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<p>District Court, El Paso County, State of Colorado Address: 270 S. Tejon St., Colorado Springs, CO 80903</p> <hr/> <p>People of the State of Colorado, Plaintiff,</p> <p>vs.</p> <p>LETECIA STAUCH, Defendant.</p> <hr/> <p>Attorneys for Defendant:</p> <p>BARKER & TOLINI, by Josh Tolini 720 S. Tejon, Colorado Springs, CO 80903 Phone Number: (719) 227-0230 E-Mail: joshuatolini@hotmail.com Atty. Reg. #: 30119</p>	<p style="text-align: right;">DATE FILED: December 28, 2021 11:30 AM</p> <hr/> <p style="text-align: center;">↑ COURT USE ONLY ↑</p> <hr/> <p>Case Number: 20CR1358</p> <p>Div.: 15</p>
<p>MOTION FOR CHANGE OF VENUE (D-37)</p>	

COMES NOW the above-named Defendant, Ms. Letecia Stauch, by and through her attorney, Josh Tolini, Esq., in the above referenced matter, and moves this court for a change of venue of this case. As grounds therefore, undersigned counsel states as follows:

Due to the pervasive, intensive and prejudicial publicity and public commentary concerning the charges against Ms. Stauch, including considerable publicity concerning incorrect matters not admissible at trial, Ms. Stauch cannot receive a fair trial in the Fourth Judicial District.

1. Ms. Stauch's case has gathered more media coverage than any case in recent history in El Paso County. Further, the publicity is rife with inaccuracies and material which would be inadmissible in Ms. Stauch's trial.
2. Ms. Stauch is forced to choose between her right to a trial in the district where the charges are brought and her right to a fair trial by impartial jury. Ms. Stauch values her right to venue in Colorado Springs and he is reluctant to move to have the trial venue changed.
3. Ms. Stauch has a right to a fair trial by an impartial jury under the Sixth and Fourteenth Amendments, and Colo. Const. Art II, §§ 16, 23. Duncan v. Louisiana, 391 U.S. 145 (1968);

Taylor v. Louisiana, 419 U.S. 522 (1975); Irvin v. Dowd, 366 U.S. 717 (1961); Rideau v. Louisiana, 377 U.S. 723 (1963); Fields v. People, 732 P.2d 1145 (Colo. 1987).

4. Crim. P. 21 and C.R.S. §16-6-101 and 102 provide that a change of venue should be granted when a fair trial cannot be obtained in the location where the trial is pending. Under the Sixth and Fourteenth Amendments, and Colo. Const. Art II, §§16, 23, the very risk that a fair trial cannot take place requires corrective action by the court.

5. Crim. P. Rule 21 and C.R.S. §16-6-101, *et seq.*, provide mechanisms for changing venue. This motion, with its supporting affidavit, satisfies the procedural prerequisites of the rule and statute. The legal standard which this court must use in deciding to change venue is set forth in numerous cases. As the court stated in Irvin v. Dowd, “[i]n essence, the right to jury trial guarantees to the criminally accused a fair trial by a panel of impartial, ‘indifferent’ jurors. The failure to accord an accused a fair hearing violates even the minimum standards of due process.” Irvin v. Dowd, 366 U.S. 717, 722, 81 S.Ct. 1639, 1642, 6L.Ed.2d 751 (1961).

6. In Sheppard v. Maxwell, the Court stressed that due process requires a trial by an impartial jury, and stated that “[t]he trial courts must take strong measures to ensure that the balance is never weighted against the accused...[W]here there is a reasonable likelihood that prejudicial news prior to trial will prevent a fair trial, the judge should continue the case until the threat abates or transfer it to another county not so permeated with publicity.” Sheppard v. Maxwell, 384 U.S. 333 at 362-63, 86 S.Ct. at 1552 (1966).

7. This court should not confuse this standard with the more stringent standard applied by appellate courts in deciding whether a trial court’s ruling on a motion for a change of venue was erroneous. Because of the different role and responsibilities of this court, it is legally bound to change venue in circumstances where, on appeal, “reversible error” might not necessarily be found.

8. The *risk* of an unfair trial is the driving force behind the rules governing the protection of the right to fair trial by impartial jury. Where such a risk exists, this court should act to avoid it. Every accused is entitled to a trial free of prejudice inherent in circumstances which present an “unacceptable risk...of impermissible factors coming into play.” Estelle v. Williams, 425 U.S. 501, 505 (1976) (making indigent accused appear before a jury in jail clothes violates right to a fair trial by impartial jury.)

9. “A fair trial in a fair tribunal is a basic requirement of due process. Fairness of course requires an absence of actual bias in the trial of cases. But our system of law has always endeavored to prevent even the probability of unfairness...[T]o perform its high function in the best way ‘justice must satisfy the appearance of justice.” Estes v. Texas, 381 U.S. 532, 543

(1965) quoting In re Murchinson, 349 U.S. 133, 136 (1955). See also Turner v. Louisiana, U.S. 466 (1965); Beeman v. People, 565 P.2d 1430 (Colo. 1977).

10. The publicity about this case has been extraordinary in its scope, intensity and prejudicial nature directly threatening Ms. Stauch's right to a fair trial by impartial jury.

11. Since Ms. Stauch faces a substantial and real risk of being denied a fair trial by impartial jury due to extraordinary publicity, public preconceptions and peculiar dangers posed to many of the prosecution's witnesses in this district, there is an obvious tension between that fundamental right and her right to trial in the venue where charges are brought. Because the courts refuse to dismiss the charges against a person who cannot receive a fair trial in the proper venue, which is the only mode of relief that would protect both of the important constitutional rights at issue, Ms. Stauch is forced to lose one right in order to protect another. Ms. Stauch wants to protect and preserve all of her fundamental rights to the maximum extent possible, an interest which is naturally shared by this court.

12. Ms. Stauch moves for a hearing on this motion. Rule 21 and C.R.S. §16-6-101 provide that one should be held, and Ms. Stauch may have additional information and evidence to present to the court.

31. Ms. Stauch makes this motion and all motions and objections in this case, whether or not stated at the time of the making of the motion or objection, under the following grounds and authorities: the due process, trial by jury, right to counsel, equal protection, cruel and unusual punishment, confrontation, compulsory process, right to remain silent, and the 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, Colorado Constitution Art. II, §§ 3, 6, 7, 10, 11, 16, 18, 20, 23, 25, and 28, and Crim. P. 16

Respectfully submitted this December 28, 2021

By: s/ Joshua Tolini
Joshua Tolini #30119

