

<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 10:40 PM</p> <p>▲ COURT USE ONLY ▲</p>
<p>JANE FISHER-BYRIALSEN, #49133 FISHER & BYRIALSEN, PLLC 4600 S. Syracuse Street, 9th Floor Denver, CO 80237 (202)256-5664 Jane@fblaw.org</p> <p>DAVID BELLER, #35767 RECHT KORNFELD, P.C. 1600 Stout Street, Suite 1400 Denver, CO 80202 (303)573-1900 Fax: (303) 446-9400 david@rklawpc.com</p>	<p>Case Number: 25 CR 128</p>
<p align="center">[D-031] MOTION FOR PRESERVATION OF JURY MATERIALS BEYOND THE STATUTORY THREE-YEAR PERIOD</p>	

Mr. Barry Morphey, by and through undersigned counsel, hereby requests and moves this Court for an order providing that the Jury Commissioner, the Clerk, the Court Reporter, and this Court shall preserve all materials related to jury selection – including all jury lists, master jury lists, jury wheels, notes, logs, questionnaires, and all other materials existing on any form and covering any subject related to jury selection in this case – until any final order is entered following any and all stages of review, postconviction, habeas, and any other remedies. AS GROUNDS, Mr. Morphey states:

1. Colorado statutes place a three-year limit on the preservation of records related to jury selection:

§ 13-71-138. Preservation of juror records.

All official records and papers compiled and maintained by the state court administrator concerning jurors shall be preserved for three years after the calendar year to which they apply. Official records shall include records in automated form on magnetic tapes and disks.

2. If a conviction enters in this case, the case will continue long beyond the three-year period.

3. Direct appeals in the state of Colorado for a case like this would be anticipated to take 3 to 4 years. If a Court of Appeals opinion is followed by issuance of a writ of certiorari, the further briefing to a decision in the Supreme Court would take an additional 1½ to 3 years. The timeframe for commencing any postconviction action would not even begin to run until the conclusion of the direct appeal, and then could take years more.¹

4. If a conviction enters, Mr. Morphew could be severely prejudiced in his ability to obtain federal or state relief if records are destroyed.

5. This request is to be read in conjunction with all of Mr. Morphew's motions regarding the jury selection process and may be adjusted based upon the information learned at the requested conference with the Jury Commissioner/Clerk/Court and parties.

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. Barry Morphew, by and through undersigned counsel, hereby requests and moves this Court for an order providing that the Jury Commissioner, the Clerk, the Court Reporter, and this Court shall preserve all materials related to jury selection – including all jury lists, master jury lists, jury wheels, notes, logs, questionnaires, and all other materials existing on any form and covering any subject related to jury selection in this case – until any

¹ There is no statute of limitations for a Colorado state postconviction action following conviction for a class one felony.

final order is entered following any and all stages of review, postconviction, habeas, and any other remedies.

Respectfully submitted this 13th day of April, 2026.

RECHT KORNFELD, P.C.

/s/ David Beller

David Beller, #35767

FISHER & BYRIALSEN, PLLC

/s/ Jane Fisher-Byrialsen

Jane Fisher-Byrialsen, #49133

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