

District Court Alamosa County, Colorado Alamosa County District Court 8955 Independence Way Alamosa, CO 81101 <hr/> THE PEOPLE OF THE STATE OF COLORADO  vs.  BARRY MORPHEW, Defendant	DATE FILED February 20, 2026 3:30 PM  <input type="checkbox"/> COURT USE ONLY
For the Intervenors: Malory and Macy Morphew  ROBERTA M NIESLANIK, #14241 Attorney at Law 446 Main Street Grand Junction, CO 81501 bert@laddercanyonranch.com	Case Number: 25 CR 128
<b>MOTION TO INTERVENE AND FOR ORDER TO SHOW CAUSE AND          TEMPORARY RESTRAINING ORDER</b>	

Intervenors Malory Morphew and Macy Morphew, victims in this case (“Intervenors”), by and through counsel, Roberta Nieslanik, respectfully move this Honorable Court for an Order to Show Cause directed to the Twelfth Judicial District Attorney’s Office, the Chaffee County Sheriff’s Office and any other entity or individual involved in removing Suzanne Morphew’s remains from Swan Lake Funeral Home in Colorado Springs, Colorado (“the State”) requiring them to show cause why Intervenors should be denied lawful possession of their deceased mother’s remains, and why the State should not be restrained from further interference with Intervenors’ constitutional rights to possess, memorialize, and bury their mother.

**I. INTRODUCTION**

This motion seeks emergency relief to vindicate Intervenors’ fundamental rights under the First and Fourteenth Amendments of the United States Constitution, Article II, §§ 3, 4, 6, 16A, 25, Colorado Constitution, Colorado Revised Statutes §24-4.1-301, 302.5, as well as any other applicable state statutory rights concerning disposition of human remains. Intervenors are the lawful next of kin to their deceased mother, Suzanne Morphew, whose remains were released by Chaffee County Coroner Jeff Graf in April of 2024, almost two years ago. Swan Lake Funeral Home took possession of the remains pursuant to the Morphew daughters’ request. The daughters

had planned a Christian service for their mother, but then – without warning and contrary to the prior lawful release – The State — including members of law enforcement and the prosecuting attorney’s office — have now stopped them from exercising their constitutional rights to possess, memorialize, and bury their mother by going to Swan Lake Funeral Home and taking away their mother’s remains.

This government conduct is outrageous, cruel, and shocking to the conscience. Because these actors are under the jurisdiction of this Court and are ostensibly claiming authority to commit this misconduct by virtue of the criminal case pending before this Court, this Court can and must take action to protect the Victim’s Rights.

## **II. FACTUAL BACKGROUND**

1. On or about September 23, 2024, the remains of Malory and Macy Morpew’s mother, Suzanne Morpew, were found in Moffat, Colorado.
2. Suzanne Morpew’s body was taken into custody by the Chaffee Coroner’s Office for autopsy and examination.
3. Upon completion, the Coroner’s Office formally released the remains to the next of kin, authorizing possession and the arrangement for funeral and burial services.
4. Subsequent to that release, The State, including Chaffee County Sheriff’s Office and the Twelfth Judicial District Attorney’s Office, intervened and prevented Intervenors from retrieving or burying their mother’s remains, without any prior notification or justification.
5. Intervenors have suffered emotional distress, humiliation, and infringement on their constitutional liberties, constitutional rights as victims, religious freedom, and fundamental familial rights to honor and inter the deceased in accordance with personal and religious beliefs.

## **III. LEGAL GROUNDS**

Intervenors possess a fundamental right to free exercise of religion and to hold funeral rites and burial ceremonies consistent with their faith. Government action preventing such observance constitutes a government-imposed burden on religious exercise, in violation of the First Amendment.

The Fourteenth Amendment protects the liberty interest in familial association and the right of next of kin to control the remains and burial of a deceased relative. Article II, section 4 of the Colorado Constitution provides: “The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever hereafter be guaranteed.” Intervenors believe there is no greater religious duty than respect for and honoring of a deceased family member. The government may not thwart Intervenors’ free exercise simply because it is convenient for them to do so.

Arbitrary government interference without due process — and absent any judicial finding of necessity — deprives Intervenors of constitutionally protected rights to privacy, family autonomy, and dignity. Again, as with any fundamental constitutional right, the burden is on the government to show a compelling interest and a suitably tailored means.

The State has not produced, nor does any known statute provide, authority for law enforcement or the prosecutor's office to override a coroner's lawful release of remains to next of kin. Once the coroner's authority concludes upon release, continued retention or obstruction constitutes *ultra vires* action — beyond the lawful power of the State.

#### IV. RELIEF SOUGHT

WHEREFORE, Intervenors respectfully request that this Court:

1. Issue an Order to Show Cause directing the State to appear and explain what justification they have for taking the remains and under what authority they are withholding or obstructing the release of Suzanne Morpew's remains;
2. Grant a Temporary Restraining Order (TRO) immediately prohibiting the State from further interfering with Intervenors' lawful possession, funeral, or burial of their mother;
3. Compel the immediate release of the remains to Intervenors or their designated funeral home;
4. Award attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and any applicable state law; and
5. Grant such other and further relief as this Honorable Court deems proper and just.

#### V. CONCLUSION

Intervenors respectfully ask this Court to protect their constitutional rights and to prevent further unlawful interference by the State in matters deeply rooted in personal freedom and dignity.

Respectfully submitted this 20th day of February, 2026.

ROBERTA M. NIESLANIK

/s/ Roberta M Nieslanik

Roberta M. Nieslanik, #14241

Attorney for Intervenors Malory and Macy Morpew

Certificate of Service

I, hereby certify that on this 20<sup>th</sup> day of February, 2026, I caused the foregoing Motion to be filed in the Alamosa County District Court and served on all parties of record by Colorado Courts E Filing and Service.

/s/ Roberta M. Nieslanik