DISTRICT COURT, El Paso County, Colorado Court Address: 270 South Tejon Street Colorado Springs, CO 80903

DATE FILED: June 12, 2020

People of the State of Colorado

VS.

**Defendant: Letecia Stauch** 

▲ COURT USE ONLY

Case #: 20CR1358

Deputy District Attorney: Michael J. Allen, #42955

Martha McKinney, #28745

Angelina Gratiano, #50674

Address: 105 E. Vermijo Colorado Springs, CO 80903

Phone Number: 520-6000

District Attorney: Daniel H. May, #11379

Division #: 15S

Courtroom #: S403

[P-09]

Motion to Find Waiver of Confidentiality or Privilege for the Defendant's Medical and Social History Records Pursuant to C.R.S. § 16-8.5-104(1) and § 16-8.5-105(3)

The District Attorney of the Fourth Judicial District of the State of Colorado, through his duly appointed Deputy District Attorney, respectfully requests this Court find that the Defendant, by raising the issue of competency, has waived any claim of confidentiality or privilege as to all information and documents pertaining to her medical and social history and that the Court order the release of such records to the People by the custodians of such records; as grounds therefore, the People state as follows:

- 1. C.R.S. 16-8.5-104(1) states that "when a defendant raises the issue of competency to proceed, or when the court determines that the defendant is incompetent to proceed and orders that the defendant undergo restoration treatment, any claim by the defendant to confidentiality or privilege is deemed waived, and the district attorney, the defense attorney, and the court are granted access, without written consent of the defendant or further order of the court, to:
  - a. Reports of competency evaluations, including second evaluations;
  - b. Information and documents relating to the competency evaluation that are created by, obtained by, reviewed by, or relied on by an evaluator performing a court-ordered evaluation; and
  - c. The evaluator, for the purpose of discussing the competency evaluation." (emphasis added)
- 2. C.R.S. 16-8.5-105(3) allows that a competency evaluator to use "confessions and admissions of the defendant and any other evidence of the circumstances surrounding the commission of the offense, as well as the medical and social history of the defendant, in questioning the defendant." (emphasis added)

- 3. Thus, by raising the issue of competency via its written motion on June 4, 2020, and verbally on the record on June 5, 2020, the defense has waived any claim confidentiality or privilege as cited above in C.R.S. § 16-8.5-104(1) to material pertaining to the medical and social history of the Defendant.
- 4. While the People do not believe any further order of court is strictly necessary as per C.R.S. §16-8.5-104(1), it is nevertheless critical for us to obtain a written court order to facilitate our ability to subpoena the appropriate records from records custodians, who are often out of state, and who often request a written court order pertaining to a waiver. Any subpoena duces tecum issued by the People will have specific instructions to send or bring the records directly to the Court and not directly to the People. This will provide an opportunity for the Defendant to make any objections to the People reviewing these documents and may provide alternate options for providing these records to the competency evaluator.

Wherefore, the People respectfully request this Court find that the defendant has waived any claim of confidentiality or privilege to records concerning her medical and social history pursuant to C.R.S. § 16-8.5-104(1) and § 16-8.5-105(3) and that the Court order the release of such records to the Court by the custodians of such records for further consideration.

Respectfully submitted on June 12, 2020.

/s/

Michael J. Allen, #42955 Senior Deputy District Attorney

Martha McKinney, #28745 Chief Deputy District Attorney

Angelina Gratiano, #50674 Deputy District Attorney

## **Certificate of Service**

I hereby certify that a true and correct copy of the foregoing [P-09] People's Motion to Find Waiver of Confidentiality or Privilege for the Defendant's Medical and Social History Records Pursuant to C.R.S. § 16-8.5-104(1) and §16-8.5-105(3) was served via ICCES on all parties who appear of record and have entered their appearances herein according to ICCES: Date:

By: /s/_	
Paralegal	