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ADVANCE SHEET HEADNOTE
November 9, 2026

2026 CO 68

No. 26SA216, *People in Interest of A.E.R.*—Juvenile Delinquency—Statutory Right to Preliminary Hearing—§ 19-2.5-609(1), C.R.S. (2026).

In this C.A.R. 21 proceeding, the supreme court considers whether an individual who was charged as a juvenile in a delinquency petition is entitled to a preliminary hearing, notwithstanding the fact that a grand jury in a separate case against her adult co-defendants found probable cause on counts that concerned some of the same allegations underlying the charges against her.

The supreme court now concludes that under the plain and unambiguous language of section 19-2.5-609(1), C.R.S. (2026), of the Children's Code, when a juvenile is accused in a petition of a delinquent act that constitutes a class 1, 2, or 3 felony, the juvenile is entitled to a preliminary hearing upon a proper demand therefor. Here, because the People charged the juvenile with delinquent acts that constitute a class 1, 2, or 3 felony, the juvenile was entitled to a preliminary hearing when she made a proper request for such a hearing, and the district court erred in denying her that statutory right.

Accordingly, the court makes its order to show cause absolute and remands this case to the district court for further proceedings consistent with this opinion.

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

2026 CO 68

Supreme Court Case No. 26SA216
Original Proceeding Pursuant to C.A.R. 21
Larimer County District Court Case No. 26JD47
Honorable Joseph Dean Findley, Judge

In Re
The People of the State of Colorado,

In the Interest of Juvenile:

A.E.R.,

and Concerning
Respondent:

Parent or Guardian of A.E.R.

Order Made Absolute
en banc
November 9, 2026

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No appearance on behalf of: Parent or Guardian of A.E.R.

JUSTICE GABRIEL delivered the Opinion of the Court, in which **CHIEF JUSTICE MÁRQUEZ**, **JUSTICE BOATRIGHT**, **JUSTICE HOOD**, **JUSTICE SAMOUR**, **JUSTICE BERKENKOTTER**, and **JUSTICE BLANCO** joined.

JUSTICE GABRIEL delivered the Opinion of the Court.

¶1 In this C.A.R. 21 proceeding, A.E.R., who was charged as a juvenile in a delinquency petition, asserts that the district court violated her statutory right to a preliminary hearing. After A.E.R. requested a preliminary hearing, a grand jury in a separate case against her adult co-defendants found probable cause on counts that concerned some of the same allegations underlying the charges against A.E.R. The district court here then denied A.E.R.'s preliminary hearing request, finding that the separate case's grand jury indictment had already established probable cause as to the charged conduct.

¶2 We issued an order to show cause and now make the order absolute. Under the plain and unambiguous language of section 19-2.5-609(1), C.R.S. (2026), of the Children's Code, when a juvenile is accused in a petition of a delinquent act that constitutes a class 1, 2, or 3 felony, the juvenile is entitled to a preliminary hearing upon a proper demand therefor. Here, the People charged A.E.R. with delinquent acts that constitute a class 1, 2, or 3 felony. Accordingly, A.E.R. was entitled to a preliminary hearing when she made a proper request for such a hearing, and the district court erred in denying her that statutory right.

I. Facts and Procedural History

¶3 The People charged A.E.R. as a juvenile in a delinquency petition with a violation of the Colorado Organized Crime Control Act, distribution of marijuana

concentrate, money laundering, and being an aggravated juvenile offender. The charges arose out of A.E.R.'s alleged involvement in a drug distribution and money laundering enterprise. A.E.R. was seventeen years old at the time of the bulk of the conduct alleged in the petition, but she is now an adult. The People also filed charges against five adults and two other juveniles arising from the same alleged enterprise.

¶4 On the same day that the People filed the delinquency petition against A.E.R., her attorney entered an appearance and submitted a written request for a preliminary hearing. The court then scheduled that hearing.

¶5 Thereafter, the People presented their separate case against A.E.R.'s adult co-defendants to a grand jury. The grand jury ultimately issued indictments, thereby establishing probable cause as to A.E.R.'s adult co-defendants on counts that concerned some of the same allegations underlying the charges against A.E.R.

¶6 The parties in the present case then met for the scheduled preliminary hearing concerning A.E.R. Although, at the time, both parties agreed that A.E.R. had the statutory right to a preliminary hearing under section 19-2.5-609(1), the district court questioned whether a preliminary hearing was warranted and appropriate, given that a grand jury had now established probable cause as to A.E.R.'s adult co-defendants. The court requested briefing on the issue and continued the matter.

¶7 The parties then filed supplemental briefs. In their briefing, the People reversed their prior course and argued that "the Grand Jury indictment is sufficient for a determination of probable cause and there is no need to have a separate preliminary hearing." According to the People, the grand jury indictment against A.E.R.'s adult co-defendants established probable cause as to her. Thus, a preliminary hearing in the case against her was unnecessary.

¶8 A.E.R. responded that because Colorado law does not permit the state to charge a juvenile in a delinquency proceeding by indictment, the grand jury indictment against her adult co-defendants had no legal effect on her statutory right to a preliminary hearing as guaranteed by section 19-2.5-609(1).

¶9 The district court agreed with the People. In the district court's view, A.E.R. "is not eligible for a preliminary hearing in this case, as the grand jury already found probable cause for the same charges."

¶10 A.E.R. then sought relief in this court pursuant to C.A.R. 21, and we issued an order to show cause.

II. Analysis

¶11 We begin by discussing our jurisdiction under C.A.R. 21 to hear this matter. We then note the applicable standard of review and principles of statutory construction. Finally, we address section 19-2.5-609(1) of the Children's Code, and

we conclude that, by its plain and unambiguous language, A.E.R. was entitled to a preliminary hearing.

A. Original Jurisdiction

¶12 The exercise of our original jurisdiction under C.A.R. 21 is a matter within our sole discretion. *People v. Tafoya*, 2019 CO 13, ¶ 13, 434 P.3d 1193, 1195. An original proceeding under C.A.R. 21 is an extraordinary remedy that is limited in its purpose and availability. *Id.* As pertinent here, we have deemed C.A.R. 21 relief to be appropriate to correct a district court's abuse of discretion or ruling in excess of its jurisdiction when no other adequate appellate remedy exists. *People v. Jones*, 2015 CO 20, ¶ 6, 346 P.3d 44, 46. We have also exercised our discretion under C.A.R. 21 to hear matters that present issues of significant public importance that we have not previously considered, again when no other adequate appellate remedy exists. *Tafoya*, ¶ 13, 434 P.3d at 1195.

¶13 A preliminary hearing is designed to provide a judicial determination as to whether probable cause exists to believe that a defendant committed the offense charged. *Id.* at ¶ 14, 434 P.3d at 1195; *see also Harris v. Dist. Ct.*, 843 P.2d 1316, 1319 (Colo. 1993) (recognizing an accused's statutory right to a preliminary hearing before a judge to determine whether probable cause exists to permit a trial of the charged offense).

¶14 For several reasons, we deem it appropriate to exercise our discretion under C.A.R. 21 to hear this matter. First, the question presented raises an issue that we have not previously addressed: whether an indictment in an adult co-defendant's case extinguishes a juvenile's statutory right to a preliminary hearing under section 19-2.5-609(1) of the Children's Code. This is a question of significant public importance because of its implications for other juveniles in delinquency proceedings who face charges arising out of the same conduct as adult co-defendants. Second, without a preliminary hearing, juveniles might improperly remain in custody until trial. *See People v. Vanness*, 2020 CO 18, ¶ 14, 458 P.3d 901, 904. Finally, relief from the district court's order would be unavailable to A.E.R. through traditional appellate review because the right to a preliminary hearing would be moot after trial. *People v. Maes*, 2024 CO 15, ¶ 9, 545 P.3d 487, 490.

B. Standard of Review and Principles of Statutory Construction

¶15 Whether A.E.R. is entitled to a preliminary hearing on the charges at issue presents a question of law that we review de novo. *People v. Rowell*, 2019 CO 104, ¶ 14, 453 P.3d 1156, 1159.

¶16 Likewise, we review questions of statutory interpretation de novo. *People in Int. of B.C.B.*, 2025 CO 28, ¶ 24, 569 P.3d 74, 79. In interpreting a statute, we seek to discern and effectuate the legislature's intent. *Id.* In doing this, we apply words

and phrases in accordance with their plain and ordinary meanings, and we consider the entire statutory scheme in order to give consistent, harmonious, and sensible effect to all of its parts. *Id.* Moreover, we must avoid interpretations that would render any statutory words or phrases superfluous or that would lead to illogical or absurd results. *Id.*

¶17 In construing a statute, we respect the legislature's choice of language. *Id.* at ¶ 25, 569 P.3d at 79. Accordingly, we may not add words to a statute or subtract words from it. *Id.*

¶18 If the statutory language is unambiguous, then we will apply it as written and need not resort to other rules of statutory interpretation. *Id.* at ¶ 26, 569 P.3d at 79.

C. Section 19-2.5-609(1)

¶19 A.E.R. principally argues that the plain language of section 19-2.5-609(1) of the Children's Code entitles her to a preliminary hearing. We agree.

¶20 Section 19-2.5-609(1) provides, in pertinent part:

> The district attorney or a juvenile who is accused in a petition of a delinquent act that constitutes a class 1, 2, or 3 felony may demand and receive a preliminary hearing to determine if there is probable cause to believe that the delinquent act alleged in the petition was committed by the juvenile.

¶21 Section 19-2.5-609(1)(a), in turn, provides, "The juvenile or the prosecution may file a written motion for a preliminary hearing, stating the basis therefor.

Upon the filing of the motion, the court *shall* set the matter for a hearing." (Emphasis added.)

¶22 The foregoing provisions are plain and unambiguous. They afford a juvenile in a delinquency proceeding the statutory right to a preliminary hearing, when properly requested, upon being charged with a delinquent act that constitutes a class 1, 2, or 3 felony. § 19-2.5-609(1).

¶23 Here, A.E.R. satisfied all of these statutory requirements. The People filed a delinquency petition against her, so the Children's Code governs. Additionally, the People charged her with a class 2 felony (sections 18-17-104(3), C.R.S. (2026), and 18-17-105(1), C.R.S. (2026)) and a class 3 felony (section 18-5-309(1)(b)(II), (2), C.R.S. (2026)), so section 19-2.5-609(1), the preliminary hearing statute, applies. Finally, A.E.R. submitted a timely, written request for a preliminary hearing.

¶24 As noted above, section 19-2.5-609(1)(a) provides that upon a juvenile's filing of a proper written request for a preliminary hearing, the court "shall" set the matter for a hearing. Black's Law Dictionary defines "shall" to mean, "Has a duty to; more broadly, is required to." *Shall*, Black's Law Dictionary (12th ed. 2024). Similarly, Webster's Third New International Dictionary defines "shall" as "used in laws, regulations, or directives to express what is mandatory." *Shall*, Webster's Third New International Dictionary (2002). Accordingly, the plain language of section 19-2.5-609(1)(a) does not give the court any discretion to deny

qualifying juveniles the right to a preliminary hearing when they timely request one.

¶25 Other provisions of the Children's Code support our conclusion. As the People acknowledged in the district court, title 19 does not authorize the state to initiate delinquency proceedings in juvenile court by grand jury indictment. Pursuant to section 19-2.5-502(1), C.R.S. (2026), "[i]f the district attorney determines that the interests of the juvenile or of the community require that further action be taken, the district attorney may file a petition in delinquency. . . ." Thus, the state may initiate delinquency proceedings against a juvenile only by way of a delinquency petition. Because, here, the People filed a delinquency petition against A.E.R., the grand jury indictment against her adult co-defendants cannot function to indict A.E.R. Indeed, the District Attorney recognized this fact when he told the district court in the grand jury proceedings, "[W]e cannot indict juveniles," a point he reiterated at the initially scheduled preliminary hearing and status conference when he said, "[A] juvenile cannot be indicted and [A.E.R.] is charged as a juvenile, so she still has a right to a preliminary hearing as a juvenile under 19-2.5-609."

¶26 Notwithstanding the foregoing, the People now argue that (1) the grand jury indictment accomplished the purpose of a preliminary hearing; (2) the grand jury's probable cause finding is binding on A.E.R. because it created the law of the

case; and (3) section 19-2.5-609(1) requires only that the court determine if probable cause exists, without limiting *how* it must do so. We discuss and reject each of these arguments in turn.

¶27 First, the People argue that because a grand jury indictment serves the same purpose as a preliminary hearing, it is unnecessary to provide A.E.R. with a preliminary hearing. Although both a grand jury proceeding and a preliminary hearing function to determine if probable cause exists, for the reasons set forth above, we perceive no basis to conclude that the indictment against A.E.R.'s adult co-defendants somehow extinguished the preliminary hearing right guaranteed to A.E.R. by statute. The People cite no binding or persuasive authority supporting their contention to the contrary, and we have seen none.

¶28 Second, as to the People's assertion, with which the district court agreed, that the district court was bound by the grand jury's determination of probable cause, the People cite to our statement in *People v. District Court*, 610 P.2d 490, 492 (Colo. 1980), that "an indictment is the culmination of the probable cause screening process of the grand jury and that procedure functions as a constitutionally adequate substitute for a preliminary hearing." In *District Court*, we concluded that the defendant had no right to a preliminary hearing after a grand jury had returned an indictment against him because the grand jury had effectively made the same probable cause assessment that a preliminary hearing would have

provided. *See id.* That case is distinguishable, however, because *District Court* involved a defendant who had moved for a preliminary hearing after a grand jury had already indicted *him*. *Id.* Here, we have different parties to the grand jury proceeding and the proposed preliminary hearing. A.E.R. was not indicted by the grand jury, nor, by law, could she have been, as discussed above.

¶29 The People attempt to overcome this statutory and procedural impediment by arguing that the grand jury indictment against A.E.R.'s adult co-defendants created the "law of the case" regarding a probable cause determination. We disagree.

¶30 The law of the case is a "discretionary rule of practice [that] is based primarily on considerations of judicial economy and finality." *Silva v. Wilcox*, 223 P.3d 127, 135 (Colo. App. 2009). It applies to "final decisions that affect the same parties in the same case." *Kuhn v. State*, 897 P.2d 792, 795 (Colo. 1995). Under this doctrine, "[a]lthough a trial court is not inexorably bound by its own precedents, prior relevant rulings made in the same case are generally to be followed." *People ex rel. Gallagher v. Dist. Ct.*, 666 P.2d 550, 553 (Colo. 1983).

¶31 The People misapply the "law of the case" doctrine here. As an initial matter, the grand jury proceeding is not a "case." Rather, the grand jury is an "investigative body," Crim. P. 6.2(a), whose duty is to determine whether probable cause exists, § 16-5-204(4)(j), C.R.S. (2026). Even were we to assume that

the grand jury proceeding was a case, however, it was not a prior proceeding in "the same case," *Kuhn*, 897 P.2d at 795, that is, in A.E.R.'s case. Nor did it involve the same parties, most notably because A.E.R. was not a party to the grand jury proceeding.

¶32 Finally, the People argue that section 19-2.5-609(1) requires only that the court determine whether probable cause exists, without describing *how* it must make this determination. As stated above, however, by its plain language, a qualifying juvenile who timely requests a preliminary hearing under section 19-2.5-609(1) is entitled to one. Thus, the court's determination of probable cause must arise from such a hearing.

III. Conclusion

¶33 For these reasons, we conclude that, under the plain and unambiguous language of section 19-2.5-609(1), the district court violated A.E.R.'s statutory right to a preliminary hearing. We further conclude that the grand jury indictment against A.E.R.'s adult co-defendants in a separate proceeding did not extinguish her statutory right to a preliminary hearing in the present case.

¶34 Accordingly, we make our order to show cause absolute, and we remand this case to the district court for further proceedings consistent with this opinion.