

DISTRICT COURT, EL PASO COUNTY, COLORADO 270 South Tejon Street Colorado Springs, CO 80903	DATE FILED: November 11, 2021 FILED: November 11, 2021 9:44 AM
PEOPLE OF THE STATE OF COLORADO, Plaintiff v. LETECIA STAUCH, Defendant	
Attorney or Party without Attorney (Name and Address): BARKER & TOLINI, P.C. JOSHUA TOLINI, ESQ. 720 S. Tejon Colorado Springs, CO 80903 Phone Number: (719)227-0230 FAX Number: (719)227-0964 Atty. Reg. #: 30119	Case No. 20CR1358 Division 15
MOTION TO SEAL AND HOLD CONFIDENTIAL JAIL RECORDS OF VISITS OR MEETINGS BETWEEN LETECIA STAUCH AND HIS DEFENSE TEAM AND THEIR AGENTS	

COMES NOW _____ by and through counsel, and requests that this Court order the El Paso County Sheriff, all personnel at or associated with the El Paso County Detention Center, the Fourth Judicial District Attorney's office and all agents, associates, contractors, or assistants to refrain from disclosing any visitation logs, tapes, records, or any other information related to visitation of Ms. Stauch by his attorneys, members of the defense team, and/or their agents. AS GROUNDS, Ms. Stauch states:

1. Ms. Stauch has a constitutional right to effective assistance of counsel and privileged communications between and among Ms. Stauch and her attorneys. Ms. Stauch has a fundamental right to completely confidential attorney, expert, and investigative assistance in preparing her defense to the allegations in this case. *Ake v. Oklahoma*, 470 U.S. 68 (1985); *Perez v. People*, 745 P.2d 650 (Colo. 1987); *Hutchinson v. People*, 742 P.2d 875 (Colo. 1987); *Miller v. District Court*, 737 P.2d 834 (Colo. 1987); *see also People v. Rosenthal*, 617 P.2d 551 (Colo. 1980). This right is not lessened just because she is incarcerated.

2. Defense counsel, defense investigators and experts must be able to communicate with Ms. Stauch unencumbered. Allowing the prosecution or its agents access to the visitation logs or other such information related to visits is tantamount to allowing the prosecution access to work product and privileged information.

3. As it pertains to the prosecution's discovery obligations, Crim.P. 16(I)(e)(1) states that "disclosure shall not be required of legal research or of records, correspondence, reports, or memorandum to the extent that they contain the opinions, theories, or conclusions of the prosecuting attorney or members of his legal staff." This protection has also been held to apply

to the work product of defense counsel. See *Richardson v. District Court*, 632 P.2d 595, 599 n. 3 (Colo. 1981)(reversing trial court's order compelling the defense to disclose to the prosecution statements of nonexpert defense witnesses made to the defense investigator); *Hickman v. Taylor*, 329 U.S. 495 (1947).

4. The Tenth Circuit has held, “[A] prosecutor's intentional intrusion into the attorney-client relationship constitutes a direct interference with the Sixth Amendment rights of a defendant and because a fair adversary proceeding is a fundamental right secured by the Sixth and Fourteenth Amendments, we believe that absent a countervailing state interest, such an intrusion must constitute a per se violation of the Sixth Amendment.” *Shillinger v. Haworth*, 70 F.3d 1132, 1142 (10th Cir.1996). Thus, the court held that “when the state becomes privy to confidential communications because of its purposeful intrusion into the attorney-client relationship and lacks a legitimate justification for doing so, a prejudicial effect on the reliability of the trial process must be presumed.” *Id.*

5. In *Shillinger*, the defendant and attorney were required to prepare for trial in jail with a deputy present at all times. *Shillinger*, 70 F.3d at 1134. During trial, it became apparent that the deputy related information to the prosecutor that had passed between defense counsel and the defendant during trial preparations. The Tenth Circuit affirmed the grant of habeas relief and remanded the case to the district court for consideration of the appropriate remedy. *Id.* at 1143.

6. There is “widespread agreement that communications by post between an inmate and his attorney are sacrosanct, subject only to tests on incoming mail for the presence of contraband which fall short of opening it when the inmate is not present. Oral intercourse has been hedged with similar protection.” *Adams v. Carlson*, 488 F.2d 619, 631 (7th Cir.1973) (citations omitted). The privacy accorded to the attorney-client relationship must exist even in the prison context. *Id.*

7. Ms. Stauch makes this objection, and all other motions and objections in this case, whether or not specifically noted at the time of making the motion or objection, on the following grounds and authorities: federal and state constitutional rights to bail, due process, to defend life, to the equal administration of justice, trial by jury, right to counsel, equal protection, cruel and unusual punishment, confrontation, compulsory process, right to remain silent, privileges and immunities, and right to appeal clauses of the federal and Colorado Constitution, and article II, sections 3, 6, 7, 10, 11, 16, 18, 20, 23, 25, and 28 of the Colorado Constitution

WHEREFORE, Ms. Stauch requests that this Court

1. Exclude from trial or sentencing for any purpose attorney-client communications, records of any visitation by Ms. Stauch's attorneys or their agents;
2. Enter an immediate order that under no circumstances may anyone from the El Paso County Sheriff's office or the El Paso County Detention Center, nor any agent of the prosecution or law enforcement shall reveal any information to the prosecution or its agents about visits Ms. Stauch may have with defense counsel, any members of the defense team, or

any agents, experts, associates, assistants, or other persons affiliated with the defense. This includes visitor logs, entries, or any other records or information;

3. Enter an order requiring the prosecution to disclose whether it or any of its agents have already received such information and require immediate disclosure of the same to the defense.

s/ Joshua Tolini
Joshua Tolini #30119
Dated: November 11, 2021