

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 April 13, 2026 9:04 PM  ? COURT USE ONLY
<b>For the Defendant:</b>  JANE FISHER-BYRIALSEN, #49133 FISHER & BYRIALSEN, PLLC 4600 S. Syracuse Street, 9 <sup>th</sup> Floor Denver, CO 80237 (202)256-5664 <a href="mailto:Jane@fblaw.org">Jane@fblaw.org</a>  DAVID BELLER, #35767 RECHT KORNFELD, P.C. 1600 Stout Street, Suite 1400 Denver, CO 80202 (303)573-1900 <a href="mailto:david@rklawpc.com">david@rklawpc.com</a>	Case Number: 25 CR 128
<b>[D-019] MOTION TO REQUIRE THE PROSECUTION TO PROVIDE A GOOD FAITH WITNESS LIST WITH ORDER OF WITNESSES</b>	

Mr. Barry Morphew, by and through his attorneys, hereby requests this Court to require the prosecution to provide a good faith witness list no later than forty-five days before trial, setting forth those witnesses the prosecution intends to call at trial and the order of the witnesses. In support, Mr. Morphew states:

1. The prosecution has endorsed 241 witnesses.
2. The current number of endorsed witnesses exceeds a number that can realistically be called to testify at the upcoming trial for which six weeks has been set aside.
3. A good faith list of witnesses that the prosecution intends to call should be tendered to the defense.

4. More importantly, the prosecution should be required to carve its list of witnesses down as to coincide with fairness and judicial efficiency in order to allow Mr. Morphew's defense team to adequately prepare to confront all witnesses who will actually be called to testify against him at a jury trial. See Colo. Const. art. II § 16; U.S. Const. amend. VI.

5. Providing the order of witnesses will also facilitate this court's need to ensure a reasonable mode and order of presentation and ensure that all parties will have necessary files and personnel available for that individual witness. Having an order of witnesses will prevent multiple recesses and gaps in trial that would otherwise occur.

6. Furthering the spirit of judicial economy, narrowing the witness list by the prosecution allows for a meaningful effort to address and appropriately resolve any issues, legal or otherwise, related to the witnesses. Moreover, it allows for the Court to thoroughly contend with and resolve those issues in a significant way.

7. Currently, with such a large number of witnesses to cope with, the proceedings and litigation surrounding any issues with the witnesses will be painstakingly long and will create an arduously drawn-out pretrial litigation phase that ultimately prejudices Mr. Morphew's defense. "Trial by ambush, or the old fox-and-hounds approach to litigation, does not promote accuracy or efficiency in the search for truth." *People v. District Court*, 531 P.2d 626 (1975).

8. In a case of this nature, the defense possesses an obligation to be extremely diligent in their investigation and assessment of every detail, particularly surrounding all issues related to any witnesses who will be called at a trial. This obligation is imperative to properly provide Mr. Morphew with adequate assistance of counsel. See *Strickland v. Washington*, 466 U.S. 668 (1984). If the witness list continues to balloon, then Mr. Morphew's constitutional rights will be improperly burdened and the litigation in this matter may devolve into an unconstructive exercise in attempting to keep up with legal issues caused by such a large number of witnesses.

9. Mr. Morphew 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, as a continuing objection based upon (in addition to the above authority) the following grounds and authorities: the due process, trial by jury, right to counsel, equal protection, equal access to and administration of justice, right to defend life, 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, Crim. P. 16, and RPC 3.8. Mr. Morphew

cross-references and incorporates by reference all pleadings filed or to be filed in this case, and caselaw cited therein and at oral argument.

WHEREFORE Mr. Morphew respectfully requests that this Court requires that the prosecution tender a good faith witness list containing those witnesses they intend to call at trial and the order of presentation.

Respectfully submitted this 13th day of April, 2026.

**FISHER & BYRIALSEN, PLLC**

/s/ Jane Fisher-Byrialsen  
Jane Fisher-Byrialsen, #49133

**RECHT KORNFELD, P.C.**

/s/ David Beller  
David Beller, #35767

**Certificate of Service**

I hereby certify that on April 13, 2026, I caused the foregoing to be filed with the Alamosa County District Court and a copy of the same to be served on the Alamosa County District Attorney's office via CCE-File Service.

/s/ Abby Clement  
Paralegal at Fisher & Byrialsen PLLC