

<p>DISTRICT COURT, ALAMOSA COUNTY, COLORADO, 8955 Independence Way Alamosa, CO 81101</p> <hr/> <p>THE PEOPLE OF THE STATE OF COLORADO Plaintiff,</p> <p>v.</p> <p>BARRY LEE MORPHEW, Defendant.</p>	<p>DATE FILED April 13, 2026 9:28 PM</p> <p>▲ COURT USE ONLY ▲</p>
<p>JANE FISHER-BYRIALSEN, #49133 FISHER &amp; 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></p> <p>DAVID BELLER, #35767 RECHT KORNFELD, P.C. 1600 Stout Street, Suite 1400 Denver, CO 80202 (303)573-1900 Fax: (303) 446-9400 <a href="mailto:david@rklawpc.com">david@rklawpc.com</a></p>	<p>Case Number: 25 CR 128</p>
<p align="center"><b>[D-022] MOTION FOR COURT ORDER REQUIRING THE PROSECUTION TO RESPOND TO ALL DEFENSE MOTIONS IN WRITING</b></p>	

Barry Morphey, by and through counsel, respectfully requests an order requiring the prosecution to respond in writing to all defense motions. In support, Mr. Morphey states:

1. For the defense and the Court to adequately prepare for the motions hearings in this case, it is imperative that the defense and the Court have adequate notice of the prosecution's positions on defense motions. Unless the prosecution specifies the grounds for their position and their legal authority in writing prior to the motions hearing, it will be impossible for the defense to adequately prepare for the hearing, to have a fair opportunity to be heard, and to preserve issues for potential further review.

2. Furthermore, it is a colossal waste of time and judicial economy to prepare for litigation at a motions hearing were the prosecution not to oppose the relief sought.

3. The fundamental role of a response is to give this Court and Mr. Morphew notice of the prosecution's position concerning the facts and law so that the issues can be narrowed and defined and Mr. Morphew can prepare a defense or response.

4. That the defendant should have notice of the government's position on defense motions is a fundamental feature of fairness in a criminal case, the absence of which would violate the due process and equal protection clauses of the Colorado Constitution. Colo. Const., art. II, §§ 3, 16, 25. Because requiring the defense to put their position in writing without a corresponding duty on the prosecution to respond in writing offends principles of justice deeply rooted in this court's traditions. *See Patterson v. New York*, 432 U.S. 197, 201-202 (1977) (unfair criminal procedures that offend deeply-rooted principles of justice can violate the due process clause), it would also violate the Fourteenth Amendment to the U.S. Constitution.

5. This Court should be guided by Colorado Rule of Civil Procedure 121, section 1-15(1) which provides that the failure of a party to respond may be considered a confession of the motion.<sup>1</sup>

6. 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 requests this court to order that the prosecution must respond to all defense motions in writing within no more than 14 days and not less than 7 days prior to any hearings set, whichever is longer, and, if they fail to do so, this Court should deem the defense motion confessed.

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<sup>1</sup> Colo. Crim. Pro. Rule 57(b)(court may look to Rules of Civil Procedure when criminal rules do not address a subject).

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