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<b>PEOPLE OF THE STATE OF COLORADO</b> v. <b>BARRY MORPHEW</b> AKA: Barry Morphew Defendant	DATE FILED March 4, 2026 3:43 PM  ▲ <b>COURT USE ONLY</b> ▲
Anne E Kelly, District Attorney Office of the District Attorney 601 Main Street Alamosa, CO 81101 Phone Number: (719) 589-3691 Attorney Reg. 38885	Case No. D0022025CR000128  Div: D  Ctrm:
<b>PEOPLE’S RESPONSE INTERVENORS’ MOTION REGARDING SUZANNE MORPHEW’S REMAINS</b>	

Anne Kelly, District Attorney in and for the Twelfth Judicial District, State of Colorado, respectfully objects to the Intervenor’s Motion.

Suzanne Morphew’s remains are material evidence in this case lawfully obtained by a search warrant. The Intervenor has requested release of this evidence prior to motions and trial. The Intervenor fails to cite any authority supporting the specific relief requested. The Court, therefore, should deny the Intervenor’s Motion without hearing.

### **Background**

On September 23, 2024, Suzanne Morphew’s skeletal remains were discovered. An autopsy was performed, photographs were taken, samples were collected, and scientific testing of the remains was conducted. The testing revealed the presence of an animal tranquilizer called BAM in Suzanne Morphew’s remains. This is a mixture of compounds that is rare, requires a prescription, and is linked directly to the Defendant.

In April of 2024, the remains of Suzanne Morphew were made available for release to her family. Notably, at that time, no one was charged with Suzanne Morphew’s murder. Further, at that time, family members did not take possession of her remains. Since that authorization of release, the following changes in circumstances have occurred:

On June 18, 2025, a Grand Jury returned an indictment for Murder in the First Degree against Barry Morphew for the murder of Suzanne Morphew. Currently, he stands charged with Murder in the First Degree and is at liberty on bond.

On January 12, 2026, the case was set for a Motions Hearing to commence on July 6, 2026, and a Jury Trial to commence on October 13, 2026.

On January 19, 2026, the Court issued an Omnibus Order with deadlines in the case. Notably, the Court set a motions filing deadline of April 13, 2026, and the Court set an expert witness disclosure deadline of August 13, 2026. The defense team has indicated they will be challenging the testing done on the remains in this case.

Then, on January 29, 2026, Defendant Barry Morpew signed for the release of Victim Suzanne Morpew's remains from the El Paso Coroner's Office to the Swan-Law Funeral Directors funeral home.

On February 17, 2026, law enforcement was notified by the Coroner that Suzanne Morpew's remains had been released to a funeral home. That funeral home had arrived at the El Paso County Coroner's Office that day to pick up Suzanne's remains. Law enforcement then began the process to apply for a search warrant to take custody of the remains as material evidence in this case.

On February 18, 2026, the People received an email from the attorney for [REDACTED] demanding Suzanne's remains be released. The People responded by explained that a warrant was being sought, that they would be released if the warrant was not ordered, and that the People were available any time to talk with the victims about these issues.

Later that day of February 18, 2026, the Court ordered a search warrant for Suzanne Morpew's remains.

On February 19, when collecting Suzanne's remains, Undersheriff Alex Walker was informed that Suzanne Morpew's remains were set to be cremated the next day, February 20, 2026.

On February 24, 2026, the Court ordered another search warrant for documents related to Suzanne Morpew's remains.

Documents obtained through that search warrant include two signed forms with Defendant Barry Morpew's signature on them, one dated February 11, 2026 and one dated February 13, 2026, authorizing the cremation of the remains of the victim in this case, Suzanne Morpew. *See Exhibit 1 attached hereto.*

Now, prior to the Court ruling on the admissibility of the scientific testing of Suzanne Morpew's remains for trial, and prior to the disclosure of the Defendant's expert witness opinions as to any analysis of Suzanne Morpew's remains, and prior to the filing of any motions explaining the grounds to exclude the People's expert opinions regarding Suzanne Morpew's remains, the Intervenors seek an order releasing those remains back to the Defendant for destruction.

## Law

C.R.S. 16-3-301(2)(a) provides that "[a] search warrant may be issued under this section to search for and seize any property ... [w]hich would be material evidence in a subsequent criminal prosecution in this state...."

It is well-established that the government may infringe a citizen's fundamental liberty interests if "the infringement is narrowly tailored to serve a compelling state interest." *E.g., People v. Garlotte*, 958 P.2d 469, 474 (Colo. App. 1997) (citing *Reno v. Flores*, 507 U.S. 292 (1993)).

Courts have recognized that it is a compelling state interest to maintaining the integrity of a criminal prosecution and enforce the law. *People v. Fallis*, 2015 COA 75, ¶ 7 ("Colorado has a compelling state interest in enforcing its criminal laws."); *see also People v. Allee*, 740 P.2d 1, 9 (Colo. 1987) (recognizing important state interest in enforcing criminal law).

## Argument

As a threshold matter, in their Motion the Intervenors cite to no specific legal authority for their request for relief. While the Intervenors generally referenced Constitutional principles and Victims' Rights, the Intervenors have not provided any specific legal authority for their request. Indeed, Intervenors cite to no specific constitutional or statutory provisions, nor any case law citations included, that stand for the proposition that a victim can take custody of a decedent's remains during the pendency of a murder case.

Rights under the Victim Rights Act do not include access to remains in this context. Specifically, neither of the VRA citations included in the Motion stand for the proposition that a victim may possess (let alone destroy) material evidence in a homicide prosecution. Indeed, interpreting the VRA to confer such a right would give defendants (or their family members) the ability to interfere with—or even end—criminal investigations and prosecutions. Courts should not interpret the VRA to lead to such an absurd result. *E.g.*, *State v. Nieto*, 993 P.2d 493, 501 (Colo. 2000) (“Further, in construing a statute, we must seek to avoid an interpretation that leads to an absurd result.”).

Similarly, the Intervenors also cite no authority for the proposition that either the First or Fourteenth Amendment confer a right to take possession of and bury evidence material to an ongoing homicide prosecution.

Further, in the motion the following important facts are not included:

- 1) The motion does not explain that a lawful search warrant was obtained to seize Suzanne's Morphew's remains as evidence.
- 2) The motion references a “Christian service” and ██████████ “possess, memorialize, and bury their ██████████” It does not include for the Court's consideration the fact that the remains were scheduled to be cremated.
- 3) The motion indicates that Swan Lake Funeral Home took possession of the remains pursuant to the ██████████ requests. It does not explain the fact that Barry Morphew, the Defendant, signed the Release Authorization and the Colorado Authorization for Cremation and Disposition forms.

Given the posture of the case at this time, Suzanne Morphew's remains constitute material evidence for at least the following reasons:

- 1) Depending on what expert opinions the Defendant offers relating to the remains, the People may need their experts to conduct further examinations or testing.
- 2) If the Defendant motions to suppress the testing for BAM and that motion is granted, the People may conduct additional sampling or testing.
- 3) If the Defendant is acquitted at trial, the remains become evidence in an unsolved homicide.

- 4) If the Defendant is convicted at trial, his future attorneys may want access to the remains in the event there is post-conviction litigation.
- 5) The remains may be needed to prepare trial exhibits.

The People's conduct—seizing and preserving Suzanne's remains for the duration of the prosecution—is narrowly tailored to serve that interest because (i) it does not infringe on the intervenors' rights except as necessary to preserve the integrity of material evidence and (ii) the People will release the evidence to the intervenors at the conclusion of the case and any appeals.

### **Additional Victims' Position**

The People have spoken with Suzanne Morpew's sister Melinda Balzar, and brother David Moorman. Both of them "strongly object" to the release of the remains of their sister prior to a verdict being reached in this case. They both noted concerns with the integrity of the evidence and separately indicated their desire to discuss bringing Suzanne back to Indiana. It was their position that others in their family would agree.

### **Conclusion**

In conclusion, what is before the Court is that the Defendant in a murder case authorized the release of the murder victim's remains, prior to pending motions litigation and jury trial, and paid to have them cremated prior to disclosures of his experts' opinions or court rulings on admissibility of scientific testing regarding said remains.

To prevent this, law enforcement sought a court ordered and constitutionally valid search warrant, ensuring the preservation of material evidence. To the extent that this could be construed to infringe upon a right of the victims, it is narrowly tailored to serve a compelling state interest.

Until the Intervenors cite to specific legal authority regarding this specific circumstance – the right to compel prior to motions litigation and trial the release of a murder victim's remains that constitute material evidence in a case which were lawfully obtained pursuant to a search warrant – their motion should be denied.

Wherefore, based on the above the People respectfully request that this Honorable Court deny the Intervenors' Motion and deny the Intervenors' Motion for a Show Cause Hearing.

Dated March 04, 2026

Anne E Kelly  
District Attorney

/s/ Anne Kelly  
Anne E Kelly, 38885