude in scheduling trials.” *Ahuero*, at 175 (Colo. 2017) (*quoting Morris v. Slappy*, 461 U.S. 1, 11 (1983)). “Not the least of [a trial court's] problems is that of assembling the witnesses, lawyers, and jurors at the same place at the same time, and this burden counsels against continuances except for compelling reasons.” *Id.* “Consequently, broad discretion must be granted trial courts on matters of continuances; only an unreasoning and arbitrary ‘insistence upon expeditiousness in the face of a justifiable request for delay’ violates the right to the assistance of counsel.” *Id.* (*quoting Morris v. Slappy*, 461 U.S. 1, 11-12 (1983)).

This Court should consider the potential prejudice of a delay to the People, the age of the case, both in the judicial system and from the date of the offense, the timing of the request to continue, the impact of the continuance on the Court's docket and the position of the victims, since the Victims' Rights Act applies in this case.

The victim families request that this case not be delayed any further. *See* C.R.S. § 24-4.1-303(3.5). They are strongly opposed to any delay.

Shortly after the unexpected and unfortunate loss of counsel's family member, counsel

contacted the People. That notification helped in planning for a possible continuance. The People conferred with the three (3) witnesses for the hearing. Each of them is available on the dates provided in Defendant's motion, August 14, 2024, and August 15, 2024.

In evaluating Defendant's request for a continuance, the People conferred with defense counsel about two options that would allow the hearing to remain set next week. First, it is possible the hearing remain set on August 6, 2024, and that co-counsel represent Defendant at the hearing. Second, the hearing could be continued until later the same week when lead counsel returns if Defendant would waive testimony and rely on the body-worn camera video and argument to the Court (prosecution witnesses that have been subpoenaed for the hearing on August 6, 2024, are out of town later that same week). If the Court denies the motion to continue, those remain as options.

It is the People's understanding, however, that lead counsel wants to be present for all proceedings and is handling these motions for the Defendant. It is, also, the People's understanding that testimony is required in order to protect Defendant's rights.

If the trial remains as scheduled, the granting of Defendant's motion to continue will not prejudice the prosecution. The trial requires scheduling, travel, and arrangements for victim families and key witnesses. As the Court is aware, the scheduling of a three-week trial is incredibly difficult for the Court, the parties, and all those involved. Provided those trial dates remain in place, the shifting of the hearing will not cause any prejudice to the prosecution. The People recognize that the Court will consider, among other factors, the possible prejudice to the prosecution if the hearing is rescheduled for the following week.

By pushing the hearing back, it will further limit the time and opportunity to address issues prior to jury selection. Other than that issue, a delay in the hearing date will not cause any

prejudice to the People – provided the trial remains on schedule.

WHEREFORE, the People respectfully defer to this Court on Defendant’s motion to continue.

Respectfully submitted,

MICHAEL T. DOUGHERTY  
DISTRICT ATTORNEY

By:  
s/Michael T. Dougherty  
Michael T. Dougherty  
August 2, 2024

-----  
CERTIFICATE OF SERVICE  
-----

I hereby certify that a true and correct copy of the above and foregoing served via the Colorado e-filing system/hand-delivered on August 2, 2024, and addressed as follows:

Samuel Dunn  
Kathryn Herold  
Office of the Colorado State Public Defender – Boulder  
2555 55th Street Suite. D-200  
Boulder, CO 80301

s/Michael T. Dougherty  
Michael T. Dougherty