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PEOPLE OF THE STATE OF COLORADO v. BARRY MORPHEW AKA: Barry Morphey Defendant	DATE FILED May 27, 2026 ▲ COURT USE ONLY ▲
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	Case No. D0022025CR000128 Div: D Ctrm:
PEOPLE’S RESPONSE TO DEFENDANT’S MOTION TO EXCLUDE FROM PRETRIAL COURT PROCEEDINGS PERSONS WHO MAY BE WITNESSES AT TRIAL OR AT ANY MOTION HEARING (D-021)	

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

The People object to the Defendant’s Motion on the grounds that it does not comport with CRE 615. That Rule of Evidence excludes witnesses from being present for court proceedings in which other witnesses are testifying. In other words, the Rule prevents witnesses from being exposed to the testimony of other witnesses in order to avoid the possibility of witnesses conforming their testimony to other witness testimony. The Rule does not, and cannot pursuant to the Court’s obligation to keep the Courtroom open for public observation, prevent witnesses from being present at hearings that do not involve witness testimony. The Defendant attempts to stretch the purpose of Rule 615 – ensuring that witnesses are not influenced by *other witnesses’ testimony* – to include discussion of “substantive legal issues” at pretrial hearings. The Defendant offers no legal support for this stretch. Indeed, the cases cited by the Defendant all involve sequestration of witnesses at hearings (trial and motions hearings) involving witness testimony. *People v. Melendez*, 102 P.3d 315 (Colo. 2004) (sequestration issue arose when sequestered witness heard another witness’s testimony during trial, not a pretrial hearing); *People v. Albo*, 2020 WL 14044675 (Colo. App. 2020) (denial of defendant’s motion to exclude victim from hearing other witness testimony at

testimonial hearing and trial not an abuse of discretion); *People v. Brinson*, 739 P.2d 897 (Colo. App. 1987) (sequestration order violation issue involving trial testimony, not pretrial hearings); *People v. Gomez*, 632 P.2d 586, 594 (limited sanction appropriate for prosecution's violation of sequestration order by allowing witnesses to talk to one another *during trial* not abuse of discretion). None of the cases involve the "pretrial publicity" concern that the Defendant raises here. Instead, all of the cases cited identify the risk that CRE 615 seeks to address: witnesses conforming their testimony to other witnesses. Because the Defendant can offer not legal support for its request, the Court should deny their Motion.

The People have no objection to this Court issuing a sequestration order pursuant to CRE 615 for hearings where witness testimony will be provided. The People request, however, that certain exceptions to CRE 615 be recognized here. Specifically, the People request that the Court permit the People to designate two advisory witnesses: Federal Bureau of Investigation Special Agent Ken Harris and Chaffee County Undersheriff Alex Walker. These investigators have been the lead investigators on this case from the inception of the investigation in 2020. Their involvement and knowledge of this case will be critically important to litigation of evidentiary motions and the presentation of evidence at trial. Moreover, the intimate knowledge SA Harris and Undersheriff Walker have regarding this investigation is compartmentalized to a certain degree as these investigators, at times, focused on separate aspects of the case. Colorado Rule of Evidence 615 permits from exclusion from the courtroom "any person whose presence is shown by a party to be essential to the presentation of the party's cause." CRE 615.

In addition to SA Harris and Undersheriff Walker, the People note that several members of Suzanne Morpew's immediate family should be permitted to be exempt from exclusion under the Victims' Rights Act. Specifically, Suzanne's daughters, Mallory and Macy Morpew, who will be called to testify at trial, should be exempt from exclusion. In addition, Suzanne's siblings, David Moorman, Andrew Moorman and Melinda Balzer, who may be called to testify at trial, should be exempt from exclusion. CRE 615 exempts from exclusion any person "authorized by statute to be present." CRE 615; *People v. Coney*, 98 P.3d 930, 935 (Colo. App. 2004) ("The mandate contained in article II, 16a and

C.R.S. 24-4.1-302.5 permitted the victim's father [in murder trial] to remain in the courtroom). The People note and appreciate that the defense acknowledges this in their motion.

Dated May 27, 2026

Anne E Kelly
District Attorney

/s/ Anne Kelly
Anne E Kelly, 38885