

DISTRICT COURT, ALAMOSA COUNTY, COLORADO, 8955 Independence Way Alamosa, CO 81101	DATE FILED September 7, 2026 8:48 PM
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff, v. BARRY LEE MORPHEW, Defendant.	
<i>For the defendant Barry Morpew:</i> JANE FISHER-BYRIALSEN, #49133 FISHER & BYRIALSEN, PLLC 4600 S. Syracuse Street, 9th Floor Denver, CO 80237 (202)256-5664 Jane@FBLaw.org 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	 Case Number: 25CR128 Division C
[D-057] OPPOSITION TO MOTION TO MODIFY BOND	

COMES NOW Barry Morpew, by and through counsel, and opposes the prosecution's motion to modify bond and in support, states as follows:

1. Mr. Morpew was previously prosecuted in this matter and was out of custody the majority of the time his case was pending, from September 20, 2021 until dismissal, on April 19, 2022. He never missed a single court hearing and kept all appointments and check-ins as

ordered by the court. There was never any problem or any claim that he attempted to or in fact fled.

2. Following the dismissal of *Morphew I*, Mr. Morphew, knowing law enforcement was still investigating the case and learning that the prior prosecution team voiced the intention of re-filing the case against him after the remains were found, did not flee the United States or attempt to hide from anyone, his counsel included.

3. Mr. Morphew has not missed any court appearances in this case.

4. Thus, over a period of more than five years, he has demonstrated he is not a flight risk and that the bond conditions have been sufficient to ensure his appearance in court.

5. The prosecution bases their motion on two accusations: one, that he picked up his daughter at the airport, and two, that he was involved in a traffic matter.

6. Neither allegation warrants revocation of bond and incarceration.

7. At most, the allegations may warrant a change in the conditions of release.

8. This case has drawn extraordinary and unprecedented public and media attention, including extensive commentary online; the large majority of which is hostile, inflammatory, ignores the presumption of innocence completely, and sometimes violent in nature. The defense does not ask this Court to look away from the facts, and does not minimize the seriousness of the allegations. However, the very foundation on which our justice system was created is to ensure that allegations are proven and alleged facts are weighed against the statutory factors set out in C.R.S. § 16-4-103(5), not against the volume or tenor of public commentary surrounding the case.

9. The Colorado Court of Appeals has made clear that a bond determination based on considerations outside the statutory framework is a misapplication of the law and an abuse of discretion. *People v. Rodriguez-Nunez*, 2026 COA 48, ¶¶ 18 to 19, 2026 WL 1596211 (June 4, 2026). The same reasoning that forecloses reliance on suppositions or intent not grounded in the statute forecloses reliance on public sentiment, however intense. As the United States Supreme Court observed in the bail context, "[t]o infer from the fact of indictment alone a need for bail in an unusually high amount is an arbitrary act." *Stack v. Boyle*, 342 U.S. 1, 6 (1951). Public reaction to an indictment, or to allegations that have not yet been tested, provides even less basis for a bond decision than the indictment itself.

10. The defense raises this respectfully and not as a criticism of this Court, which has at every stage in this case conducted a careful, individualized analysis. It is raised only to preserve the record and to underscore that the appropriate outcome here is the one the statute calls for, not the one that public pressure might seem to call for.

11. The purpose of a bond condition is to obtain a defendant's appearance in court and ensure the safety of the community. § 16-4-105(8), C.R.S.

12. Any additional techniques must be shown by empirical research to further those specific goals. See § 16-4-105(8)(i), providing the court may impose "(i) Other supervision techniques **shown by research** to increase court appearance and public safety rates for persons released on bond." (*emphasis added*).

13. This court cannot revoke without probable cause that a defendant has committed a felony. § 16-4-105(3), C.R.S.

14. This Court cannot set bond so high that it amounts to a denial of bond altogether. See *People v. Rodriguez-Nunez*, 2026 COA 48, ¶ 20 (finding "the district court erred by explicitly setting a cash bond whose amount was so high that it functioned as a bond denial.").

Respectfully submitted this 7th day of September, 2026.

RECHT KORNFELD, P.C.

/s/ David Beller
David Beller, #35767

FISHER & BYRIALSEN, LLC

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

Certificate of Service

I hereby certify that on September 7, 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/ Abigail Clement