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COURT OF APPEALS, STATE OF COLORADO

2 E. 14th Avenue
Denver, CO 80203

Douglas County District Court
Honorable Patricia D. Herron, Judge
Case No. 20CR556

PLAINTIFF-APPELLEE:
PEOPLE OF THE STATE OF COLORADO

DEFENDANT-APPELLANT:
BRIAN SALTZMAN

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Case No. 23CA1143

OPENING BRIEF

CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that this brief complies with all requirements of C.A.R. 28 and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

1. The brief complies with the applicable word limit set forth in C.A.R. 28(g). It contains 4,308 words.

2. The brief complies with the standard of review requirements set forth in C.A.R. 28(a)(7)(A). For each issue raised, the brief contains under a separate heading before the discussion of the issue, a concise statement: (1) of the applicable standard of appellate review with citation to authority; and (2) whether the issue was preserved, and, if preserved, the precise location in the record where the issue was raised and where the court ruled, not to an entire document.

The undersigned acknowledges that the brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 and C.A.R. 32.

s/ Taylor Ivy

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STATEMENT OF THE ISSUE

Whether the trial court erred in denying Saltzman's motion to suppress evidence obtained as a result of the warrantless search of his home.

STATEMENT OF THE CASE AND FACTS

Shortly after midnight on May 25, 2020, officers were dispatched to a residence at 4735 Lambert Ranch Trail in unincorporated Douglas County based on a report that "a party…had shot his coworker." (*See* TR 1/6/22, p 19:4-22; TR 4/26/23, p 6:2-19.)

A person named Evan Sandberg, who was later identified as a Palmer Lake police officer, opened the front door of the home and told responding officers that "Detective Saltzman, and then the other female, Nicole [Lamb], was in the backyard." (TR 4/26/23, p 8:9-25.) In the backyard, officers found "Brian Saltzman, Nicole [Lamb], and then Melissa Slade." (TR 4/26/23, p 9:1-5.)

Lamb was lying on the ground and "making noises as if she was in pain." (TR 9/10/20, pp 10:21-11:2.) Someone had placed a tourniquet on one of her legs, but officers did not observe any active bleeding. (TR 9/10/20, p 11:2-6.) She was transported to receive medical care. (TR 9/10/20, p 12:2-7.)

Saltzman and Slade were patted down, and the pat-down revealed that Saltzman had a gun on him. (TR 1/11/22, p 18:6-10.) Officers took the gun and

placed Saltzman and Slade in handcuffs. (*See* TR 1/11/22, pp 30:7-12, 31:8-10.)

At approximately 1:05 a.m., at least 35 minutes after police first arrived on scene, officers conducted a protective sweep of the residence. (TR 1/6/22, pp 73:21-23, 75:1-9.) During the protective sweep, they "found a gun room and a closet in the basement filled with firearms and ammunition," saw "multiple bottles of alcohol and beer throughout the basement" and "[a] gun and holster with a Palmer Lake PD badge…on the bar counter," and located "blood and multiple shell casings in the grassy area just off the basement patio area." (CF, p 68.) The police relied on this information in the affidavit for the search warrant that was eventually sought. (*See* CF, pp 65-70.)

Meanwhile, Lamb was treated for injuries to her right leg that appeared to be the result of a gunshot wound. (TR 9/10/20, pp 25:7-26:15.) She told police that she worked with Brian Saltzman at the Palmer Lake Police Department, where he was a detective, and she had attended a party at Saltzman's house with several coworkers. (TR 9/10/20, pp 26:16-27:4.) She said that everyone at the party was drinking and eating food, and there was a bonfire in the backyard. (TR 9/10/20, p 27:5-13.) She said that she had gone inside the house to get water, and as she was walking back outside, she saw a flash, heard what she believed was a gunshot, and felt something hit her leg. (TR 9/10/20, pp 27:14-28:7.)

Lamb did not know who shot her. (TR 9/10/20, p 29:17-19.)

Another party guest, Samuel Llanez, also spoke with police. (TR 9/10/20, p 37:12-15.) Like Lamb, he described going to Saltzman's house, drinking and eating food, the bonfire in the backyard. (TR 9/10/20, pp 37:17-38:4.) He said that he was standing behind his girlfriend and across from Saltzman when he heard Saltzman say, "Eyes and ears," then saw Saltzman pull a gun and fire it without looking. (TR 9/10/20, p 38:4-16.)

Saltzman was ultimately charged with second-degree assault, two counts of prohibited use of a weapon, and reckless endangerment. (CF, pp 1-2.)

Saltzman filed a motion to suppress evidence obtained because of the "protective sweep" of his home conducted by police. (CF, pp 99-102.) The court denied the motion to suppress. (CF, pp 135-39.)

After a jury trial, Mr. Saltzman was convicted of the lesser included offense of third-degree assault, both counts of prohibited use of a weapon, and reckless endangerment. (*See* TR 4/27/23, pp 199:22-200:19.)

Saltzman was sentenced to 24 months of supervised probation and 45 days in jail on each count, to be served concurrently. (TR 6/30/23, pp 43:12-14, 44:3-8.)

SUMMARY OF THE ARGUMENT

The trial court erred in denying Saltzman's motion to suppress evidence obtained as a result of the purported "protective sweep" of his home. The trial court misapprehended the legal standards applicable to the suppression issues raised in Saltzman's motion and at the motions hearing and the trial court's ultimate legal conclusion that the protective sweep was reasonable is inconsistent with the record and unsupported by its own evidentiary findings. There is nothing in the record to support a determination that the officers were in danger or that a protective sweep was warranted.

Because the fruits of the warrantless search were used to obtain the warrant to search Saltzman's house and no exception to the exclusionary rule applied, the court should have suppressed the evidence recovered in the search pursuant to the warrant. And because the evidence recovered was critical to the prosecution's case, its admission into evidence cannot be considered harmless beyond a reasonable doubt. Reversal is required.

ARGUMENT

I. The trial court erred in denying Saltzman's motion to suppress evidence obtained as a result of the warrantless search of his home.

A. Standard of review.

This error is preserved. Saltzman filed a motion to suppress evidence obtained because of the "protective sweep" of his home conducted by police. (CF, pp 99-102.) Multiple witnesses testified at a motions hearing. (*See* TR 1/6/22, pp 12-41 (Pelle), 42-61 (Ruisi), 62-80 (Maracine); TR 1/11/22, pp 12-39 (Bach).) The court issued a written order denying the motion to suppress. (CF, pp 135-39.)

"Review of a trial court's suppression order presents a mixed question of fact and law." *People v. Hyde*, 2017 CO 24, ¶ 9. An appellate court "defer[s] to the trial court's findings of fact that are supported by the record, but…assess[es] the legal effect of those facts de novo." *Hyde*, ¶ 9. "[B]oth a trial court's application of an erroneous legal standard in resolving a suppression motion and a trial court's ultimate legal conclusion of constitutional law that is inconsistent with or unsupported by evidentiary findings is subject to correction on review." *People v. Kaiser*, 32 P.3d 480, 483 (Colo. 2001).

Preserved errors of constitutional dimension are reviewed for constitutional harmless error. *Hagos v. People*, 2012 CO 63, ¶ 11. "[R]eversal is required unless

the court is convinced that the error was harmless beyond a reasonable doubt." *Bartley v. People*, 817 P.2d 1029, 1034 (Colo. 1991). "For this kind of error, the State bears the burden of proving the error was harmless beyond a reasonable doubt." *Hagos*, ¶ 11.

B. Discussion.

The Fourth Amendment to the United States Constitution and article II, section 7 of the Colorado Constitution prohibit all unreasonable searches and seizures. *Mendez v. People*, 986 P.2d 275, 279 (Colo. 1999); U.S. Const. amend. IV; Colo. Const. art. II, § 7.

"A warrantless search is presumed to violate the constitutional provisions forbidding unreasonable searches and seizures, especially where there is a warrantless intrusion into a home." *People v. Winpigler*, 8. P.3d 439, 443 (Colo. 1999). "To overcome this presumption, the prosecution has the burden of establishing the warrantless search is supported by probable cause and is justified under one of the narrowly defined exceptions to the warrant requirement." *Id*.

One exception to the warrant requirement is the "exigent circumstances" exception, which is limited to only a few specific factual situations: where "(1) the police are engaged in 'hot pursuit' of a fleeing suspect; (2) there is a risk of immediate destruction of evidence; or (3) there is a colorable claim of emergency

threatening the life or safety of another." *People v. Brunsting*, 2013 CO 55, ¶ 26 (quoting *People v. Kluhsman*, 980 P.2d 529, 534 (Colo. 1999)).

Where certain circumstances outside of one of these specific factual situations and not rising to exigent circumstances exist, "[t]he United States Supreme Court has held that a 'protective sweep' of a private residence may be allowed." *See People v. Walter*, 890 P.2d 240, 243-44 (Colo. App. 1994) (discussing *Maryland v. Buie*, 494 U.S. 325 (1990)). Specifically, in *Maryland v. Buie*, the Supreme Court held that:

> [A]s an incident to the arrest the officers could, as a precautionary matter and without probable cause or reasonable suspicion, look in closets and other spaces immediately adjoining the place of arrest from which an attack could be immediately launched. Beyond that, however…there must be articulable facts which, taken together with rational inferences from those facts, would warrant a reasonably prudent officer in believing that the area to be swept harbors an individual posing a danger to those on the arrest scene.

Buie, 494 U.S. at 334.

The Court emphasized, however, that "a protective sweep, aimed at protecting the arresting officers, if justified by the circumstances, is nevertheless not a full search of the premises, but may extend only to a cursory inspection of those places where a person may be found," and must "last[] no longer than is necessary to dispel the reasonable suspicion of danger and in any event no longer

than it takes to complete the arrest and depart the premises." *Id.*, at 335-36.

Here, in the affidavit for the search warrant that was eventually sought, police claimed to have conducted a "protective sweep of the residence" during which they "found a gun room and a closet in the basement filled with firearms and ammunition," saw "multiple bottles of alcohol and beer throughout the basement" and "[a] gun and holster with a Palmer Lake PD badge…on the bar counter," and located "blood and multiple shell casings in the grassy area just off the basement patio area." (CF, p 68.)

Saltzman filed a motion to suppress evidence obtained because of the protective sweep, arguing that a protective sweep was not justified by the circumstances and regardless, the officers' actions went well beyond a cursory inspection for officer safety. (CF, pp 99-102.) Saltzman argued that here, as in *United States v. Bagley*, 877 F.3d 1151 (10th Cir. 2017), the so-called protective sweep was conducted after he was in custody and despite the absence of any specific, articulable facts that someone dangerous remained in the house. (*See* CF, pp 100-101 (discussing *Bagley*, 877 F.3d at 155-56).)

At a hearing on the motion to suppress, several officers testified about their involvement:

- Detective Pelle testified that he arrived on scene after Saltzman was

arrested and after other officers had conducted a protective sweep. (TR 1/6/22, pp 14:24-15:2, 15:15-20.) He testified that Officer Brown was the first officer who had arrived. (TR 1/6/22, p 20:2-5.) He had observed footage from Brown's body camera, which showed that Brown entered the house, walked through the house looking into rooms, went outside and contacted Saltzman and the victim, then went back inside. (*See* TR 1/6/22, pp 25:12-16, 28:1-29:7.) He agreed that around 45 minutes later, Officer Ruisi conducted a protective sweep. (*See* TR 1/6/22, pp 29:24-30:1.)

- Officer Ruisi testified that he arrived on scene, walked up the driveway, and provided dispatch with the license plate numbers of the several vehicles he saw in the driveway. (TR 1/6/22, pp 43:23-44:3.) Five or six other officers were already on scene. (TR 1/6/22, pp 46:24-47:1.) He could see Officer Brito inside the house with a man, so he went inside, where he also saw Officer Maracine escorting a woman out of one of the bedrooms. (TR 1/6/22, p 44:5-9.) He walked downstairs to the basement and out the basement door to speak with Corporal Bach, who asked him "to make sure the protective sweep had been done in the residence." (TR 1/6/22, p

44:16-20.) Three other officers were in the house when he went back inside. (TR 1/6/22, p 50:15-17.) After doing the protective sweep, he walked through the house again with Bach to point out certain items he had seen. (TR 1/6/22, p 55:9-19.)

- Officer Maracine testified that he arrived on scene and went "through the front doors of the residence where there were other deputies" already inside the house, including Officer Ruisi, who asked if anyone had done a protective sweep. (TR 1/6/22, p 72:20-25.) He did not receive any information indicating that there were "other shooters or victims" remaining but recalled Corporal Bach "stating there were firearms in vehicles that were on scene." (TR 1/6/22, p 75:12-22.). They began the protective sweep at around 1:05 a.m., at least 35 minutes after officers first arrived on scene. (TR 1/6/22, pp 73:21-23, 75:1-9.)
- Corporal Bach testified that he responded to a report that "somebody was messing around with a gun and a coworker was shot." (TR 1/11/22, p 13:10-12.) Three officers were already on scene when he arrived—Officers Hondorf, Dobbs, and Brown—and Officers Ruisi and Brito arrived around the same time as him. (TR 1/11/22, p 13:17-

23.) He went into the house, downstairs to the basement, and out the basement door to where a man and a woman were "sitting next to a fire along with a couple of cops." (TR 1/11/22, pp 14:14-16:1.) He asked Officer Dobbs if a protective sweep had been done of the house, and Dobbs told him that "the upstairs hadn't been done" but the downstairs had been done "'as far as I know,'" which "didn't inspire confidence" for Bach. (TR 1/11/22, p 17:3-7.) The man and woman sitting outside were patted down, and the man had a gun on him. (TR 1/11/22, p 18:6-10.) Officers took the gun and placed the man in handcuffs. (TR 1/11/22, pp 30:7-12, 31:8-10.) Bach asked officers "to conduct a protective sweep of the house for any unknown parties" because he "didn't know who the shooter was, where the gun was…if there was any other parties there." (TR 1/11/22, pp 18:21-19:7.)

Defense counsel argued that the officers' testimony demonstrated how, beginning with Officer Brown, police "basically went in and out of [Saltzman's] house at will…without any restriction, without any restrain[t], without any respect for the premises, without any respect for the Fourth Amendment," and the so-called protective sweep conducted was "simply a search for evidence." (*See* TR 4/7/22, pp 3:10-5:9, 8:19-10:18, 11:19-12:8.)

The trial court issued a written order denying the motion to suppress. (CF, pp 135-39.) The court found that Brown "did not conduct a protective sweep or clear the residence." (CF, p 136.) The court found that Saltzman was not under arrest prior to the protective sweep but was instead "placed into protective custody" as "the Deputies were trying to determine what had occurred." (CF, p 138.) The court found that Saltzman was "placed into protective custody" at 12:53 a.m. "when it was learned he had a firearm in his pocket along with clips for a .45 caliber weapon," and the protective sweep "started at 1:00 a.m." (CF, p 138.)

The court concluded that "[g]iven the Deputies['] observations of several unaccounted for individuals…as well as not knowing who the shooter was and where the firearm was located, the protective sweep was reasonable" and "[t]he scope of the search was related to the exigency that justified the warrantless search to ensure the safety of everyone on scene." (CF, p 138.)

The trial court erred.

(1) The trial court applied an erroneous legal standard.

The trial court applied an erroneous legal standard in resolving Saltzman's suppression motion.

As discussed above, "[i]t is a 'basic principle of Fourth Amendment law' that searches and seizures inside a home without a warrant are presumptively

unreasonable." *People v. O'Hearn*, 931 P.2d 1168, 1173 (Colo. 1997) (quoting *Payton v. New York*, 445 U.S. 573, 586 (1980)). Indeed, "[u]nreasonable 'physical entry of the home' is the 'chief evil' against which the Fourth Amendment is directed." *Id*. (quoting *Payton*, 445 U.S. at 585)).

Here, the trial court overlooked the fact that every officer who entered Saltzman's house prior to the so-called protective sweep did so without a warrant and without Saltzman's consent.

The warrantless entries were presumptively unreasonable, beginning with Officer Brown's initial entry and search—because even if it was not a protective sweep that Brown conducted, Brown did conduct a search.

"A search occurs when the government intrudes upon an individual's legitimate expectation of privacy." *People v. Davis*, 2019 CO 24, ¶ 15. There can be no dispute that Saltzman had a legitimate expectation of privacy in his home.

As the court noted, Brown entered Saltzman's home, "went toward the basement steps…quickly flashed his flashlight around a room and then went down to the basement and again briefly flashed his flashlight through the open area in the basement as he walked out the basement door to the victim…went back into the basement to direct EMS outside to the victim…went back inside and checked the bathroom which was open…[and] returned quickly back up the stairs…" (CF, p

136.) This was a search of Saltzman's home.

Officer Brown did not testify at the motions hearing, despite multiple efforts by the defense to procure his presence and testimony. (*See* TR 1/26/22, pp 5:12-6:18; CF, pp 120-21, 128-31.) Based only on Brown's body camera footage, the prosecution argued that Brown "[did not] conduct a search or even a sweep" because he was "looking for the victim, someone who has been shot." (TR 4/7/22, pp 10:21-11:2.) The court's ruling that Brown "did not conduct a protective sweep or clear the residence" did not otherwise address Brown's warrantless entry of Saltzman's home and appears to adopt the prosecution's incorrect assertion that Brown's conduct inside Saltzman's home did not constitute a search.

"When police seek to enter a home without a warrant, the government bears the burden of proving that sufficient exigency exists." *People v. Miller*, 773 P.2d 1053, 1057 (Colo. 1989) (quoting *United States v. Aquino*, 836 F.2d 1268, 1271 (10th Cir. 1988)) (quotations omitted). The prosecution did not present evidence to establish that Brown's initial entry and search—or the entry of any other officer prior to the so-called protective sweep—was justified by exigent circumstances. To the extent the prosecution's argument that Brown was "looking for the victim, someone who has been shot" could be construed as an argument that exigent circumstances existed, the court never addressed the issue of exigent circumstances

as justification for Brown's warrantless entry and search and never addressed the initial entry of any other officer prior to the "protective sweep" at all.

Even if the prosecution had established that Officer Brown's initial entry and search was supported by probable cause and justified by exigent circumstances, there remained the issue of whether officers could continue to enter and later search Saltzman's home *after* the exigency was addressed. As the court noted in its order, Brown "direct[ed] EMS outside to the victim." (CF, p 136.) By the time the officer who directed the protective sweep—Corporal Bach—arrived on the scene, the victim had already been transported to the hospital. (TR 1/11/22, pp 14:2-5, 22:16-19.) "[T]he existence of exigent circumstances must be assessed as of the time immediately prior to the search or arrest," *see People v. Santisteven*, 693 P.2d 1008, 1013 (Colo. 1984), and here, the court did not properly make that assessment.

The trial court misapprehended the legal standards applicable to the suppression issues raised in Saltzman's motion and at the motions hearing. The court erred.

(2) The trial court's ultimate legal conclusion was inconsistent with or unsupported by its evidentiary findings.

Even had the trial court correctly applied the law, the court's holding that the

protective sweep was reasonable is not supported by the record. There is nothing in the record to support a determination that the officers were in danger or that a protective sweep was warranted.

As an initial matter, "[a] 'protective sweep' is a quick and limited search of premises, *incident to an arrest* and conducted to protect the safety of police officers or others." *Buie*, 494 U.S. at 327 (emphasis added). Here, the trial court found that Saltzman "was not arrested until 3:19 a.m. on May 25, 2020," over two hours after the "protective sweep" was conducted at 1:00 a.m. (CF, p 138.) Based on the court's findings, the search was not incident to an arrest.

Even if Saltzman's placement into "protective custody" was considered to be an arrest for the purposes of the protective sweep analysis, officers were only justified in searching "closets and other spaces immediately adjoining the place of arrest from which an attack could immediately be launched." *See Buie*, 494 U.S. at 334. The record demonstrates that Saltzman was placed into protective custody outside of the house, in the backyard. (*See* TR 1/11/22, pp 18:6-10, 30:7-12, 31:8-10.) Because Saltzman was handcuffed outside the house, there was no justification for officers to conduct a protective sweep of the inside of the house, much less of the entire premises. *See Bagley*, 877 F.3d at 1154 (citing *United States v. White*, 748 F.3d 507, 510 (3d Cir. 2014)).

Then, the record makes clear that the officers' actions in this case overall "were inconsistent with the notion of a 'protective sweep.'" *See Walter*, 890 P.2d at 244. As noted by the court, Officer Brown entered Saltzman's home, walked through the home multiple times, and escorted medical personnel through the home and outside to the victim. (CF, p 136.) Officer Ruisi likewise arrived and proceeded to walk into and through the house. (CF, p 136.) Indeed, all the officers who were called as witnesses at the motions hearing testified that when they arrived, other officers were already inside Saltzman's house. (*See, e.g.,* TR 1/6/22, pp 44:5-9, 72:20-25, TR 1/11/22, p 13:17-23.) The evidence that every officer who arrived prior to the so-called protective sweep walked directly into and though Saltzman's house, then escorted other officers and medical personnel into and through the house, "is inconsistent with any conclusion that the officer[s] felt threatened or endangered." *See Walter*, 890 P.2d at 244.

Finally, the record does not contain, and the trial court did not identify, any clear and non-speculative threat to the officers that existed inside Saltzman's house or anywhere on the scene. The court stated that officers reasonably believed that "numerous additional individuals were at the residence given the number of vehicles and the amount of food and alcohol" (CF, pp 138-39), but the officers "had no way of knowing, one way or another, whether anyone [else] was still in

the house"—and the officers' uncertainty "cannot constitute the specific, articulable facts required by *Buie*." *See Bagley*, 877 F.3d at 1156. And even if the officers reasonably believed that another person or additional people remained inside the house, the record demonstrates that officers had no reason to believe that person or those people would attack them while they were outside. (*See, e.g.,* TR 1/6/22, p 75:12-22); *see United States v. Carter*, 360 F.3d 1235, 1242-43 (10th Cir. 2004) ("Of course, there could always be a dangerous person concealed within a structure…that in itself cannot justify a protective sweep, unless such sweeps are to simply be permitted as a matter of course, a result hardly indicated by the Supreme Court in *Bouie*."). The court noted that the officers observed "several firearms…in vehicles outside the residence" and "in the basement" (CF, p 139), but the officers did not see any person attempt to retrieve those firearms, and the record does not indicate any reason why officers "could not simply detain [the people on scene], back off, and secure the premises." *See Winpigler*, 8 P.3d at 446.

In sum, the record amply shows that the "protective sweep" in this case was not justified by the circumstances and far exceeded the kind of cursory inspection for officer safety contemplated by the Supreme Court's holding in *Bouie*. As the trial court noted, at the time of the so-called protective sweep, the officers "were trying to determine what had occurred" (*see* CF, p 138)—the purported protective

sweep was not a cursory inspection for officer safety at all, it was a pretext for a search for evidence. The trial court's ultimate legal conclusion that the protective sweep was reasonable is inconsistent with the record and unsupported by its own evidentiary findings. The court erred.

(2) The error was not harmless beyond a reasonable doubt.

During the purported protective sweep in this case, police "found a gun room and a closet in the basement filled with firearms and ammunition," saw "multiple bottles of alcohol and beer throughout the basement" and "[a] gun and holster with a Palmer Lake PD badge…on the bar counter," and located "blood and multiple shell casings in the grassy area just off the basement patio area," then relied on the discovery of these items to obtain a search warrant. (*See* CF, p 68.) Executing that warrant, police found a gun—a Colt 1911—"under a desk along the western wall in an office that was located in the southwestern corner of the basement." (*See* TR 4/26/23, pp 52:3-53:24.) The gun was tested for the presence of Saltzman's DNA. (TR 4/26/23, pp 81:1-4, 89:6-93:4.) It was evaluated by a firearms expert to determine whether it could be the gun that fired the spent shell casing that was recovered at the crime scene. (TR 4/26/23, pp 118:18-119:1, 121:2-127:25.) The prosecution relied on this evidence to argue that Saltzman was in possession of the Colt 1911 and used it to fire the shot that hit Nicole Lamb.

(*See* TR 4/27/23, pp 174:20-175:14.)

Because the fruits of the warrantless search were used to obtain the warrant to search Saltzman's house and no exception to the exclusionary rule applied, the court should have suppressed the evidence recovered in the search pursuant to the warrant. *See People v. Tafoya*, 490 P.3d 532, 542 (Colo. App. 2019), *aff'd* 2021 CO 62. And because the evidence recovered—specifically, the gun that was found and tested for the presence of Saltzman's DNA—"was critical to the prosecution's case, its admission into evidence cannot be considered harmless beyond a reasonable doubt." *See id*. (citing *People v. McKnight*, 2019 CO 36, ¶ 60).

Reversal is required.

CONCLUSION

Defendant-Appellant Brian Saltzman respectfully requests that the court reverse the judgment of conviction and remand this case for a new trial.

Respectfully submitted,
Springer and Steinberg, P.C.

s/ Taylor Ivy

_____

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CERTIFICATE OF SERVICE

I certify that on the 30th day of October 2023, this **OPENING BRIEF** was served via Colorado Courts E-Filing on the Office of Attorney General.

s/ Taylor Ivy