

DISTRICT COURT, BOULDER COUNTY, COLORADO Court Address: 1777 SIXTH STREET P.O. BOX 4249, BOULDER, CO, 80306-4249	<div style="text-align: center;"> <p>DATE FILED June 5, 2025 1:37 PM</p> <p>△ COURT USE ONLY △</p> </div> <div>             Case Number: 2025CR785              Division: 5                      Courtroom:           </div>
THE PEOPLE OF THE STATE OF COLORADO v. <b>Defendant(s)</b> MOHAMED SABRY SOLIMAN	
<b>Order:MR. SOLIMAN'S MOTION TO ALLOW THE DEFENSE EXPERT TO BE PRESENT FOR SCIENTIFIC TESTING AND/OR REVIEW OF EVIDENCE (D-003)</b>	

The motion/proposed order attached hereto: DENIED IN PART.

The Motion is DENIED, with the following exception: If the People have reason to believe that physical evidence will be consumed or destroyed during testing, then they must contact the Defendant to so inform him, and must permit a defense expert to be present during such consumptive testing. C.R.S. § 16-3-309, *People v. Wartena*, 156 P.3d 469, 471-472 (Colo. 2007).

Issue Date: 6/5/2025



NANCY WOODRUFF SALOMONE  
District Court Judge

COUNTY COURT, Boulder County, Colorado Court Address: 1776 6 <sup>th</sup> Avenue Boulder, CO 80306	<div style="text-align: center;"> <input type="checkbox"/> COURT USE ONLY <input type="checkbox"/> </div>
THE PEOPLE OF THE STATE OF COLORADO  v.  MOHAMED SOLIMAN, Defendant.	
Megan Ring, Colorado State Public Defender Kathryn Herold #40075 Supervising Deputy State Public Defender Nicole Collins #33122 Office Head, Boulder Regional Office Boulder Regional Public Defenders 2555 55TH Street D-200, Boulder, CO 80301 Phone: (303) 444-2322      Fax: (303) 449-6432 E-mail: boulder.defenders@state.co.us	Case No. 25CR785  Division 8
<b>MR. SOLIMAN'S MOTION TO ALLOW THE DEFENSE EXPERT TO BE PRESENT  FOR SCIENTIFIC TESTING AND/OR REVIEW OF EVIDENCE  (D-003)</b>	

MOHAMED SOLIMAN, through counsel, asks this Court to enter an order allowing the defense to have a confidential expert present during any scientific testing of evidence by law enforcement or government agents in this case. In support of this motion, Mr. Soliman states:

1. The government, through law enforcement or other agents, may perform various forms of testing involving items of evidence.
2. In doing so, the government's agents apply various scientific procedures and methods of their own choosing to the evidence.
3. While such testing may not destroy the existing evidence, the evidence that is developed as a result of such scientific testing normally consists of the observations and subsequent testimony of the government's experts as to the methods and procedures which were employed, and their observations of the results thereof. Unless Mr. Soliman is permitted to have his own confidential expert present during those procedures and tests, he will have lost any realistic ability to confront the government's evidence as to the procedures performed and the results obtained. The government's experts will have sole and virtually unchallengeable control of the evidence generated as a result of those tests.

4. Further, such testing may **destroy** the existing evidence. For example, DNA evidence may be examined and the condition of other evidence may be altered by the testing. In such situations, Mr. Soliman has a due process right pursuant to the Constitution of the State of Colorado and the United States Constitution to have his own confidential expert be present at such testing.
5. Mr. Soliman requests the opportunity to have his own representative expert observe the scientific procedures and tests performed by the government or its agents. Such an expert would not participate in or in any fashion interfere with or influence the government's testing procedures. Such an expert would enable Mr. Soliman to have reasonable access to the evidence and a reasonable opportunity to confront – as guaranteed by the Constitution of the State of Colorado and the United States Constitution – that sort of evidence in this case, and in this instance the requested relief is virtually the only method of allowing Mr. Soliman access to the evidence and an ability to effectively confront such evidence in court.
6. The government will be in no way prejudiced by allowing the defense to have a confidential expert present during the testing procedures. The only consequences of allowing Mr. Soliman to have an expert present at the government's scientific testing of evidence is a significant enhancement of the reliability of the truth-seeking function of this case, and the protection of Mr. Soliman's right to effective assistance of counsel. It is well-recognized that the right to counsel may include the assistance of confidential experts, *see, e.g. Miller v. District Court*, 737 P.2d 834 (Colo. 1987); *Hutchinson v. People*, 742 P.2d 875 (Colo. 1987).
7. The government has no privileges or rights to confidentiality or secrecy at any point in such testing. No "work product" is involved. Since their work is intended to generate evidence which may be used in court, the police and other government agents have no legitimate reasons for keeping their methods or procedures from the strictest scrutiny of Mr. Soliman, a man accused of multiple counts of Attempted First-Degree Murder.
8. Additionally, Mr. Soliman moves that the court order the government to refrain from performing any additional scientific testing on the evidence in this case until the issues presented by Mr. Soliman motions to have confidential defense experts present at such scientific testing are resolved, for the following reasons:
  - a. Mr. Soliman has filed the motion above, and he expects that the issues raised therein can and should be resolved in an expeditious manner. The government would suffer no prejudice from a delay.
  - b. Testing of the evidence in this case would potentially be exculpatory as to issues which are material to the defense. There is a manifest necessity that a defense expert be present in order to properly document and preserve potentially exculpatory evidence.
  - c. The government and court are on notice that initial testing may destroy evidence that cannot be replicated by duplicative testing. The government and court are also on notice that testing performed without the presence of Mr. Soliman's experts will deprive Mr. Soliman of a realistic ability to confront and rebut testimony concerning such testing pursuant to the Constitution of the State of Colorado and the United States Constitution.

9. Mr. Soliman also hereby requests that the government refrain from any scientific testing in this case until Mr. Soliman's expert(s) are present and able to observe the testing procedures.
10. Mr. Soliman also requests and demands of the government that it refrain from conducting any such testing until such time as the issue of a defense expert observing testing is resolved.
11. Mr. Soliman makes this motion, and all other motions and objections in this case, whether or not specifically noted at the time of making the motion or objection, on the following grounds and authorities: the due process, trial by jury, right to counsel, equal protection, cruel and unusual punishment, confrontation, compulsory process, right to remain silent, and right to appeal clauses of the federal and Colorado constitutions, and the first, fourth, sixth, eighth, ninth, tenth, and fourteenth amendments to the United States Constitution, and article II, sections 3, 6, 7, 10, 11, 16, 18, 20, 23, 25, and 28 of the Colorado Constitution.

Respectfully Submitted,

MEGAN A. RING  
COLORADO STATE PUBLIC DEFENDER

\_\_\_\_\_/s/Kathryn Herold\_\_\_\_\_  
Kathryn Herold #40075  
Supervising Deputy State Public Defender

\_\_\_\_\_/s/ Nicole Collins  
Nicole Collins #33122  
Office Head, Boulder Regional Office

Dated: June 2, 2025

**Certificate of Service**

I hereby certify that on June 2, 2025, I served the foregoing document by E filing same to all opposing counsel of record.

\_\_\_\_\_/s/ Kathryn Herold \_\_\_\_