DATE FILED: December 16, 2022 6:13 PM

COLORADO SUPREME COURT 2 East 14th Avenue, 4th Floor Denver, CO 80203 Original Proceeding Boulder County Court No. 2022CR1121 Honorable Frederic Rodgers, Senior/Visiting Judge	
IN RE: The People of the State of Colorado, Petitioner v. Evan Michael Platteel, Respondent	
Attorney for Proposed *Amicus Curiae* Katherine Houston, #42409 Rocky Mountain Victim Law Center 899 Logan St., Ste. 512 Denver, CO 80203 (303) 295-2001 kazi@rmvictimlaw.org	Case Number: 2022SA000384

AMICUS CURIAE BRIEF SUPPORTING PEOPLE'S PETITION FOR RELIEF PURSUANT TO C.A.R. 21

CERTIFICATE OF COMPLIANCE

I hereby certify that this Proposed brief of *Amici Curiae* in Support of the Appellant complies with all requirements of Rule 21(k) that an amicus brief must contain no more than 4,750 words.

This amicus brief contains 4,250 words.

In addition, I certify that this brief complies with the content and form requirements of C.A.R. 29 and 32.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 29 and C.A.R. 32.

/s/ Katherine Houston
Atty. Reg. 42409
Attorney for *Amicus Curiae*

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

CONSTITUTIONAL PROVISIONS

STATUTES

OTHER AUTHORITIES

I. STATEMENT OF INTEREST OF AMICUS CURIAE

The *Amicus Curiae*, Rocky Mountain Victim Law Center ("RMvlc"), is a Colorado non-profit law firm whose mission is to elevate victims' voices, champion victims' rights, and transform the systems impacting them. RMvlc provides free legal services to crime victims across Colorado to uphold their rights under the Colorado Victims' Rights Act ("VRA"), as well as assisting them with other victimization-related legal matters. RMvlc has worked for more than thirteen years to advance the legal rights of crime victims in Colorado. As experts on victims' rights, RMvlc notes the outcome of this case has implications for crime victims across Colorado, and their brief, addressing those implications, may assist the Court as it reviews this case.

The *Amicus Curiae* respectfully request the Court grant Petitioner's request to remand the case to the county court to reverse its order allowing Defendant to call the victim to testify at Defendant's preliminary hearing.

II. INTRODUCTION AND SUMMARY OF THE ARGUMENT

Colorado was one of the first states in the country to add the rights of victims to our state Constitution and, in doing so, enact a Victim Rights Act. *Colo. Const., Art. II §16(a).* In doing so, and consistently since 1992, Colorado has demonstrated a commitment to ensuring the rights of victims are upheld in our state. Despite this

fact, litigation continues to arise requiring the courts to reiterate the importance of victims' rights, as is the case here.

A victims' right to be present at all critical states of a case is well-established. *Id.; Colo. Rev. Stat. §24-4.2-302.5(2)(b)*; *People v. Coney*, 98 P.3d 930, 935 (Colo.App.2004); *Gansz v. People*, 888 P.2d 256, 258 (Colo. 1995). It is a right that can only be abrogated upon the entry of a sequestration order when the court deems it is absolutely necessary in order to protect the rights of a defendant. Exercising the right to be present should not come with the risk of being unlawfully compelled to testify, without any due process considerations.

Even where due process has been provided, there is no right for a defendant to compel a victim to testify at a preliminary hearing, *Harris v. Dist. Court*, 843 P.2d 1316, 1319 (Colo. 1993); *Rex v. Sullivan*, 575 P.2d 408, 410 (Colo. 1978). Allowing a defendant to unlawfully compel such testimony is harmful and inconsistent with the intent and purpose of the VRA. *COLO. REV. STAT. 24-4.1-301; Colo. Rev. Stat. §24-4.1-302.5(1)(a)*.

In this case, the Constitutional and statutory rights of the victim were undermined, without due process or necessity, providing an important opportunity for this Court to reiterate the commitment of Colorado to honoring and protecting victims of crime.

III. ARGUMENT

A. Victims of crime have a Constitutional and statutory right to be present at all critical stages without fear of being unlawfully compelled to testify.

1. A victims right to be present at all critical stages of a case is well established in Colorado and nationwide.

Colorado, since 1992, has had a Constitutional amendment providing that "any person who is a victim of a criminal act, or such person's designee…shall have the right to be heard when relevant, informed, and *present at all critical stages of the criminal justice process." Colo. Const., Art. II §16(a)* (*emphasis added).* "Critical stages" are defined in statute and include, among other things, the preliminary hearing. *Colo. Rev. Stat. §24-4.2-302.5(2)(b).*

Colorado courts have further held that victims have a statutory and constitutional right to be present at all critical stages of the criminal justice process. *People v. Coney*, 98 P.3d 930, 935 (Colo.App.2004) (finding that the father of a homicide victim should have been allowed to remain in the courtroom following his own testimony at trial); *Gansz v. People*, 888 P.2d 256, 258 (Colo. 1995) (recognizing victim's constitutional right to be present at trial).

The prevalent adoption of Victim's Rights legislation nationwide further illustrates the national effort to respect a victim's right to be present at the trial of his or her attacker. *See* Douglas E. Beloof & Paul G. Cassell, *The Crime Victim's*

Right to Attend the Trial: The Reascendant National Consensus, 9 Lewis & Clark L. Rev. 481, 504 (2005) (A comparison of forty-one states and the National Victims' Rights Act). Experts in the field of victims' rights have come to a similar conclusion: "A crime is often a very significant event in the life of a victim, and the trial, too, may be extremely important. Victims deserve to see in person whether justice is being done." Paul G. Cassell, *Recognizing Victims in the Federal Rules of Criminal Procedure: Proposed Amendments in Light of the Crime Victims' Rights Act*, 2005 B.Y.U. L. Rev. 835, 905 (2005).

Such commitment to upholding the rights of victims is consistent with the legislative intent of the Colorado's VRA which states "the full and voluntary cooperation of victims and witnesses to crimes with state and local law enforcement agencies as to such crimes is imperative for the general effectiveness and well-being of the criminal justice system." *COLO. REV. STAT. § 24-4.1-301*. Victims in states with stronger legal protections and who feel involved in the outcome of their case are more satisfied with the overall criminal justice process. *The Rights of Crime Victims- Does Legal Protection Make a Difference?,* National Institute of Justice (1998*)*. Part of ensuring victims are involved in, and satisfied with the outcome of, their cases is ensuring their right to

be present at all critical stages is honored and upheld. *Colo. Const., Art. II §16(a); Colo. Rev. Stat. §24-4.2-302.5(2)(b)*.

2. Victims' rights cannot be arbitrarily restricted without due process.

Colorado affords victims of crime "[t]he right to be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal justice process." *Colo. Rev. Stat. § 24-4.1-302.5(1)(a)*. These rights are afforded to victims "In order to "preserve and protect a victim's rights to justice and *due process*". *Id.* (*emphasis added*). Each of a victims' rights is to be "honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protection afforded criminal defendants." *Colo. Rev. Stat. § 24-4.1-301*.

While "due process" has not been defined by the courts in the context of victims' rights, it surely means more than a court spontaneously compelling a victim who is exercising their Constitutional and statutory rights from being required to testify without notice or the opportunity to be heard on the matter. The fundamental aspects of due process include the opportunity to be heard in a "meaningful manner" and to be treated fairly. *See Armstrong v. Manzo*, 380 U.S. 545, 552 (1965); *Watso v. Colorado Dept. of Soc. Services*, 841 P.2d 299, 307 (Colo. 1992) (noting that "the basic requirement of due process is fundamental

fairness, [and] the adequacy of particular procedural protections necessarily must be considered in view of the circumstances of each particular case."). Due process does not allow for a court to abrogate the rights of a victim just because she "voluntarily made herself available to the court", See *Pet. For Relief Pursuant to C.A.R. 21, p. 7.*

A clear procedure exists for prosecuting attorneys and defendants to subpoena witnesses to testify. *Colo. Rev. Stat 16-9-101, Colo. R. Crim. P. 17*. Such procedures exist to ensure the opportunity for notice and a means to object and be heard. Here, no subpoena was served on the victim. *Pet. for Relief*, p.7. However, despite this, the court found that, because the victim "voluntarily made herself available to the court", Defendant was entitled to call her as a witness, relying on *McDonald v. Dist. Ct. In & For Fourth Jud. Dist., 576 P.2d 169 (Colo. 1978).* See *Pet. For Relief p. 7.* The People have appropriately noted that *McDonald* predates the VRA, and that "Through this case…the Court has the opportunity to revisit *McDonald* under the lens of the VRA and the case law that has developed in the 44 years since this Court issued the *McDonald* opinion". *Id. at p. 7, 9.*

The existing case law in Colorado related to victims and subpoenas is largely focused on subpoenas for records. See *People v. Baltazar*, 241 P.3d 941, 944 (Colo. 2010)*; People v. Spykstra*, 234 P.3d 662 (Colo. 2010). However, the same

interests reflected in those decisions should be reflected in the legal protections afforded to victims who are subpoenaed to testify.

"Both this court and the United States Supreme Court have emphasized that their respective rules permit subpoenas only for the production of "evidence" - not as an investigative tool. *United States v. Nixon*, 418 U.S. 683, 698, 94 S. Ct. 3090, 41 L. Ed. 2d 1039 (1974) (Fed. R. Crim. P. 17(c) was "not intended to provide a means of discovery for criminal cases"); *Spykstra*, 234 P.3d at 669 (Crim. P. 17(c) is not to be used as an "investigatory tool")."
People v. Baltazar, 241 P.3d 941, 944 (Colo. 2010).

Further, this Court "has expressly characterized Crim. P. 17(c) as implementing the Sixth Amendment guarantee of compulsory process. *Id.* citing *Spykstra*, 234 P.3d at 671 (citing *In re Martin Marietta Corp*., 856 F.2d 619, 621 (4th Cir. 1988))."

Additionally, the Colorado legislature has recently updated the VRA to include additional procedures for the subpoena of a victim's records. *Colo. Rev. Stat. 24-4.1-303(14.5)(a.5)* see also, *Senate Bill 22-049*, effective May 6, 2022. These changes include requiring a certificate stating there is a good-faith belief there is a lawful basis for issuing the subpoena, and a notice to record holders they should not release records until ordered to do so by the court. *Id.* The amendment also integrated in to the VRA the *Spykstra* factors a court should consider in determining whether to quash a subpoena. *Id. at (b)(I); People v. Spykstra*, 234 P.3d 662 at 669 (Colo. 2010). The safeguards and due process considerations

reflected in this statutory amendment provide a strong indication of the intent of our State to protect the rights of victims who are participating in the criminal justice system, particularly in the context of subpoenas.

This Court has found that a hearing on a motion to quash was appropriate since the judiciary needed to protect the special interests of the subpoenaed witness. *Williams v. Dist. Court,* 700 P.2d 549, 553 (Colo. 1985). This Court has also held that, when special interests of the subpoenaed witness conflict with the interests of the court in hearing all relevant information, the nature of the witness's interest must be examined in advance of the hearing. *Id.* at 555 (citing *In re Grand Jury Subpoena,* 759 F.2d 968, 975 (2d Cir. 1985). Similarly, this Court has noted that "[p]arties generally have broad power to issue witness subpoenas, which citizens have an obligation to obey…However, certain narrow circumstances require close monitoring of the subpoena power in order to prevent abuse." *People v. Brothers*, 308 P.2d 1213 at 15 (Colo. 2013). The Constitutional and statutory rights of a victim under the VRA is surely an interest that must be examined in this context in order to prevent abuse.

The government may not abrogate the rights of a citizen without due process. *UCSC Const. Amend. 14, Colo. Const. Art. II §25*. It is inconceivable that, where clear procedures exist, via *Crim. P. 17*, to ensure due process rights of victims are

protected, a court would rely on a 44-year-old case to circumvent not just those rights, but the clear Constitutional and statutory rights of a victim. *Colo. Const., Art. II §16(a), Colo. Rev. Stat. § 24-4.1-301, Colo. Rev. Stat. §24-4.2-302.5(2)(b).* However, compelling a victim who exercises their Constitutional and statutory right to be present at a critical stage of a proceeding to testify does just that. Conflating the right to be present with a waiver of due process undermines the very integrity of our legal system and purpose and intent of the VRA as "imperative for the general effectiveness and well-being of the criminal justice system of this state." *Colo. Rev. Stat. 24-4.1-301*.

3. **Defendant's do not have a constitutional right to sequester a victim.**

In addition to their own constitutional and statutory rights to be present at all critical stages, victims are also members of the public, and have additional rights to be present and free from sequestration. The Sixth Amendment right to a public trial "does not guarantee the right to compel a private trial." *Gannett Co. v. DePasquale*, 443 U.S. 368, 382 (1979). The Defendant's right to a public trial is coextensive with the public's right to be present at criminal trials. *Press-Enter. Co. v. Super. Ct.*, 478 U.S. 1, 7 (1986). A victim, as a member of the public, has an additional constitutional right to be present at trial.

This Court has recently reiterated criminal defendants have the right to a public trial. *People v. Turner,* 519 P.3d 353 (Colo. 2022), *citing People v. Jones*, 2020 CO 45, ¶15, 464 P.3d 735, 739 (quoting *People v. Hassen*, 351 P.3d 418, 420 (Colo. 2015) and referring to *U.S. Const. amends. VI, XIV*; *Colo. Const. art. II, §16*.). That right to a public trial protects the rights of the criminal defendants and the general public, enhancing the actual and perceived fairness of a criminal trial. *Id. at ¶17.* A closure or exclusion of anyone from the courtroom requires the *Waller* test must be met, showing "(1) "the party seeking to close the [proceeding] must advance an overriding interest that is likely to be prejudiced"; (2) "the closure must be no broader than necessary to protect that interest"; (3) "the trial court must consider reasonable alternatives to closing the proceeding"; and (4) the "trial court must make findings adequate to support the closure" *Id. at* ¶19, *citing Jones ¶ 21, Hassen¶ 9, and Waller v. Georgia,* 467 U.S. 39, 104 S. Ct. 2210 (1984). A victim, as a member of the public, should also not be subject to exclusion from the courtroom where there are no sequestration orders and it is in conflict with their Constitutional and statutory rights.

Also recently, the Colorado legislature amended the VRA to specifically require that, "If a victim is sequestered, the district attorney must undertake the best efforts to prioritize the timing of the victim's testimony and minimize the amount of time

the victim is sequestered from the critical stages in the case." *Colo. Rev. Stat. 24-4.1-303(3.5),* see also, *Senate Bill 22-049,* effective May 6, 2022. Such legislation further signals the importance of a victim's right to be present at all critical stages.

Although the Supreme Court has yet to speak directly to the issue, Federal Appellate Courts that have addressed the question that defendants do not have a constitutional right to sequester witnesses. *See, e.g., Bell v. Duckworth*, 861 F.2d 169, 170 (7th Cir. 1988) ("A refusal to exclude…witnesses until they testify is not a denial of due process…[T]he due process clause…forbids only egregious departures…from accepted standards of legal justice") (citations omitted); *United States v. Edwards*, 526 F.3d 747, 758 (11th Cir. 2008) ("A criminal defendant has no constitutional right to exclude witnesses from the courtroom"); *Mathis v. Wainwright,* 351 F.2d 489 (5th Cir. 1965) (a trial court's refusal to sequester witnesses "does not amount to a deprivation of [the defendant's] constitutional rights"); *see also United States v. Visinaiz,* 428 F.3d 1300, 1315 (10th Cir. 2005) (holding trial court did not err in allowing victim's son to attend trial even after his testimony concluded).

State courts have also been quick to dismiss arguments that a defendant has a constitutional right to sequester witnesses. *See, e.g., Wheeler v. State,* 596 A.2d 78, 88 (Md. 1991) ("Nothing in the constitution touches on the exclusion of witnesses

during criminal trials."); *Stephens v. State,* 720 S.W.2d 301, 303 (Ark. 1986) (holding constitution does not grant a defendant the right to sequester witnesses); *State v. Harrell*, 312 S.E.2d 230, 236 (N.C. Ct. App. 1984) ("Due process does not automatically require separation of witnesses who are to testify to the same set of facts."); *Rucker v. Tollett*, 475 S.W.2d 207, 208 (Tenn. Crim. App. 1971) (holding sequestration "raises no constitutional question"); *State v. Beltran-Felix*, 922 P.2d 30, 33 (Utah Ct. App. 1996) (holding victims' rights legislation guaranteeing victims the right to attend trial did not violate defendant's due process rights); *State v. Williams*, 960 A.2d 805, 813 (N.J. Super. Ct. App. Div. 2008) ("A criminal defendant has no federal constitutional right to exclude witnesses from the courtroom.

Locally, it has been found that, even in the most extreme of cases, where there were numerous victims and the death penalty was at stake, victims need not be sequestered, even where other witnesses are, if it is not necessary to protect a defendant's right to a fair trial. *Order Regarding Defendant's Motion to Reconsider Defendant's Motion for Sequestration Order and Prosecution's Motion for Victims to be Present at all Critical Stages of the Criminal Justice Process and to be Exempt from Sequestration (D-181-A),* December 12, 2013, *People v. Holmes*, Arapahoe County Case No. 12CR1522, Carlos A. Samour, Jr., presiding.

In that case, the court noted that "it is not necessary to exclude the victims from the proceedings to protect the defendant's right to a fair trial" because all had provided recorded statements that were previously discovered to the defendant, and the victims would be subject to impeachment and cross-examination, which could include highlighting the fact they were able to listen to prior testimony. *Id. at p. 13-14*.

Colorado's legislature has been clear, "[it] is the intent…therefore, to assure that all victims of and witnesses to crimes are honored and protected by law enforcement, prosecutors, and judges *in a manner no less vigorous than the protection afforded to criminal defendants*." *Colo. Rev. Stat. §24-4.1-301 (emphasis added).* Given this strong intent, and the existing landscape of the law in Colorado and nationally, it is vitally important that no court abrogate the rights of a victim to be present at all critical stages of the criminal justice process. *Colo. Const., Art. II §16(a); Colo. Rev. Stat. §24-4.2-302.5(2)(b).*

B. There is no constitutional right to compel a victim to testify at a preliminary hearing and doing so is inconsistent with the intent and purpose of the VRA.

1. There is no right for a defendant to compel a victim to testify at a preliminary hearing.

Colorado courts have been clear that defendants' rights at preliminary hearings are very constrained. Under the limited circumstances in which a defendant has the right to a preliminary hearing, the rights afforded to a defendant include only limited rights, specifically the right to cross-examine the prosecution's witnesses and to introduce evidence on his own behalf. *Colo. R. Crim. P. 5(a)(4)*. Notably, even these rights are not as broad as they may initially appear. The Colorado Supreme Court has ruled that discovery or credibility determinations are inappropriate at the preliminary hearing stage. *People v. Smith*, 597 P.2d 204, 208 (Colo. 1979) (abrogated on other grounds); *Hunter v. Dist. Court*, 543 P.2d 1265, 1268 (Colo. 1975); *People v. Quinn*, 516 P.2d 420, 422 (Colo. 1973). Further, the defendant's right to confront witnesses is limited and the defendant cannot compel a victim to testify at a preliminary hearing. *Harris v. Dist. Court*, 843 P.2d 1316, 1319 (Colo. 1993); *Rex v. Sullivan*, 575 P.2d 408, 410 (Colo. 1978).

In *Rex v. Sullivan*, the trial court quashed the defendant's subpoena to compel the child-victim to attend the preliminary hearing, reasoning that such subpoenas could turn a preliminary hearing into a mini-trial. 575 P.2d at 410. The defendant in that case appealed the trial court's ruling, arguing that he had a constitutional right to call witnesses and to introduce evidence. *Id.* at 409. Contrary to the defendant's assertion, the Colorado Supreme Court held that "a defendant has no

constitutional right to unrestricted confrontation of witnesses and to introduce evidence at a preliminary hearing." *Id.* at 410.

The United States Supreme Court has held, "the Confrontation Clause guarantees only an *opportunity* for effective cross-examination, not cross-examination that is effective in whatever way, and to whatever extent, the defense might wish." *U.S. v. Owens*, 484 US 554, 559 (1988) (Stevens, concurring) (internal quotation omitted). Additionally, "[s]uccessful cross-examination is not a constitutional guarantee." *Id.* at 560. "[T]rial judges retain wide latitude insofar as the Confrontation Clause is concerned to impose reasonable limits on such cross-examination…." *Delaware v. Van Arsdall*, 475 U.S. 673, 679 (1986). It is well-settled that defendants have "no general federal constitutional right to discovery in a criminal case, and Brady did not create one." *Weatherford v. Bursey*, 429 U.S. 545, 559 (1977). See also *Pennsylvania v. Ritchie*, 480 U.S. 39, 52 (1987) (plurality) (noting "[n]othing in the case law supports" "transform[ing] the Confrontation Clause into a constitutionally compelled rule of pretrial discovery" and that the Court "has never squarely held that the Compulsory Process Clause guarantees the right to [pretrial discovery].").

The rights of defendants in preliminary hearings have been further limited, especially in regard to the defendants' right to cross-examine a victim. See *Harris*, 843 P.2d at 1319; *Blevins v. Tihonovich*, 728 P.2d 732, 734 (Colo. 1986); *Colo. Rev. Stat. § 24-4.1-301 to 303*. In *Harris*, this Court found that "a defendant is not entitled to compel the victim of an alleged offense to testify at a preliminary hearing." 843 P.2d at 1319 (emphasis added). In *Blevins*, the county court prohibited the defense from calling a victim to testify at the preliminary hearing. 728 P.2d at 733. This Court held that the prosecution "is not required to call all or even the best witnesses." *Id.* at 734. During a preliminary hearing, a defendant is not allowed to circumvent a victim's rights to assert his own rights. In such a scenario, courts favor the victim. See *Rex*, 575 P.3d at 410 (ruling that the defendant has no constitutional right to unrestricted confrontation of witnesses during a preliminary hearing). The Defendant's right to face his accuser is also not at issue; as the right to confrontation is a trial right, not a constitutionally compelled rule during pre-trial proceedings. *People v. Baltazar*, 24 P.3d 941, 944 (Colo. 2010) (citing *Ritchie*, 480 U.S. at 52).

Such an approach is consistent with the recommendations of the President's Task Force on Victims of Crime, which stressed, decades ago, that preliminary hearings "should not be a mini-trial, lasting hours, days, or even weeks, in which

the victim has to relive his victimization." *President's Task Force on Victims of Crime*, FINAL REPORT 21 (1982). The Task Force specifically called for legislation to "ensure hearsay is admissible and sufficient in preliminary hearings, so that victims need not testify in person" *Id.* Similar recommendations have been made by the U.S. Department of Justice Office for Victims of Crime (in cooperation with the National Association of Attorneys General and the American Bar Association). Paul G. Cassell, *Balancing the Scales of Justice: The Case for and Effects of Utah's Victims' Rights Amendment*, 1994 UTAH L. REV. 1373, 1376. An important purpose for allowing hearsay evidence at a preliminary hearing is to protect victims from the retraumatization inherent in participating in the criminal legal system.

2. Compelling a victim to testify at a preliminary hearing is retraumatizing and inconsistent with the purpose of the VRA.

Retraumatization occurs when an individual relives the stress reaction caused by the original trauma. Substance Abuse and Mental Health Services Administration, *Tips for Survivors of a Disaster or Other Traumatic Event: Coping With Retraumatization*, No. SMA-17-5047 (2017). In the legal setting "retraumatization refers to additional traumatization during a survivor's

interactions with professionals and processes in the justice system…" Negar Katirai, *Retraumatized in Court*, 62 Ariz. L. Rev. 81, 88 (2020).

Of utmost importance to the court should be avoiding causing further harm to victims when there is a lawful means to do so. Indeed, the VRA requires the courts to "assure all victims of and witnesses to crimes are honored and protected" and to, therefore, ensure victims are "treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse throughout the criminal justice process" *COLO. REV. STAT. 24-4.1-301; Colo. Rev. Stat. §24-4.1-302.5(1)(a)*.

IV. CONCLUSION

Colorado, in enacting the VRA in 1993, emphasized that "the full and voluntary cooperation of victims and witnesses to crimes with state and local law enforcement agencies as to such crimes is imperative for the general effectiveness and well-being of the criminal justice system." *COLO. REV. STAT. § 24-4.1-301*.

To ensure such cooperation, victims' rights must be "honored and protected…in a manner

no less vigorous than the protection afforded criminal defendants." *COLO. REV. STAT. §24.4.1-301*. At a minimum, this protection must include affording victims of crime their due process rights. *Colo. Rev. Stat. § 24-4.1-302.5(1)(a), UCSC Const. Amend. 14, Colo. Const. Art. II §25*. It is also essential for the Court to continue to recognize the important right of victims to be present at all critical stages of the criminal justice process, and to ensure they can do so without risk of being compelled to testify. *Colo. Const., Art. II §16(a); Colo. Rev. Stat. §24-4.1 302.5(2)(b)*. Here, the Court has an opportunity to ensure the Constitutional and statutory rights of victims of crime in Colorado are not abrogated by the application of outdated case law and are fully honored and protected as intended. *Colo. Rev. Stat. § 24-4.1-301*.

As such, the *Amicus Curiae*, RMvlc, respectfully requests the Court grant Petitioner's request to remand this case to the county court to reverse it's order

allowing Defendant to call the victim to testify at Defendant's preliminary hearing, consistent with the purpose and intent of the Colorado Victim Rights Act.

Respectfully Submitted: This 16th day of December 2022

/s/ Katherine Houston
Atty. Reg. 42409
Attorney for *Amicus Curiae*

CERTIFICATE OF FILING AND SERVICE

I do hereby certify that on December 16, 2022, a true and correct copy of **AMICUS CURIAE BRIEF SUPPORTING PEOPLE'S PETITION FOR RELIEF PURSUANT TO C.A.R. 21** was filed electronically via Colorado Courts E-filing system and served via the same manner to all parties.

/s/ Katherine Houston
Atty. Reg. 42409
Attorney for *Amicus Curiae*