

☐ County Court ☐ District Court Alamosa County, State of Colorado 8955 Independence Way Alamosa, CO 81101	DATE FILED May 27, 2026 7:22 PM
PEOPLE OF THE STATE OF COLORADO v. BARRY MORPHEW AKA: Barry Morphew Defendant	
Anne E Kelly, District Attorney Frederick Johnson, Special Deputy District Attorney Office of the District Attorney 601 Main Street Alamosa, CO 81101 Phone Number: (719) 589-3691 Attorney Reg. 38885	▲ ▲ COURT USE ONLY Case No. D0022025CR000128 Div: D Ctrm:
PEOPLE'S RESPONSE TO DEFENDANT'S MOTION FOR NOTICE OF THE PROSECUTION'S INTENTION TO INTRODUCE ANY EVIDENCE OR TESTIMONY UNDER CRE 807 (D-011)	

Anne Kelly, District Attorney in and for the Twelfth Judicial District, State of Colorado, respectfully responds to Defendant's Motion and states as follows:

The Defendant has requested that the People provide notice of their intent to introduce evidence pursuant to CRE 807. Advance notice of a party's intention to introduce evidence pursuant to this Rule is required by the rule itself. The People have and will continue to comply with the requirements of Rule 807.

The People filed a Notice of Intent to Introduce Evidence Pursuant to CRE 807 on April 13, 2026. In that Notice, the People indicated that the Notice will likely be supplemented as trial preparation proceeds. The People anticipate that the admissibility of the statements proffered by the People pursuant to CRE 807 will be litigated at the Motions Hearing set for the week of July 6, 2026. The People may call witnesses to testify regarding the elements of admissibility required pursuant to the Rule.

The Defendant suggests in his Motion that "any legal argument can be set forth without recitation of the evidence the prosecution seeks to admit." The People believe the Defendant is suggesting that oral argument and the presentation of evidence in support of the admission of CRE 807 statements should be curtailed to avoid potential jury expose to evidence. The Defendant provides no legal authority for the

proposition that advocates should be limited in their advocacy on a motions issue to avoid influencing the public who may be called to serve on a jury. No such authority exists. Rather, the Court has already made clear that the parties shall not make or disseminate an *extrajudicial* statement that the lawyer knows or reasonably should know will have a likelihood of prejudicing a criminal proceeding. The People have complied with that Order. Moreover, Colorado courts consistently hold that proper voir dire of a jury panel is sufficient to overcome any suggestion of prejudice created by extensive media coverage. *People v. Bartowsheski*, 661 P.2d 235 (Colo. 1983); *People v. McCrary*, 549 P.2d 1320 (Colo. 1976); *People v. Gardenhire*, 903 P.2d 1165 (Colo. App. 1995).

Wherefore, based on the above the People respectfully request that this Honorable Court DENY Defendant's Motion.

Dated May 27, 2026

Anne E Kelly
District Attorney

/s/ Anne Kelly
Anne E Kelly, 38885