

County Court, El Paso County, Colorado Court Address: 270 South Tejon Colorado Springs, CO 80903 (719) 452-5191	
The People of the State of Colorado  vs.  ALL DEFENDANTS Defendant,	
	Δ COURT USE ONLY Δ  Case Number: ALL M, T, AND CR CASES Division: D Courtroom: S203
<b>CASE MANAGEMENT ORDER- CRIMINAL</b>	

This Order governs all T, M and CR cases pending in Division D.

### **Motions**

1. All motions shall be written to advise the Court of the specific relief sought and the specific factual basis for the issue presented to the Court for determination. “Boiler plate” motions are strongly discouraged and each motion shall include the applicable law as applied to the specific facts of the case at issue. With the exception of newly released appellate opinions, the Parties are dissuaded from citing legal authority for the first time at the Hearing. Copies of newly released caselaw upon which counsel intends to rely should be provided to opposing counsel and the Court prior to the commencement of the Hearing.
2. Unless otherwise Ordered, all substantive Motions shall be filed no later than 28 days following arraignment. To the extent a Party wishes to respond to a Motion, they must do so within fourteen(14) days and include legal authority. It is the moving Party’s obligation to set all Motions for Hearing either at arraignment or by contacting Court Staff via e-mail within seven(7) days following the filing of the Motion at: D04\_Courts\_DivD@judicial.state.co.us. **Opposing counsel must be included on all correspondence to the court using their direct e-mail address(es).** Failure on the part of the Moving Party to schedule a Motions Hearing will result in the Motion being deemed abandoned.
3. The Motions Hearing is considered a summons/bond return date. Absent an Order to the contrary, the Defendant is required to appear. Failure of the Defendant to appear may result in his or her presence being waived, and a warrant being issued. See People v. Martinez, 166 P.3d 223 (Colo. App. 2007).
4. Motions *in Limine* and Motions to Amend or Add Charges shall be in writing and shall be filed no later than seven(7) days prior to the Pretrial Readiness Conference at which time they will be

heard by the Court. Late filed Motion *in Limine* or Motions to Amend will be addressed only with good cause shown.

### **Plea and/or Sentencing**

5. The Court generally requires plea paperwork for all plea agreements. However, because the Court's dockets are generally high volume, it is appreciated when Counsel submits plea paperwork for the Court's review prior to the date and time scheduled for the entry of the plea of guilty. Defense Counsel must be ready at the time of sentencing with a calculation of any pre-sentence confinement credit that may be awarded. The District Attorney shall be prepared, to the extent possible, with the restitution amount being requested. *See People v. Weeks*, 498 P.3d 142 (Colo. 2021).
6. If, following a plea or jury verdict, a sentencing hearing is to be scheduled for a later date, a written consent of surety in which the bondsperson agrees to remain on bond following conviction **MUST** be filed prior to the return of the jury verdict or entry of the plea. If the Defendant is at liberty on a surety bond and the Court is not in possession of the consent of surety at the time the plea is entered or the jury returns a verdict and the Defendant is convicted, the Defendant will be remanded into custody. The consent of surety must include the Power of Attorney Number. *See* C.R.S. §16-4-201(1)(c).
7. The Court is acutely aware of the impact a jury trial has on the members of our community. Potential jurors, witnesses, the alleged victim, and community members have adjusted their schedules to be a part of this Constitutionally mandated process. In addition, the attorneys for both sides have spent weeks and months preparing, negotiating, researching, litigating, and investigating to prepare for a potential trial. Given this, the Court does not accept plea agreements on the scheduled trial date.

### **Exhibits, Witnesses and Instructions**

8. All proposed jury instructions from the Prosecution and Defense including case specific instructions, the joint list of witnesses, exhibits (subject to the Supreme Court's holding in *People v. Kilgore*, 455 P.3d 746 (Colo. 2020) and an agreed upon statement of the case must be delivered to opposing Counsel and to the Court no later than 5:00 p.m., the Friday before the jury trial date. **THE COURT REQUIRES PROPOSED JURY INSTRUCTIONS BE E-FILED IN AN EDITABLE FORMAT.**
9. All exhibits must be marked prior to the start of trial subject to *People v. Kilgore, Id.* Pursuant to Chief Judge's Order 2016-02 Paragraph (II)(D), all photographs, audio, and video exhibits should be placed on a CD and deposited with the Court Judicial Assistant following trial for appellate purposes. All documentary Exhibits shall be marked and uploaded into the Court Filing System as a single submission (to the extent possible) with the filing Party's designation.

### **Sequestration**

10. Pursuant to C.R.E. 615, and subject to Colo. Const. Article II, Sec 16a and C.R.S. §24-4.1-302.5, sequestration of witnesses is ordered for all testimony at any hearing or trial in this case. Potential witnesses shall not be present in the courtroom for the testimony of other witnesses, nor discuss their testimony with any potential witness. All Counsel, or the Defendant if *pro se* shall

advise their respective witnesses of the sequestration order. Any violation of this Order will result in the exclusion of the witness testimony.

### **Discovery**

11. **Motions requesting discovery required by that rule are NOT to be filed. See Colo. R. Crim. P. 16(V)(a). Any Motion filed contrary to this Order will be summarily DENIED.** Unless otherwise agreed upon by the Parties and approved by the Court, discovery shall be strictly controlled by Colo. R. Crim. P. 16. Pursuant to Chief Judge Directive 2006-1, the Prosecution is ordered to provide the NCIC and CCIC information available on all of its lay witnesses. The Court expects the Prosecution to provide discovery not only of the information in its possession, but also of any information relevant to the case in possession of the various investigative personnel and law enforcement agencies, pursuant to R. Crim. P. 16(I)(b)(4).
12. The Court finds that the interests of justice would be served by ordering disclosure no later than thirty-five (35) days prior to trial, unless otherwise Ordered of:
  - a. The matters enumerated in R. Crim.P. 16(I)(d)(3) and (II)(b)(2) regarding experts so that Counsel will have meaningful information to conduct effective cross-examination. If no report is made by the expert then a written summary describing the expert's opinions and reasons therefore must be disclosed. The matters to be disclosed include any learned treatises or studies relied upon by the expert regarding any subject at issue in the trial;
  - b. Good faith list of witnesses; nature of defense; any affirmative defense(s) and alibi pursuant to R. Crim. P. 16(II)(c) and (d);
  - c. The Prosecution must provide written notice to Defendant of any benefit or promises given to a civilian witness in exchange for their testimony;
  - d. The Prosecution must provide to the Defendant and file with the Court a written notice of any C.R.E. 404(b) materials that the Prosecution intends to introduce including any underlying police or investigative reports. Counsel are required to admonish their witnesses personally to refrain from mentioning any conduct covered by C.R.E. 404(b) that has not been specifically ruled admissible by the Court.

### **Voir Dire, Opening and Closings**

13. Potential jurors shall be questioned using the "modified civil" method by which all panel members are to be questioned regardless of where they are seated. Absent extraordinary circumstances, the Court will not seat an alternate juror. However, if an alternate juror is required, the last juror seated shall be designated the alternate. See People v. Tippet, 733 P.2d 1183 (Colo. 1987).
14. Questions to the jury panel shall be focused on bias, fairness, impartiality, and legal impairments to service. Hypothetical questions concerning potential evidence or a Party's case theory are disallowed. Counsel shall not attempt to instruct jurors on the law, to include the burden of proof, nor shall counsel attempt to solicit promises from the jurors. See People v. Maestas, 701 P.2d 109 (Colo. App. 1985). Counsel are prohibited from mentioning or alluding to any *potential* sentence in this matter or the classification of crime charged.
15. To the extent a potential juror expresses a hardship, the Court will consider that issue at the conclusion of the general *voir dire* process and Counsel will refrain from offering to excuse the

juror due to hardship. Peremptory challenges are to be exercised pursuant to R. Crim.P. 24(d)(4) and shall be made orally with regard only to the presumptive jury. Any challenge made pursuant to Batson v. Kentucky, 476 U.S. 79(1986), or its progeny shall be made immediately upon the announcement of a questionable strike.

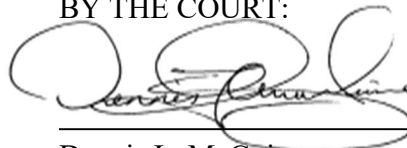
16. Unless otherwise Ordered at the Pretrial Readiness Conference, the Parties will have fifteen(15) minutes each for *voir dire*, ten(10) minutes for opening, and fifteen(15) minutes for closing. The balance of the Prosecution's time not used during their initial closing argument shall be reserved for rebuttal.

### **General Provisions**

17. In most cases, jurors will be allowed to ask questions subject to the Rules of Evidence and the Colorado Revised Statutes. The jury will be instructed concerning asking questions. The Court will consult with Counsel about any juror question that may be objectionable. Jurors will be provided written forms for questions. Any objections to permitting juror questions must be made in writing consistent with Paragraph 4 *supra*.
18. In-custody defendants shall be dressed for trial. See Estell v. Williams, 426 U.S. 954 (1976). It is the responsibility of the defense attorney to ensure trial clothes for their client are delivered to Criminal Justice Center in advance of the trial date consistent with the El Paso County Sheriff's Office's policies and procedures.
19. Counsel should notify their staff and associates that when entering and exiting the Courtroom during jury trial, to do so as quietly and unobtrusively as possible. Entry and exit from the Courtroom during opening, instructions and closing is strongly discouraged.
20. The Court expects that when a party announces "ready for trial," they are in fact ready for trial. Meaning, of course, they have spoken to, endorsed, and properly served subpoenas on all witnesses, and all discovery disputes have been resolved. Gamesmanship will not be tolerated, and the Court will not allow for continuances when a victim or witness appears unexpectedly, or fails to appear without having been properly served a subpoena. Such gambits are inconsistent with counsel's obligations of candor.
21. The Court recognizes the adversarial nature of these proceedings as well as Counsels' obligations to zealously advocate for their respective positions. However, the Parties are to behave with civility and treat the Court, the participants, and each other with respect at all times during the proceedings. Rudeness, *ad hominem* comments, or general disrespect by any participant will not be tolerated.

IT IS THUS ORDERED, 26 March 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Dennis L. McGuire", written over a horizontal line.

Dennis L. McGuire  
County Court Judge