District Court Mesa County Justice Center 125 N Spruce St. Grand Junction, CO 81501	DATE FILED April 22, 2026 10:22 AM FILING ID: E00782C5C4724 CASE NUMBER: 2022CR371
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff v. TINA PETERS, Defendant	▲ COURT USE ONLY ▲
John Case P.C. John Case, Colorado Reg. #2431 6901 S. Pierce St. #340 Littleton CO 80128 (303) 667-7407 brief@johncaselaw.com	Case No. 2022CR371 Division: 9
DEFENDANT'S RENEWED MOTION FOR BOND PENDING APPEAL AND RE-SENTENCING	

The Defendant Tina Peters, through counsel, pursuant to Colorado Constitution Article II, Section 19 (2.5) and C.R.S. § 16-4-201, moves the Court for an order granting bond pending appeal and re-sentencing in the amount of $25,000 cash or surety, the same conditions under which Mrs. Peters appeared faithfully for all required proceedings from March 10, 2022, until her incarceration on October 3, 2024.

I. GROUNDS FOR THE MOTION

1. Circumstances have changed since October 3, 2024, when this Court sentenced Mrs. Peters to eight years and nine months in prison, and denied her motion for bond pending appeal. Changed circumstances require reconsideration of whether Mrs. Peters should be granted bond pending appeal. New circumstances include the following:

a. The Court of Appeals ruled that the sentence was illegal because it was imposed “to prevent [Peters] from continuing to espouse views the court deemed damaging.” 2026 COA 24 ¶ 147. “[W]e conclude that the trial court obviously erred by imposing sentence at least partially based on Peters’s protected speech.” *Id.* ¶ 149.

b. Because this Court also denied bond on appeal based at least in part on Mrs. Peters’ protected speech, the ruling of the Court of Appeals requires reconsideration of whether Mrs. Peters should be released on bond pending appeal.

c. Bond is necessary to protect Mrs. Peters from harm while her appeal is pending. The Department of Corrections has illegally housed Mrs. Peters with violent repeat offenders who threaten her physical safety.

d. Mrs. Peters meets all constitutional and statutory criteria to be released on bond pending appeal and resentencing.

2. Mrs. Peters is incarcerated at LaVista Women’s Correctional Facility in Pueblo, serving a sentence of eight years and nine months which this Court imposed on October 3, 2024. She has spent 567 days in prison. The Court of Appeals ruled that the sentence was illegal and remanded to this Court for re-sentencing. 2026 COA 24 ¶¶ 140-152.

3. At sentencing on October 3, 2024, this Court denied bond because it found, in violation of Mrs. Peters’ First Amendment right to free speech, that the words she used to criticize computer voting systems made her a danger to the community:

> And this is what makes Ms. Peters such a danger to our community. It's the position she held that has provided her the pulpit from which she can preach

> these lies, the undermining of our democratic process, the undermining of the belief and confidence in our election systems.

Tr. 10/3/24 99:20-24)

> So the damage that is caused and continue to be caused is just as bad, if not worse, than the physical violence that this court sees on an all too regular basis. And it's particularly damaging when those words come from someone who holds a position of influence like you. Every effort to undermine the integrity of our elections and public's trust in our institutions has been made by you. You've done it from that lectern. The voting public provided you with everything you've done has been done to retain control influence. The damage is immeasurable. And every time it gets refuted, every time it's shown to be false, just another tail [sic] is weaved.

(Id. 100:4-14).

> And prison is for those folks where we send people who are a <u>danger to all of us</u>, whether it be by the pen or the sword or the <u>word of the mouth</u>.

(Id. 101:14-16)(underline added).

4. A court may not deny bond pending appeal based on statements that do not incite imminent lawless action. *Leary v. United States*, 431 F.2d 85 (5th Cir. 1970). A jury convicted Timothy Leary of importing marijuana. The trial court imposed a ten-year sentence and denied Leary bond pending appeal. The trial judge found that Leary's advocacy made him a danger to the community. The Fifth Circuit reversed, holding that advocating the use of marijuana is protected speech which falls short of incitement to imminent unlawful conduct. Here, as in *Leary*, this Court denied bond on appeal based on Mrs. Peters' advocacy, without any evidence that her statements incited imminent lawless action, and were likely to produce such action.

5. On April 16, 2026, Mrs. Peters filed a Petition for Rehearing in COA. (Exhibit A). Filing of the petition will delay final resolution of Mrs. Peters' appeal indefinitely. Accordingly, she should be reconsidered for bond pending appeal and resentencing.

6. The Court of Appeals indicated in a written order that Mrs. Peters could apply to this Court for release on bond pending appeal. A copy of the order is attached as Exhibit B.

7. This Court previously allowed Mrs. Peters to remain free on bond after the jury returned guilty verdicts on August 12, 2024, until the sentencing hearing October 3, 2024. Mrs. Peters' legal status is the same today as it was on August 12, 2024, when this court allowed her to remain free on bond pending sentencing: she has been found guilty of offenses, and she is awaiting re-sentencing. As we will demonstrate below, she is not a flight risk, nor is she a danger to any person or the community. While released on bond previously, Mrs. Peters appeared faithfully for 31 months for all required proceedings including sentencing.

8. Mrs. Peters is a first-time, non-violent offender. She is 70 years of age. Mrs. Peters should be housed in a minimum-security facility for non-violent female offenders. The Colorado Department of Corrections ("DOC") does not have minimum security facilities for non-violent female offenders. DOC maintains four minimum security facilities for non-violent men, but none for women. See Exhibit C, Mrs. Peters sworn Declaration, ¶¶ 2-9.

9. Unequal treatment of male and female prisoners based solely on their biological sex violates the equal protection clause of the Fourteenth Amendment of the U.S. Constitution. Treating Mrs. Peters differently than non-violent men based solely on her biological sex violates her right to equal treatment under the law.

10. LaVista has jeopardized Mrs. Peters' safety by housing her in the same population with violent female repeat offenders who have tried to harm her. Housing Mrs. Peters in the same population with violent repeat offenders threatens Mrs. Peters' right to humane treatment.

11. On January 18, 2026, Mrs. Peters was injured by a 29-year-old assailant who was

serving a six-year sentence for stabbing her fiancé in the back with a knife. During the 567 days that Mrs. Peters has been incarcerated, she has been repeatedly threatened and physically assaulted by violent offenders in the prison population.

12. The assailant's redacted judgment of conviction is attached as Exhibit D. The redacted affidavit for arrest is attached as Exhibit E. A photograph of Mrs. Peters' bruise suffered in the assault is attached as Exhibit F. Exhibit G is the assailant's redacted page on the DOC website. It shows that after the assault, DOC paroled the assailant.

13. Placing Mrs. Peters in solitary confinement for ten days, while returning her assailant to the general population, and then paroling the assailant, sent a message that any inmate who assaults Mrs. Peters will not be held accountable. Exhibit C at ¶ 4.

14. The District Court of Mesa County should grant bond pending appeal and re-sentencing because it will avoid a likely tragedy, should another violent inmate assault Mrs. Peters. The wiser, fairer course of action is to release Mrs. Peters on bond while the appeal is determined by higher courts and she awaits re-sentencing.

15. As we will demonstrate below, Mrs. Peters meets the constitutional and statutory criteria for release on bond pending appeal and bond pending sentencing. She is not a danger to any person or the community; she is not a flight risk; her appeal is not frivolous as a matter of law because the Court of Appeals reversed the sentence; and the surety consented to continuation of the original trial court bond on appeal.

II. PROCEDURAL HISTORY

16. On October 1, 2024, Mrs. Peters filed a Motion for Bond Pending Appeal in the District Court of Mesa County. This Court did not conduct an evidentiary hearing on the motion.

The Court denied bond in a written order "for the reasons stated on the record during today's [sentencing] proceedings, and for the additional reasons stated in the [People's] response." The People's Response filed October 1, 2024, stated three reasons for opposing bond on appeal, namely: (1) Mrs. Peters did not express remorse (Response¶ 18); (2) Mrs. Peters' "prior travel history" and her "disregard for court orders indicates that she is a flight risk" (¶ 19); and (3) Mrs. Peters had little chance of success on appeal (¶ 21). The trial court's stated reason for denying bond on appeal was that Mrs. Peters' public criticism of the Mesa County computer voting system made her a danger to the community:

> And this is what makes Ms. Peters such a danger to our community. It's the position she held that has provided her the pulpit from which she can preach these lies, the undermining of our democratic process, the undermining of the belief and confidence in our election systems.

(Tr. 10/3/24 99:20-24). This Court found that Mrs. Peters' words were "just as bad, if not worse, than the physical violence that this court sees on an all too regular basis. And it's particularly damaging when those words come from someone who holds a position of influence like you." [Id. 100:5-8].

17. On November 17, 2024, Mrs. Peters filed a Motion for Bond Pending Appeal in the Court of Appeals. At the time the motion was filed, C.A.R. 9(b) permitted any appellate court to grant bond on appeal. A three-judge panel denied the motion on December 6, 2024, but did not state a reason. See Exhibit H. The only substantive reason ever given for denying Mrs. Peters bond on appeal was this Court's statement that Mrs. Peters' words made her a danger to the community. And that finding has been reversed by the Court of Appeals as a violation of Mrs. Peters' First Amendment right to engage in political speech. 2026 COA 24 ¶¶ 147-149.

18. On February 8, 2025, Mrs. Peters filed an Application for Writ of Habeas Corpus in U.S. District Court, case number 1:25 cv 425-STV, which requested issuance of the writ and release of Mrs. Peters on the $25,000 surety bond. On December 8, 2025, the federal court dismissed the application for writ of habeas corpus without prejudice, holding that it was required to abstain from adjudicating the issue because the merits of Mrs. Peters' appeal of her conviction remained pending in Colorado appellate courts. The federal court's order of dismissal is attached as Exhibit I.

19. On January 30, 2026, Mrs. Peters filed in the Court of Appeals a Petition for Review of Trial Court's Order Denying Bond on Appeal. COA denied the Petition in a written order dated February 18, 2026, attached as Exhibit B. The Order states at Page 4:

> Thus, it is the district court that must pass on Peters's assertions in the Petition in the first instance. Given its role as a fact-finding court, it is for the district court to conduct an initial assessment to the extent a new motion for bond would be authorized while this appeal remains pending of whether any developments since late 2024 call for an updated analysis of how the bond statutes in particular section 16-4-201.5(2)(a)-(b), C.R.S. 2025, and the factors listed in 16-4-202(1)(a)-(i) apply to Peters's case.

III. APPLICABLE LAW

20. "Colorado's appeal bond statutes authorize appeal bonds for all courts." *People v. Lewis* 555 P.3d 576, 579 (Colo. 2024).

21. Article II, Section 19 (2.5)(b) requires the court to make two findings before granting bond pending appeal.

    (I) The person is unlikely to flee and does not pose a danger to the safety of any person or the community; and

    (II) The appeal is not frivolous or is not pursued for the purpose of delay.

22. The above findings are also required by C.R.S. § 16-4-201.5(2). In addition, the

surety must file consent to continuation of bond. C.R.S. § 16-4-201(1)(c). If the above conditions are established, then the Court must consider the nine factors set forth in C.R.S. § 16-4-202(1)(a) through (i) to determine bond on appeal.

IV. ARGUMENT

A. The Court May Not Deny Bond To Punish Mrs. Peters

23. On October 3, 2024, this Court stated that it sentenced Mrs. Peters to prison to punish her:

> Prison is where folks go where punishment is what we're focused on because the crime committed is so significant that anything less would unduly mitigate the seriousness of the same.

Tr. 10/3/24 101:17-19 (underline added). While punishment can sometimes be a permissible consideration in sentencing, a court may not deny an appeal bond as punishment. C.R.S. § 16-4-202(1)(a) through (i).

B. Mrs. Peters meets the requirements of Colo. Const. Article II, Section 19 (2.5)(b).

24. To grant Mrs. Peters bond pending appeal, Article II, section 19 (2.5)(b)(I) requires the Court to find that she is unlikely to flee and does not pose a danger to the safety of any person or the community. Nothing in Mrs. Peters' past suggests that she is likely to flee. While she was released on bond for 31 months, she appeared at every proceeding where her presence was required. There is no evidence that she is a danger to any person or to the community. Article II, section 19 (2.5)(b)(II) requires the court to find that Mrs. Peters' appeal is not frivolous and that it is not pursued for purpose of delay. The Court of Appeals opinion establishes as a matter of law that her appeal is not frivolous, because it reversed her sentence. C.R.S. § 16-4-201(1)(c) requires the surety to file consent to continuation of bond. The surety in

this case did so. See Exhibit J.

C. Mrs. Peters meets the criteria of C.R.S. §16-4-202(1) (a) through (i).

a. The nature and circumstances of offense and sentence imposed

25. This case involves an elected county clerk and recorder who believed she was obeying federal law when she misrepresented the identity of a qualified expert to observe what employees of the Secretary of State and Dominion Voting Systems did to Mesa County computers during the so-called "Trusted Build" upgrade. Mrs. Peters was convicted of three counts of attempting to influence a public servant by deceit (F4), and one count of conspiracy to commit criminal impersonation (F6). For the felony counts, the district court sentenced Defendant to a total of 8 years 3 months. On the misdemeanor counts, the court sentenced Defendant to a total of six months, consecutive to DOC incarceration. The total sentence is eight years and nine months.

26. Mrs. Peters has expressed remorse for her actions. She states in her Declaration:

> "For years, I have dedicated myself to fighting for fair and honest elections. But I made mistakes. Four years ago, I misled the Secretary of State when allowing a person to gain access to county voting equipment. That was wrong.
>
> My work to ensure honest elections will continue. Going forward, I will make sure that my actions always follow the law, and I will avoid the mistakes of the past."

(Exhibit C, p. 4).

b. and c. Family, character, reputation, employment, mental condition, and ties to community

27. On the date of sentencing, Mrs. Peters was 69 years of age and had resided in Mesa County for 20 years. The presentence investigation report confirmed that she is employed

and owns her home. Prior to current employment, she served as County Clerk and Recorder. Before winning election to that office, she and her late husband of 35 years operated a construction business. Prior to that, she worked as a flight attendant. She is the gold star mother of a Navy SEAL who died tragically on Memorial Day, 2017. At the sentencing hearing, the Court found no mental health concerns. Tr. 10/3/24 101:20.

d. Past criminal record and record of appearance at court proceedings

28. Mrs. Peters was released on $25,000 surety bond on March 10, 2022. For 31 months, she faithfully appeared for all pretrial hearings, trial, and sentencing. While on bond, Mrs. Peters provided the district court and prosecutors advance notice of all out of state travel. Tr. 10/3/24 6:4-10.

e. Any intimidation of witnesses or likelihood of future harm or threats to participants in her trial

29. There was no evidence of intimidation or harassment of witnesses or of any likelihood that it would occur in the future.

f. Any other charges against Mrs. Peters and potential sentences should she be convicted

30. One of the factors that this Court considered in denying bond on appeal was that Mrs. Peters had been found guilty of contempt. The contempt arose as follows: on February 7, 2022, Mrs. Peters attended a pretrial hearing for a co-defendant, Belinda Knisley. The district attorney, Dan Rubinstein, personally accused Mrs. Peters in open court of recording the hearing on her iPad: "I've now seen the screen, and indeed it's recording." (Exhibit K. P. 2, Lines 7-8). In his deposition, the district attorney admitted under oath that he had "no idea" whether the iPad

was recording or not. See Exhibit L, excerpt of deposition transcript, P. 2, Lines 14-15. To summarize the conduct of the district attorney, he brought a contempt proceeding against Mrs. Peters based in part on his statement to Judge Barrett that he personally observed Mrs. Peters recording part of the judicial proceeding on her iPad. His deposition testimony shows that his statement to Judge Barrett could not have been truthful. Thus, the contempt proceeding was based in part on a falsehood by the District Attorney.

31. On February 8, 2022, the district attorney obtained a warrant to seize the iPad. Mrs. Peters was convicted by a jury of obstructing police officers during their seizure of the iPad. She was sentenced to four months of home detention, with which she complied fully.

32. The government kept the iPad for 15 months but never searched it to see if it contained a recording of the judicial proceeding. After the contempt hearing, the government returned the iPad to Mrs. Peters' counsel, who submitted the iPad to forensic experts. The experts examined the iPad, and determined that it contained no recording of a judicial proceeding on February 7, 2022, and that no such recording had been deleted from the iPad. See Exhibit M, report of Archer Hall, at page 2: "Sixty-six (66) videos were extracted from the iPad. None of the 66 videos were deleted. None of the videos was recorded on February 7, 2022."

33. The Court of Appeals reversed the contempt conviction because the evidence was insufficient. See Exhibit N, unpublished Court of Appeals opinion, ¶¶ 1 and 6.

34. Since the contempt conviction was considered as a basis for denying bond on appeal, and the contempt conviction has been vacated, Mrs. Peters must be reconsidered for bond pending appeal.

g. The circumstances of any sentence that has been stayed pending appeal

35. No sentences were stayed pending appeal.

h. The likelihood that Mrs. Peters will commit new crimes during the pendency of appeal

36. As the Court of Appeals noted, the convictions in this case are for acts committed by Mrs. Peters in her official capacity as the elected Clerk and Recorder of Mesa County. Mrs. Peters cannot commit the same offenses again, because she is no longer clerk. 2026 COA 24 ¶148. She had never been accused of any crime prior to the dates of offenses alleged in this case. At sentencing, the Court acknowledged that Mrs. Peters had "low LSI scores," meaning low probability of committing new offenses. Tr. 10/3/24 101:5. Low LSI scores indicate that Mrs. Peters is low risk to re-offend, not dangerous, and not criminogenic – precisely the statutory considerations under C.R.S §16-4-202. These are objective findings based on standardized measurements used throughout the criminal justice system. The PSI also found that Mrs. Peters is eligible for probation at re-sentencing.

i. Mrs. Peters' likelihood of success on appeal

37. Mrs. Peters already succeeded on appeal. The Court of Appeals reversed her sentence. Her convictions will be reviewed again by the Court of Appeals on Petition for Rehearing, or/and by higher courts.

V. CONCLUSION

38. Mrs. Peters meets the constitutional and statutory criteria for being released bond pending appeal.

39. Mrs. Peters respectfully requests this Court to grant bond pending appeal, by reinstituting $25,000 cash or surety bond under which Mrs. Peters was released prior to October 3, 2024.

40. Mrs. Peters asks that bond conditions expressly include permission for her to remain in her home in Grand Junction, continue her employment, travel outside the state for business purposes, and visit Appellant's 96 year old mother in Virginia.

Respectfully submitted April 22, 2026.

s/John Case
John Case #2431

CERTIFICATE OF SERVICE

I certify that on April 22, 2026, a copy of this Motion with exhibits was electronically served through Colorado Courts E-Filing on opposing counsel of record.

/s/Linda Good

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<tr>
<td>COURT OF APPEALS,
STATE OF COLORADO
Ralph L. Carr Judicial Center
2 East 14th Avenue
Denver, Colorado 80203

Appeal from Mesa County District Court Judgment of Conviction and Sentence.
Honorable Matthew D. Barrett.
Case Number 22CR371</td>
<td rowspan="2">DATE FILED
April [illegible], 2026 [illegible]
FILING ID: [illegible]
CASE NUMBER: 2024CA1951</td>
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<tr>
<td>Plaintiff-Appellee:
PEOPLE OF THE STATE OF COLORADO
v.
Defendant-Appellant
TINA PETERS</td>
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Division V

Opinion by Judge Tow

Judges Welling and Lipinsky,

Concurring</td>
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<td colspan="2">APPELLANT'S PETITION FOR REHEARING</td>
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CERTIFICATE OF COMPLIANCE

I hereby certify that this Petition for Rehearing complies with all requirements of C.A.R. 40 and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

This Petition for Rehearing complies with the word limit set forth in C.A.R. 40. It contains 1,890 words.

I acknowledge that the Petition for Rehearing may be stricken if it fails to comply with any of the requirements of C.A.R. 40 and C.A.R. 32.

s/John Case #2431

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Petitioner Tina Peters, pursuant to C.A.R. 40 submits this Petition for Rehearing of this Court's April 2, 2026, decision.

1. The Court Misapprehended the Legal Significance of Mrs. Peters' Official Posture Under the Law of Supremacy Clause Immunity.

The Court's holding that Mrs. Peters did not qualify for Supremacy Clause immunity demonstrated a fundamental misunderstanding of Mrs. Peters' immunity.

This Court acknowledges that "Supremacy Clause immunity extends to ". . . those acting as an agent for a federal officer." Op. 33. Unfortunately, this Court failed to explain how Mrs. Peters was not acting as an agent of federal authorities by fulfilling her responsibilities as the "chief election official for the county." C.R.S. §1-1-110(3).

Mrs. Peters' duties in that capacity were largely controlled by a federal statute, 52 U.S.C. §21081(a)(voting systems used in the election of federal officers must meet federal requirements). *See also* Federal Election Comm'n, VOTING SYSTEMS STANDARDS, VOLUME I – PERFORMANCE STANDARDS (2002).

The U.S. Department of Justice emphasized the significance of the personal duty imposed by §20701 on elections officials to preserve election records: "The Department interprets the Civil Rights Act to require that covered election records be retained either physically by election officials themselves, or under their direct

administrative supervision. . . as the document retention requirements of this federal law place the retention and safekeeping duties squarely on the shoulders of election officers." U.S. Department of Justice, *Federal Law Constraints on Post-Election "Audits,"* at 2-3 (July 28, 2021) (internal quotations omitted). Mrs. Peters, acting as the chief election official for Mesa County, was acting as an expressly designated agent under federal authorities.

No court, other than this Court, has ever ruled that a state or county officer acting pursuant to a federal statute did not enjoy immunity under the Supremacy Clause from state prosecution for acts taken to comply with that statutory mandate. Indeed, no analysis has ever been offered to support the notion that a statutory command of Congress is legally less significant in advancing federal interests or less binding on those to whom it is directed than a federal court order, which this Court recognizes is cloaked with Supremacy Clause immunity. Op. 32-33. Surely an express mandate of Congress embodies the federal interest protected by the Supremacy Clause more than an order of an individual judge.

Therefore, it is hardly surprising that the application of immunity to a state officer complying with a federal statute has not been seen as a fruitful subject for litigation. The application of Supremacy Clause immunity to a state officer enforcing a federal statute is no "extension" of that immunity but is squarely grounded in the

constitutional principles creating it. It makes no sense to conclude that Supremacy Clause immunity does not apply to a state officer enforcing a federal statute, because that application has not been controversial enough to generate cases discussing the subject.

The only conceivable justification for denying Supremacy Clause immunity to a state or local officer would be that Congress lacked the constitutional authority to enact 52 U.S.C. 20701 which imposes a duty on all election officials, including state and local officials such as Mrs. Peters. Congress clearly had the authority under Section 5 of the Fourteenth Amendment to enact that statute and require state and local election officials to preserve election records.

2. The Court Misapprehended the Limited Scope of 28 U.S.C. §1442(a).

This Court made a threshold error when it assumed that removal under the federal officer removal statute , 28 U.S.C. §1442(a)(1), was available to Mrs. Peters, and that she made a "decision" not to remove her case to federal court. Op. 29-30. Section 1442(a)(1) allows for removal of a state action to federal court that is brought against

> [t]he United States or any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof, in an official or individual capacity, for or relating to any act under color of such office or on account of any right, title or authority claimed under any Act of Congress for the apprehension or punishment of criminal or the

collection of revenue.

Mrs. Peters was not given that protection. She was not an agency or officer of the United States or "acting under" such an officer. "Acting under" means "an effort to *assist* or to help *carry out* the duties or task of the federal superior." *Doe v. Integris Health, Inc.,* 123 F.4th 1189, 1193 (10th Cir. 2024) (quoting *Watson v. Philip Morris Cos.,* 551 U.S. 142, 152 (2007)). The *Watson* Court, and the Tenth Circuit in turn, made it clear that "helping" or "assisting" a federal officer is not the same thing as complying with the law. Rather, "acting under" means subject to the direction, guidance, or orders of a federal superior. *Watson,* 551 U.S. at 551-52; *Doe,* 123 F. 4th at 1193. *See also Attorney General of New Jersey v. Dow Chemical Co.,* 140 F.4th 115, 120 (3d Cir. 2025); *Government of Puerto Rico v. Express Scripts, Inc.,* 119 F.4th 174, 185-86 (1st Cir. 2024).

Mrs. Peters was complying with her federal duty by 52 U.S.C. §20701. However, she was not acting in obedience to the command or direction of any federal superior. Thus Mrs. Peters enjoyed no option under §1442(a)(1) to remove the state criminal case against her to federal court.

3. The Court Misapprehended the Law Governing Juror Misconduct.

This Court misapplied CRE 606(b) to the facts, holding that 606(b) precluded the trial court from conducting a hearing to determine whether prejudicial juror misconduct occurred when a juror failed to report that she believed she was being

"targeted" because of her jury service. (Op. 61-62). In a recorded statement, the juror said that her business phone lines were cut on the first Friday of the trial and it cost her $4,000 to restore service. The juror wondered "for a week and a half if I was being targeted," and "It made me very concerned," and "When the phone line got cut that first Friday, I was like done," and "it was enough to make me go, I don't want nothing to do with it, especially with who it was." Cf 4733. The underlined phrase appears to refer to the defendant Tina Peters.

CRE 606(b) prohibits inquiry into juror deliberations, but 606(b) does not prohibit inquiry into whether jurors have been affected by outside influences during the trial. *United States v. Cheek*, 94 F.3d 136, 143 (Fourth Cir. 1996) illustrates the rule that governs this case. Cheek claimed that his co-defendant contacted a juror without Cheek's knowledge as part of a bribe attempt. The district court conducted an evidentiary hearing. The juror testified that he felt intimidated when a stranger drove him to a bondsman's office where the juror saw the co-defendant. The juror was so upset that he walked home, a distance of 4-5 miles. He admitted that he did not report the incident to the court. *Id* at 139. Over Cheek's objection, the district court permitted the juror to testify that the intimidating contact did not affect his verdict. *Id* at 143-44.

The Fourth Circuit held that when, as here, potentially prejudicial contact is made with a juror during trial, but the incident is not reported to the trial court, and is discovered after conviction, a post-trial evidentiary hearing to interrogate the juror is "not only permissible but necessary." *Id* at 143. The court ruled that FRE 606(b) [which is nearly identical to CRE 606(b)] prohibited inquiry into the juror's mental process in arriving at the verdict, but it did not prohibit the juror from testifying about being contacted as part of a bribe attempt. *Id* at 143-144.

In *Remmer v. United States,* 347 U.S. 227 (1954), the U.S. Supreme Court announced the rule that should be followed in this case, namely potentially prejudicial contact with a juror during trial requires a post-conviction evidentiary hearing. In *Remmer,* a juror reported to the trial judge that a stranger approached him and said that the juror could "profit by bringing in a verdict favorable to [Remmer]." 347 U.S. at 228. The judge informed the prosecutor, who called the FBI to investigate. Defense counsel was not informed. The juror became the foreperson of the jury that convicted Remmer of tax evasion. The Supreme Court found that improper outside communication with a juror is presumptively prejudicial to the defendant. *Id* at 229. The court remanded with directions to "hold a hearing to determine whether the incident complained of was harmful to the petitioner, and if after hearing it is found to have been harmful, to grant a new trial." *Id.* After the remand hearing affirmed the

conviction, the Supreme Court re-heard the case, reversed the conviction because of obvious prejudice to the defendant, and ordered a new trial. *Remmer v. United States,* 350 U.S. 377, 382 (1956). See also *Godoy v. Spearman,* 861 F.3d 956, 962 (Ninth Cir. 2017)(citing *Remmer* 347 U.S. at 229-30).

The above decisions are consistent with the common law of Colorado. In *Perry v. People*, 63 Colo. 60 (1917) our Supreme Court reversed the defendant's murder conviction and granted a new trial because the jury was exposed to a false newspaper articles about the defendant during trial. *Id* at 61-62.

A fair and impartial jury is a key element of a defendant's constitutional right to a fair trial under both the United States and Colorado Constitutions. *People v. Abu-Nantambu-El*, 2019 CO 106, ¶ 14 (citing *U.S. Const. amends. V*, *VI*, *XIV*; *Colo. Const. art. II §§ 16*, *25*). A showing that one biased juror participated in the verdict requires reversal of the convictions. *Abu-Nantambu-El* ¶ 39; *People v. Stauch*, 2026 COA 22 ¶ 28.

"A juror who misrepresents or conceals material and relevant matters is guilty of misconduct." *People v. Rael*, 576 P.2d 1067, 1068 (Colo. App. 1978) (quoting *State v. Simmons,* 378 P. 2d 378 (Washington 1962)). Here, as in *Remmer* and *Cheek*, the juror was guilty of misconduct because she failed her duty to report the incident during trial that made her fearful. If she had reported the incident to the court, she could have

been interviewed by the court and counsel, and if requested by either party, an alternate juror could have been seated to protect jurors from her bias. Here, as in *Cheek*, a post-trial evidentiary hearing "was not only permissible but necessary." The prejudice to Mrs. Peters from having a biased juror deliberate is just as real in this case as it was in *Abu-Nantambu-El* and *Stauch*. The trial court was obligated to conduct a post-trial evidentiary hearing to determine whether the juror's misconduct prejudiced Mrs. Peters.

CRE 606(b) did not preclude the trial court from conducting a hearing, because 606(b) protects juror deliberations. *Pena Rodriguez v. State of Colorado,* 580 U.S. 206, (2017).

Prayer for Relief

Wherefore, Defendant-Appellant Tina Marie Peters respectfully requests that this Court grant rehearing, vacate paragraphs 61 through 64 at pages 32-34 of its Opinion regarding Supremacy Clause Immunity, and vacate paragraphs 123-127 at pages 61 and 62 of its Opinion, and issue a revised opinion holding that:

1. Mrs. Peters is immune from state prosecution and dismissing all charges; and/or alternatively,
2. Remand for an evidentiary *Remmer* hearing to determine the circumstances of the juror contact, the impact on the juror, and whether or not it was prejudicial.

Respectfully Submitted April 16, 2026.

JOHN CASE, P.C.
Co-Counsel for Appellant
s/John Case
John Case, #2431

Patrick M. McSweeney, Pro Hac Vice
s/Patrick M. McSweeney

Robert Cynkar, Pro Hac Vice
s/Robert Cynkar

Peter Ticktin, Pro Hac Vice
s/Peter Ticktin

CERTIFICATE OF SERVICE

I certify that, on April 16, 2026, a copy of this Appellant's Petition for Rehearing was electronically served through Colorado Courts E-Filing on opposing counsel of record.

s/ Linda Good

<table>
<tr><td>Colorado Court of Appeals
2 East 14th Avenue
Denver, CO 80203</td><td rowspan="2">DATE FILED
February 21, 2026
CASE NUMBER: 2024CA1951
DATE FILED
April 18, 2026 10:22 AM
FILING ID: [illegible]
CASE NUMBER: 2022CR371</td></tr>
<tr><td>Mesa County
2022CR371</td></tr>
<tr><td>Plaintiff-Appellee:

The People of the State of Colorado,

v.

Defendant-Appellant:

Tina Marie Peters.</td><td>Court of Appeals Case Number:
2024CA1951</td></tr>
<tr><td colspan="2" align="center">ORDER OF THE COURT</td></tr>
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To: The Parties and the District Court

We have reviewed appellant Tina Peters's petition for review of district court's denial of bond pending appeal pursuant to C.A.R. 9(a) (the Petition) filed on January 30, 2026; the People's response in opposition filed on February 6, 2026; and Peters's reply filed on February 13, 2026. In the Petition, Peters seeks review of the district court's October 3, 2024, denial of bond pending appeal pursuant to section 16-4-204, C.R.S. 2025.

As an initial matter we must satisfy ourselves that we have jurisdiction to adjudicate the Petition. *See People v. S.X.G.*, 2012 CO 5, ¶ 9. Specifically, we must determine whether we lack jurisdiction over the Petition given that more than 480 days have passed since the district court made the bond decision for which Peters now seeks review. We conclude that we lack jurisdiction to decide the Petition.

To begin, the deadline for seeking review of a district court's decision granting or denying a defendant bond pending appeal is forty-nine days from the date the district court renders its decision. *People v. Jenkins*, 2025 COA 90, ¶ 5 (holding that "C.A.R. 4(b)[1]'s forty-nine-day deadline for seeking appellate review in a criminal case applies to an appeal of a trial court's appeal bond decision under section 16-4-204"). Thus, the Petition is untimely by more than a year. A thirty-five-day extension may be granted under C.A.R. 4(b)(3) for "excusable neglect." But even if Peters established excusable neglect, the additional thirty-five day period also expired long before Peters filed the Petition.

The last remaining basis for us to exercise jurisdiction over this Petition is for us to determine whether Peters has shown "good cause" for excusing the late filing of the Petition. *See People v. Baker*, 104 P.3d 893, 896 (Colo. 2005) (holding that C.A.R. 26(c) permits us to extend a filing deadline beyond eighty-four days for "good cause shown"). We conclude that Peters has failed to show that good cause exists to accept the late filing.

"Whether a party has shown good cause to permit the late filing of a notice of appeal 'is entrusted to the sound discretion of the court of appeals.'" *Jenkins*, ¶ 7 (citing *Estep v. People*, 753 P.2d 1241, 1246-47 (Colo. 1988)). In determining whether good cause exists to accept a late petition for review of a trial court's appeal bond decision, "we must assess the totality of the circumstances." *Id.* at ¶ 21 (citing *Baker*, 104 P.3d at 896). "Three nonexclusive factors inform our analysis: (1) the potential prejudice suffered by the People from the late filing; (2) the interests of judicial economy; and (3) the propriety of requiring the defendant to pursue other remedies." *Id.* (citing *Baker*, 104 P.3d at 896-97).

Peters filed the Petition exceptionally late more than fifteen months after the district court issued the order for which she now seeks review. Yet in her

Petition, Peters does not acknowledge the untimeliness of the Petition, much less argue that good cause exists for waiting more than fifteen months to file it with this court. Only after the People filed their response in opposition, pointing out the lateness of the Petition, did Peters even broach the issue of good cause.

In her reply, Peters contends that good cause exists for her untimely filing based on her pursuit of "a persistent course of action" to obtain a bond pending appeal, citing the motion for bond she filed in this court on November 17, 2024, and her habeas corpus petition she filed in federal court in February 2025. But her pursuit of these other avenues to the exclusion of seeking timely review of the district court's October 2024 order does not demonstrate good cause. If anything, it is indicative of a strategic decision to forgo timely review in favor of the other avenues pursued. Nothing precluded Peters from filing a timely challenge to the trial court's bond decision in this court at the same time she sought a bond from this court and habeas corpus relief from the federal court. In any event, Peters's pursuit of those other avenues is not good cause for an untimely pursuit of the relief she now seeks from this court. *See Farm Deals, LLLP v. State*, 2012 COA 6, ¶ 20 (explaining that, to obtain an extension of time for good cause under C.A.R. 26(b), the requesting party must establish that, under the circumstances, "a reasonably prudent person . . . [would] overlook a required act in the performance of some responsibility") (quoting *Guevara v. Foxhoven,* 928 P.2d 793, 795 (Colo. App. 1996)).

To the extent Peters relies on the timing of *Jenkins*, which was announced more than a year after the district court rendered its bond decision in her case, that argument only carries Peters so far. True, the division of this court announced *Jenkins* on November 26, 2025. But Peters did not file the Petition for another sixty-five days after that. Thus, to the extent that Peters can credibly argue she

was not on notice of the forty-nine day deadline to file a petition for review until the court announced *Jenkins*, she provides no explanation as to why she didn't file it within forty-nine days of that date.

Peters's reliance on "changed circumstances" since the district court's October 2024 bond decision as good cause for her delay does not fare any better. To the extent Peters contends that relevant circumstances have changed since the district court denied her request for bond, such changed circumstances provide all the more reason for us not to conduct an untimely review of the district court's October 2024 decision. After all, we are a court of review, not first view. *Doe v. Wellbridge Club Mgmt. LLC*, 2022 COA 137, ¶ 31. Thus, it is the district court that must pass on Peters's assertions in the Petition in the first instance. Given its role as a fact-finding court, it is for the district court to conduct an initial assessment to the extent a new motion for bond would be authorized while this appeal remains pending of whether any developments since late 2024 call for an updated analysis of how the bond statutes in particular section 164201.5(2)(a)-(b), C.R.S. 2025, and the factors listed in 16-4-202(1)(a)-(i) apply to Peters's case.

Finally, Peters asserts in conclusory fashion that the unavailability of other remedies counsels in favor of a finding of good cause. Implicit in this assertion is that she is foreclosed from filing a new motion for bond pending appeal pursuant to section 16-4-201. It is not evident to us, however, that Peters's October 2024 motion for bond serves as a procedural bar to filing a separate motion for bond pending appeal in this court.

For these reasons, we conclude that Peters has not demonstrated good cause for the untimely filing of her Petition. Accordingly, we dismiss the Petition as untimely filed. But we do so without prejudice to any right Peters may have to seek the same relief in the district court.

The Petition also includes a request for this Court to assign a different district court judge in the underlying case. The request is conclusory and, more importantly, there is no indication in the Petition (or anywhere else in the record) that this relief has been pursued in the district court in the first instance. Accordingly, we deny Peters's request for us to assign a new district court judge, without prejudice to her right to seek such relief in the district court in the first instance.

BY THE COURT
Welling, J.
Tow, J.
Lipinsky, J.

DECLARATION OF TINA PETERS

DATE FILED
April 22, 2026 10:22 AM
FILING ID: E00782C5C4724
CASE NUMBER: 2022CR371

I, Tina Marie Peters, declare under penalty of perjury under the laws of Colorado that the following is true and correct:

1. I am the Appellant in Colorado Court of Appeals Case Number 2024CA1951. I am the Defendant in Mesa County District Court Case Number 22CR371. I am over the age of eighteen years and competent in all respects to make this Declaration. I make this Declaration based on my own personal knowledge.

2. As a nonviolent first-time offender with a custody rating score of minus 3, DOC regulations classify me as a Level 1 Offender who should be housed in a minimum-security facility with other nonviolent first-time offenders. Colorado Department of Corrections does not have minimum-security facilities for women. It operates four minimum security facilities for men, but none for women. DOC has only two correctional facilities for women, and both facilities mix nonviolent first offenders with violent closed-custody offenders, who should be housed separately. DOC treats women differently than men based solely on their biological sex. I am a 70-year-old, high profile, at-risk adult. Before January 18, 2026, I was assaulted four times and threatened numerous times by younger inmates with a history of violence. I reported all these assaults to security officers at LaVista. Housing me with young, violent criminals puts me in danger. My political enemies in state government openly oppose clemency by Governor Polis and they refuse to honor President Trump's Pardon of me. They want me to die in prison.

3. On Sunday, January 18, 2026, at approximately 9:00 pm, while filling a portable swamp cooler with water in a common area of Unit 3 at LaVista, I was assaulted by a 29-year-old closed-custody inmate with a history of violence. Unit 3 is where my cell was located. I immediately reported the assault to a corrections officer. Within an hour after I reported the assault, four corrections officers came to my cell, handcuffed me, placed me in leg shackles, and took me to the penitentiary nurse for anatomical examination and photographs of my injury. The officers then strip-searched me and placed me in solitary confinement for ten days. I learned later that the woman who assaulted me was serving a six-year sentence for aggravated assault. After assaulting me, she received no discipline. She was paroled on February 12, 2026. After releasing my assailant on parole, DOC charged me administratively with assaulting the offender who assaulted me. I was acquitted of this charge after I proved at an evidentiary hearing that I acted in self-defense to protect myself.

4. By sending me to the hole, and publishing the video of the assault without my consent to the news media within 12 hours, and allowing my assailant to go free, DOC placed a target on my back. The message to every aggressive inmate is that if I am assaulted off-camera, there will be no consequence to the aggressor. On January 27, 2026, I was placed in Unit 5 and returned to the general population, of whom 50% have a history of violence. I am not safe at either women's facility operated by DOC.

5. Since arriving at LaVista, I have tried to protect myself by applying to Honor House and the Incentive Program. These programs are not supposed to accept inmates who are violent or use drugs. Residents of Honor House told me they were

excited to have me join them, and they interviewed me three times. Residents later gave me written statements that, each time my name came up, DOC Housing Captain Sarah Cordova said, "Vote no on this one."

6. In early December 2025, I was placed in solitary confinement and protective custody after a series of threats. I re-applied for the Incentive Program at the suggestion of the OIG investigator, but I did not receive a response, and I am aware that they accepted other people. I was returned to the general population in Unit 3, where I was assaulted on January 18th. If I had been living in Honors House or the Incentive Unit, the violent inmate would not have had the opportunity to assault me.

7. I am not a danger to the community or to any person. My convictions were for non-violent offenses. I have no history of violence. I have spoken out consistently against violence.

8. I am not a flight risk. For 31 months until I was sentenced, I appeared faithfully for every court proceeding in Mesa County.

9. C.R.S. §16-4-202(1) lists nine criteria for release on bond pending appeal. I meet all of the criteria. Specifically:

a. **Nature and circumstances of the offense before the court and the sentence imposed for the offense.** I was convicted of three counts of attempting to influence a public servant, a class four felony, and one count of conspiracy to commit criminal impersonation, a class six felony, as well as three misdemeanors. I am serving a sentence to imprisonment of eight years nine months at LaVista Women's Correctional Facility in Pueblo, Colorado.

For years, I have dedicated myself to fighting for fair and honest elections. But I made mistakes. Four years ago, I misled the Secretary of State when allowing a person to gain access to county voting equipment. That was wrong.

My work to ensure honest elections will continue. Going forward, I will make sure that my actions always follow the law, and I will avoid the mistakes of the past.

b. The defendant's length of residence in the community. I own my residence in Mesa County. I resided on Colorado's west slope beginning in 1994. I resided in Mesa County since 2004.

c. The defendant's employment, family ties, character, reputation, and mental condition. The voters of Mesa County elected me to the office of Clerk and Recorder in November 2018. Before being elected to public office, I worked with my husband for 35 years in our family construction business. Before that, I worked as a flight attendant. I am presently employed as a content creator. Since 2021, I have had a national reputation as an outspoken advocate for election transparency and a critic of computer voting systems. On December 5, 2025, the President of the United States pardoned me "For those offenses she has or may have committed or taken part in related to election integrity and security during the period from January 1, 2020, through December 31, 2021." Prior to sentencing, fifty-five people submitted letters to the court attesting to my good character and asking the Court for leniency. Notwithstanding anxiety for which I take prescribed medication, my mental health is satisfactory.

The Pre-sentence Investigation Report showed that I have low LSI scores, meaning low probability of committing new offenses if I am released on bond. Low LSI

scores indicate that I am low risk to re-offend, not dangerous, and not criminogenic. These are objective findings based on standardized measurements used throughout the criminal justice system. The PSI also found that I am eligible for probation at re-sentencing.

d. The defendant's past criminal record and record of appearance at court proceedings. Prior to 2022, I had never been accused of any crime. While on bond in this case from March 10, 2022, through October 4, 2024, a total of thirty-one months, I appeared faithfully for all court proceedings where my attendance was required. I also appeared for all court proceedings in the contempt case brought against me by the District Attorney, which the Court of Appeals vacated for insufficient evidence. I also appeared for all court proceedings in the misdemeanor case for obstructing, and I successfully completed my four month sentence to home confinement.

e. Any showing of intimidation or harassment of witnesses or potential witnesses, or the likelihood that the defendant will harm or threaten any person having a part in the trial resulting in conviction. I have not threatened or harassed any witness or potential witness. There is no likelihood that I will harm or threaten any person having a part in the trial resulting in conviction.

f. Any other criminal charges pending against the defendant and the potential sentences should the defendant be convicted of those charges. There are no criminal charges pending against me.

g. The circumstances of, and sentences imposed in, any criminal case in which the defendant has been convicted but execution stayed pending appeal. There are no cases in which I have been convicted but execution stayed pending appeal.

h. The likelihood that the defendant will commit additional criminal offenses during the pendency of such defendant's appeal. If I am released on bond pending appeal, there is no likelihood that I will commit additional offenses. The offenses of which I was convicted all arose out of acts I undertook in my official capacity as Clerk and Recorder of Mesa County. Since I no longer serve in public office, it would be impossible for me to interact with employees of the secretary of state in an official capacity. Also, I recognize that my actions were perceived by others as illegal, and I will avoid such actions in the future.

i. The likelihood of success on appeal. My appeal has already succeeded, because the Court of Appeals reversed my sentence.

10. As you can see, after 560 days in prison, there is no valid reason to continue to keep me behind bars while I seek justice in appellate courts. I ask the Court to have compassion for my safety, and order my release on bond until my appeal is finally over, and after the appeal is over, until I am re-sentenced. I respectfully request that bond conditions expressly include permission for me to remain in my home in Grand Junction, continue my employment, travel outside the state for business purposes, and visit my 97 year old mother in Virginia. Thank you.

I declare under penalty of perjury under the law of Colorado that the foregoing statements are true and correct.

Executed this 15th day of April, 2026, at Pueblo, Colorado.

Tina Marie Peters

FILED IN

AUG 3 1 2020

MOFFAT COUNTY
COMBINED COURT

Warrantless Arrest Affidavit

DATE FILED
April 23, 2022 10:32 AM
CASE NUMBER: 2022CR371

		Sex	Race			*Arrest#:*	B0026796
Name:		F	W	**DOB:**	04/08/1996	**Case:**	20P01342
Agency:	CRAIG POLICE DEPARTMENT	**Domestic Violence Involved:**	Y			**Date of Arrest:**	08/31/2020
						Time of Arrest:	0117
Victim(s):							

Victim

Person	Victim Type	Last Name, First Name Middle Name	DOB:	Sex	Race
1	Individual		04/24/1990	M	W
2	Individual		07/03/1994	M	W

Home Address	City	State	Zip Code	Home Phone
[illegible]	Craig	CO	[illegible]	[illegible]

Charge:		Statute:	Title:
1	F3	18-2-101 (18-3-103 (1))	Criminal attempt (Murder in the second degree) (DV) ( )
2	F3	18-3-202(1)(a)(c)	Assault in the first degree (DV) (
3	F4	18-2-101 (18-3-202 (1)(a))	Criminal attempt (Assault in the first degree) (DV) (
4	M	18-6-801	Domestic Violence (
		Statute:	**Title:**
1	F4	18-3-203(1)(b)	Assault in the second degree (

Officer	J. Meyers

being duly sworn upon oath says that there is probable cause for the warrantless arrest of the above named defendant for the charges(s) stated above, and that the following facts are true and correct to the best of his/her knowledge, information, and belief and support the arrest of the defendant. All locations referred to are in the County of Moffat, State of Colorado, unless specifically noted otherwise. The following is a summary of this officer's investigation and not a detailed account of the words or actions of officers, victims, witnesses, or suspects. This summary is paraphrased unless directly quoted and may not be in chronological order.

Narrative

On 08/30/2020 at approximately 2014 hours CSP Dispatch received a report of an individual at Memorial Regional Health that had been stabbed 3 times in the back. Memorial Regional Health told CSP Dispatch that the individual was).

I responded to the Emergency Room (ER) at Memorial Regional Health to speak with about what happened. Prior to speaking with I spoke with the ER Doctor and the front desk employee at the ER. I was informed that had been dropped off by his fiancé . After dropping off left the ER and told them that she needed to take care of 's child and that she would return to the ER. The doctor told me that had three stab wounds and multiple scratches. Two of the stab wounds were on 's lower back on the right side of his body and the third was to his right elbow. The scratch marks are on 's neck and upper chest area.

When I was able to speak with I went into his room and could hear a nurse speaking with him about his pain level.

told the nurse that prior to receiving medication his pain level was about an 8 on a scale of 1 to 10 with 1 being no pain and 10 being the worst pain they have ever felt. When I asked d what had happened he told me that an individual was talking shit outside of his house. When he confronted the individual he had stabbed him with a knife three or four times. stated that he did not know this individual. stated that the individual was walking in the alley behind his residence at 433 Rose St. stated that when he confronted the individual this individual grabbed him by the neck and then stabbed him with a knife. stated that he was standing facing the individual when he was grabbed and then stabbed. From what the doctor had told me about the wounds this would not be consistent with the injuries and where they were located. I asked if he had ever seen the individual that had done this to him and he told me no. I asked to describe this individual and he stated that he was approximately 6'00" tall and was skinny, had no facial hair, was wearing a beanie, baggie blue jeans. stated that the individual had used a kitchen knife to stab him. stated that he has been living at . for approximately six months and was living there with his fiancé, his four year old child, and his fiancés brother .

told me that he had been outside of the house at a small table in the back yard. stated that he was looking at the individual as they walked down the alley. This individual commented about staring at him. then walked to the alley to confront the individual about his behavior. stated that and were outside at the table when this happened and they had seen the individual tonight.

When I asked if he wanted to pursue charges against the individual that did this to him he stated that he did not. I asked why he would not to want to pursue charges and he stated that he is not that type of person. When I asked if he thought it was okay to have a random person that is willing to come up to him and stab him three times wandering the streets with his fiancé and child at the house he started crying and told me not to ask him that question.

Prior to leaving the ER Corporal Laehr took photos of the wounds to . Those photos were later booked into evidence. completed a medical release form and I later gave the form to the hospital staff. I collected the clothing that was wearing when he arrived at the hospital which included a pair of dark colored underwear, and basketball style shorts. Both of these items appeared to have blood on them. When I asked the hospital staff about any shirt or shoes they stated that did not have them on when he arrived at the hospital.

Sgt. Roland, Corporal Edwards, Corporal Laehr, and I all responded to to speak with and about the situation and to look for further evidence of the assault. When we arrived on scene Corporal Edwards and Corporal Laehr were at the back of the residence and Sgt. Roland and I went to the front of the residence. Sgt. Roland spoke to the upstairs neighbor and they stated that they had not heard any arguing tonight but that they usually hear arguing coming from the apartment below them. Corporal Laehr told me that he had found blood on the back side of the alley and I went to the back of the house to look at the blood.

I could see blood from the back door of the apartment to the alley and we located a large amount of blood on the front passenger seat of a vehicle parked behind the house. I could look inside of a window in the back of the house and could see that it looked into the kitchen. I could not see anything from outside of the house that indicated a disturbance had happened inside of the residence. I went to the front of the house where I could see a male and female inside of the house. I knocked on the outside of the house and shinned my flashlight inside of the residence.

came to the front door and spoke with me. Through my contact with she stated that she had not seen what had happened to and that he had left the house to go get cigarette's. When returned to the house he told her that he had been stabbed and she took him to the ER in the truck. When I asked about being outside and seeing a tall individual walking in the alley she told me that she had seen that individual before but that she had not seen him today. stated that she and have lived together for the last six months and have recently gotten engaged to be married.

I asked to speak with and went inside of the house and got for me. originally told me that he also did not see what happened to and that he had returned to the house and was bleeding. When I asked about the tall individual he stated that he had not seen this individual at the house today. stated that he has been living with and for a little over one week. also told me that had come into the back door of the house and stated that someone had stabbed him. I asked if he would show me the inside of the house and where this had happened and he stated he would and invited me into the house. While looking around the kitchen area of the house

Corporal Laehr and I discovered blood on the floor, the table, the door leading out the back of the house, and on the kitchen cabinets. All of these places had a very small amount of blood compared to the amount of blood on the back steps of the house. While looking around the kitchen Corporal Laehr asked to show us his hands. showed us his hands and he had blood stains on his hands, and a small cut on the side of one of his fingers. When we asked what had happened to his hand he stated that he had been wrestling with and had injured his finger the previous day. also had blood on his shorts and a stain on his shirt that was consistent with blood.

After speaking with and what they had told me did not match what had stated about the incident and I continued speaking with both r and further about the situation. When I asked about the injury to 's finger she denied that they had any sort of altercation and denied wrestling with the previous day. told me that she had gone to the Rodeo and and had stayed at the house the previous day. When I confronted about this further he stated that he had not wrestled with on the previous day but had wrestled with . I asked about the inconsistent stories and asked what else had happened at the house. appeared concerned and then walked into the living room of the apartment. then told me that his sister had been the individual that had stabbed in the back. r stated that had been talking about one of 's friends that had recently committed suicide and that this upset . had gotten a knife and stabbed in the back while they were arguing. fell to the ground near the refrigerator and then took to the ER. said that he was upset after this had happened and he left the house and went for a walk in the neighborhood. also told us that the injury to his finger had been caused the previous day when and had been arguing. had gotten a knife and had gone towards trying to stab him with the knife. had put his hand in front of and had cut 's hand with the knife in the process. stated that had not cut with the knife that day and he was able to separate them so no one else got injured.

I spoke with about what had stated and said that was lying and that she did not cause the injuries to . continued stating that had come into the house and that he had the injuries when he entered the residence. When I asked why would state that she had caused the injuries to she did not get upset and just stated that lies about things and that he would lie to get himself out of trouble. I asked if had anything to do with 's injuries and she stated that he did not and that he had been in the house with her the entire time and could not have caused the injuries to .

After looking at the blood outside of the residence further it appeared the blood went from the residence towards the alley and between the two trucks parked behind the house. I could see a small amount of blood on the driver's side of a white Dodge Ram and a large amount of blood on the passenger side front seat and interior door panel. I could also see tire marks in the gravel that appeared to pull directly out of the parking area and continue up the alley. This indicated that the White Dodge Ram had originally been backed into the parking area prior to the incident and walked directly from the house to the passenger side of the truck. I did not locate a large amount of blood inside of the house that would have confirmed what had told me about the incident. When I had asked about the lack of blood inside of the residence he stated that after had stabbed there was something white sticking out of the wound and that it was not bleeding heavily at that time. I asked r where the knife had gone that had used and he stated that he did not know. I later looked inside of the sink and located a black handled kitchen knife that is consistent with the injuries that suffered. I later collected this knife and submitted it into evidence. I also located 's shirt and shoes in the back yard of the house. I did not locate any blood or damage on the shirt or shoes. I later collected these items as evidence.

Sgt. Roland was able to go back to Memorial Regional Health and speak with again about what had happened. When Sgt. Roland questioned about the information we had gotten confirmed that had been the individual that had stabbed him in the back and elbow. also confirmed that had gone after him with a knife the previous day and had cut 's finger with the knife as she was trying to stab .

Corporal Edwards later spoke with Sam Killian the doctor from the ER and Sam signed a physician's statement stating 's injuries are classified as serious bodily injury and the form indicates the injury had a "substantial risk of death" due to a "deep wound that needed emergency care to stop bleeding".

From and 's statements attempted to stab on 08/29/2020 and in the process cut 's finger with a knife causing him to bleed and have an injury on his finger. On 08/30/2020 again went after with a knife

and this time caused [redacted] to have serious bodily injury by stabbing him with a knife two times in the back and a third time in his right elbow. Due to the physician's statement form [redacted] suffered an injury, that [redacted] caused, that had a substantial risk of death due to a deep wound that required emergency care to stop the bleeding.

At approximately 0117 hours I informed [redacted] that I had probable cause for her arrest. At this time I was in the back yard of the residence with [redacted] and I had her stand up and I placed her into handcuffs without incident. I double locked the handcuffs and did a search of [redacted]. I later took [redacted] to the Moffat County Jail and booked her in without incident.

Affiant's Signature

Subscribed and sworn to before me this 31st ***day of*** August, ***20***20

Expiration: 08-12-21

Notary Public

Address: 800 W 1st St Ste 300 Craig, CO 81625

TERRIANNE L. WHEELER
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID #20054031845
My Commission Expires August 12, 2021

After reviewing the above Affidavit in support of Warrantless Arrest, I find:

______ ***There is probable cause for the arrest.***

______ ***There is not probable cause for the arrest and the Defendant is released from custody***

Date: ___________

____
Judge

DATE FILED
April 22, 2026 10:22 AM
FILING ID: E00782C5C4724
CASE NUMBER: 2022CR371

Colorado Court of Appeals 2 East 14th Avenue Denver, CO 80203	DATE FILED [illegible] [illegible] CASE NUMBER: 2022CR371
Mesa County 2022CR371	
Plaintiff-Appellee: The People of the State of Colorado, **v.** **Defendant-Appellant:** Tina Marie Peters.	Court of Appeals Case Number: 2024CA1951
ORDER OF THE COURT	

To: The Parties and the District Court

Upon consideration of the motion for bond pending appeal, and having reviewed the response filed in opposition, and the reply thereto, the Court DENIES the motion.

BY THE COURT
Gomez, J.
Schutz, J.
Lum, J.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

DATE FILED
April 22, 2026 10:22 AM
FILING ID: E00782C5C4724
CASE NUMBER: 2022CR371

Civil Action No. 25-cv-00425-STV

TINA M. PETERS,

Petitioner,

v.

JOHN FEYEN; and
PHILIP J. WEISER,

Respondents.

ORDER DISMISSING APPLICATION FOR WRIT OF HABEAS CORPUS

This matter comes before the Court pursuant to the Order of Reference [#64], entered on August 20, 2025, and the parties' unanimous consent to disposition of this action by a United States Magistrate Judge [#63]. Petitioner Tina Peters is in the custody of the Colorado Department of Corrections at the La Vista Correctional Facility in Pueblo, Colorado. [#87 at ¶ 2] On February 7, 2025, Ms. Peters commenced this action through counsel by filing an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254[1]. [#1] The Court has carefully reviewed the filings to date, oral argument (held on

[1] It is unclear whether the instant action is properly brought under 28 U.S.C. § 2254 as a challenge to the validity of Ms. Peters' conviction and sentence or pursuant to 28 U.S.C. § 2241 as an attack on the execution of her sentence. *See McIntosh v. United States Parole Comm'n*, 115 F.3d 809, 811-12 (10th Cir. 1997); *Bradshaw v. Story*, 86 F.3d 164, 166 (10th Cir. 1996). Indeed, another judge on this Court analyzed a claim challenging bail pursuant to Section 2241. *See Hoover v. Golder*, No. 05-cv-00419-MSK-PAC, 2006 WL 1083601, at *2-3 (D. Colo. April 24, 2006) (analyzing a habeas corpus case alleging excessive bail in violation of the Eighth and Fourteenth Amendments under Section 2241 and not under Section 2254). Ultimately, the Court need not resolve that issue to adjudicate the instant action.

April 22, July 22, and October 16), and the applicable case law. For the following reasons, the Court **DISMISSES WITHOUT PREJUDICE** Ms. Peters' Application and this action.

I. BACKGROUND

A Colorado jury found Ms. Peters, the former Clerk and Recorder of Mesa County, Colorado, guilty of attempting to influence a public servant, criminal impersonation, first-degree official misconduct, violation of duty, and failure to comply with requirements of the Colorado Secretary of State in Mesa County District Court case number 2022CR371. [#2 at 113-14[2]] On October 3, 2024, the trial court sentenced Ms. Peters to a lengthy prison sentence.[3]

At the sentencing hearing, the trial court discussed the reasons for sentencing Ms. Peters to a prison term. [*Id.* at 102-05] The trial court stated that while Ms. Peters' age

[2] For consistency and clarity, the Court refers to the actual page number of the .pdf document uploaded to the Electronic Court Filing system, rather than to the numbering printed on each page.

[3] The exact length of the sentence is unclear to the Court. At sentencing, the trial court initially stated that it sentenced Ms. Peters to "eight and a half years total plus the six months for a total of nine years incarceration." [*Id.* at 108] By that point in the sentencing, however, the trial court had sentenced Ms. Peters to three and a half years imprisonment on counts 1 and 4 (concurrent to each other), three and a half years imprisonment on count 2 (consecutive to the sentence on counts 1 and 4) six months on counts 9 and 10 (apparently concurrent with each other but consecutive to the sentences on counts 1, 2, and 4), and 120 days on count 9 (concurrent to the counts on 9 and 10). [*Id.* at 107] That sentence thus totaled seven years plus six months on the misdemeanors for a total of seven and a half years. It was then brought to the trial court's attention that it had not sentenced Ms. Peters on count six and the trial court then sentenced Ms. Peters to fifteen months on count six, consecutive to the other counts. [*Id.* at 108] After correcting the sentence on count 6, the trial court again reiterated that it had sentenced Ms. Peters to "eight and a half years total plus the six months for a total of nine years of incarceration." [*Id.*] But when the 15 months is added to the seven years, that only results in eight years and three months incarceration, plus six months on the misdemeanors. And is not clear to the Court from the judgment that the sentence imposed was eight and one half years on the felonies plus six months on the misdemeanors, as opposed to eight years and three months incarceration on the felonies plus six months on the misdemeanors. [*Id.* at 113-14]

and limited criminal history were mitigating factors, it rejected her assertions of honesty and pointed to her "lies," defiance, abuse of her position, and her belief that she was "above the law" as a basis for the imposition of the prison sentence. [*Id.*] The trial court also weighed these considerations against Ms. Peters' "corrupt conduct" and "undermining of our democratic processes" that resulted in personal gain and attention, concluding that she "betrayed [her] oath for no one other than [her]. And this is what makes Ms. Peters such a danger to our community." [*Id*. at 103-04] The trial court then orally denied a stay of execution of the sentence as "wholly unwarranted" for these same reasons and stated that although "[a]ll cases have a possibility of reversal on appeal[,]" the rulings were made "after much consideration, [and] incredible amounts of internal debate." [*Id*. at 105] Ms. Peters' counsel then orally moved for bond pending appeal, which the trial court denied on the record. [*Id*. at 109]

Following the sentencing hearing, Ms. Peters filed a written Motion for Bond Pending Appeal in the trial court. [*Id*. at 118-122] In support of her Motion, Ms. Peters argued that: (1) her appeal has merit due to numerous errors committed by the trial court; (2) she is unlikely to flee and does not pose a danger to the community; and (3) the factors set forth in Colo. Rev. Stat. §16-4-202 weigh in favor of her release on bond. [*Id.*] The trial court issued a written order denying Ms. Peters' Motion for Bond Pending Appeal "[f]or the reasons stated during [the sentencing hearing], and for the additional reasons stated in the [prosecution's] response" which addressed the factors set forth in the appeal bond statute, Colo. Rev. Stat § 16-4-202. [*Id*. at 117; *see also id.* at 124-28] In particular, the prosecution's response to Ms. Peters' Motion for Bond asserted that: (1) Ms. Peters is a flight risk based on her "prior travel history, often with the assistance of others along

with her disregard for court orders"; (2) Ms. Peters has a poor likelihood of success on appeal "as any error is likely to be harmless beyond a reasonable doubt"; and (3) because Ms. Peters "has not denied committing any of the acts, and has simply sought to justify her actions based upon defenses not recognized by Colorado." [*Id*. at 127-28]

After the trial court's ruling, Ms. Peters filed a Notice of Appeal and a Motion for Bond Pending Appeal in the Colorado Court of Appeals ("CCA"). [*Id*. at 170-83, 185-221] In the Motion for Bond Pending Appeal, Ms. Peters argued that the trial court erred in finding Ms. Peters' "statements made her a danger to the community." [*Id*. at 200] Ms. Peters further contended that the trial court "abused its discretion" when it determined that Ms. Peters "lied about the risk of computer manipulation in elections conducted by Mesa County, that this lie was somehow dangerous, and that [Ms. Peters] posed a danger to the community because she was likely to continue expressing that view." [*Id*. at 202 (internal quotations omitted)] Finally, Ms. Peters argued she was not a flight risk and that her appeal was not frivolous. [*Id.* at 208-18] On December 6, 2024, the CCA denied the Motion for Bond Pending Appeal. [*Id*. at 184] Ms. Peters' direct appeal of her judgment of convictions is currently pending in the CCA. [#66 at 4 n.1] Indeed, according to Respondents, Ms. Peters' direct appeal has been fully briefed and is awaiting oral argument. [*Id.*]

In the pending 28 U.S.C. § 2254 Application, Ms. Peters does not challenge the judgment of convictions. [#1] Rather, she "challenges the refusal of the Colorado Court of Appeals and the District Court of Mesa County to grant her bail pending appellate review of [her convictions]." [#1 at 2] The Application initially asserted the following three claims for relief:

(1) a First Amendment violation [*id.* at 11-17];

(2) a due process violation based on the trial court's: (a) failure to "consider the federal election-records preservation statutes;" (b) allow the introduction of evidence of a "security breach;" and (c) failure to conduct a hearing into whether a juror was biased against Ms. Peters [*id.* at 17-21]; and

(3) the denial of Ms. Peters' right to "immunity from state prosecution" under the Supremacy Clause and the Privileges and Immunities Clause of the Fourteenth Amendment [*id.* at 21-26].

As relief, Ms. Peters requests immediate release from custody on bond. [*Id*. at 26]

On February 11, 2025, the Court directed Respondents to file a pre-answer response addressing the potential applicability of the affirmative defenses of timeliness and exhaustion of state court remedies. [#5] Respondents filed a pre-answer response, contending that Ms. Peters' claims were improperly exhausted in state court. [#25] Ms. Peters filed a reply, arguing for the rejection of the exhaustion defense and seeking to have Respondents answer the merits of her petition. [#34]

On May 5, 2025, the Court issued an Order to Show Cause as to why the Application should not be dismissed as a mixed petition. [#47] On June 4, 2025, Ms. Peters filed her response to the Order to Show Cause. [#50] After reviewing the pertinent filings, on July 22, 2025, the Court held a hearing on the issues of exhaustion of state remedies and *Younger* abstention. [## 58, 60] At that hearing, counsel for Ms. Peters indicated her intention to only proceed with Claim 1, the First Amendment claim, and to dismiss the remaining claims. [#60 at 9-12, 34, 38] And on July 25, 2025, Ms. Peters, through her counsel, filed a Notice of Partial Dismissal of Claims, which dismissed Claims 2 and 3 in her Section 2254 Application and affirmed that "the sole remaining claim made in Ms. Peters' Application for a Writ of Habeas Corpus is Claim 1 . . . seeking her release on bond pending her appeal due to the violation of her First Amendment rights." [#59]

Subsequently, in response to Court orders, the parties submitted supplemental briefing on *Younger* abstention [## 62, 65, 66] and the merits of Ms. Peters' sole remaining claim [## 72, 82]. An amicus brief has also been filed and accepted by this Court. [#68-1]

II. ANALYSIS

Ms. Peters' claim, as set forth in the Section 2254 Application, asserts that the denial of her Motion for Bond Pending Appeal violated her First Amendment right to free speech. [#1 at 11-17] Respondents contend that the doctrine of *Younger* abstention precludes this Court's review of Ms. Peters' sole remaining claim. [#62 at 3-6] Ms. Peters disagrees, arguing that Respondents "waived any claim to *Younger* abstention" [#65 at 17-18] and that *Younger* is inapplicable to this case [*id.* at 18-20]. The Court—bound to follow Supreme Court and Tenth Circuit precedent—agrees with Respondents that it must abstain from hearing Ms. Peters' claim.

Under the *Younger* abstention doctrine, federal courts are prohibited from interfering with ongoing state criminal proceedings absent extraordinary or special circumstances. *Younger v. Harris*, 401 U.S. 37, 43 (1971); *Phelps v. Hamilton*, 122 F.3d 885, 889 (10th Cir. 1997). Abstention is appropriate under *Younger* if three conditions exist: "(1) an ongoing state judicial . . . proceeding, (2) the presence of an important state interest, and (3) an adequate opportunity to raise federal claims in the state proceeding." *Travelers Cas. Ins. Co. of Am. v. A-Quality Auto Sales, Inc.*, 98 F.4th 1307, 1317 (10th Cir. 2024) (quotation omitted). "Younger abstention is jurisdictional" and thus must be addressed "at the outset." *D.L. v. Unified Sch. Dist. No. 497*, 392 F.3d 1223, 1228-29 (10th Cir. 2004). Indeed, because *Younger* is jurisdictional, the Tenth Circuit

has made clear that "*Younger* abstention is non-discretionary; it must be invoked once the three conditions are met, absent extraordinary circumstances." *Amanatullah v. Colo. Bd. of Med. Exam'rs*, 187 F.3d 1160, 1163 (10th Cir. 1999).

Because *Younger* is jurisdictional and non-discretionary, the Court rejects Ms. Peters' argument that Respondents waived their opportunity to raise *Younger* abstention. A Court "may raise the issue of abstention *sua sponte*." *D.A. Osguthorpe Family Partnership v. ASC Utah, Inc.*, 705 F.3d 1223, 1231 (10th Cir. 2013). Indeed, because *Younger* is jurisdictional, "[w]hen all of the elements mandating abstention clearly exist in the record, courts may, *and should*, address application of the *Younger* abstention doctrine sua sponte." *Nationwide Mut. Ins. Co. v. C.R. Gurule, Inc.*, 148 F. Supp. 3d 1206, 1216 (D.N.M. 2015) (emphasis added). Here, consistent with these principles, the Court noted potential jurisdictional defects and ordered the parties to address jurisdictional issues, including the *Younger* abstention doctrine. [#60 at 33-35] And consistent with that Order, Ms. Peters filed a response that addressed *Younger* and she has thus had an opportunity to be heard on the issue. [#65 at 17-20]

The Court thus turns to the question of whether *Younger* applies. As to the first *Younger* condition, the Court finds that there are ongoing state criminal proceedings against Ms. Peters. Indeed, It is undisputed that her direct appeal is pending before the CCA. [#66 at 4 n.1] And courts have held that ongoing criminal appeals invoke the first *Younger* condition. *Cross v. Quick*, No. CIV-25-569-D, 2025 WL 1762983, at *2 (W.D. Okla. May 20, 2025) (holding that the first *Younger* requirement was satisfied when a direct appeal was pending); *Mounkes v. Conklin*, 922 F. Supp. 1501, 1511 (D. Kan. 1996) ("For purposes of the first [Younger] requirement, a state prosecution is considered to be

pending if as of the filing of the federal complaint not all state appellate remedies have been exhausted.").

In response, Ms. Peters argues that "the habeas relief sought by Mrs. Peters will not interfere with any ongoing state prosecution." [#65 at 19] In support, Ms. Peters cites to footnote 9 of the Supreme Court's decision in *Gerstein v. Pugh*. [#65 at 19 (citing *Gerstein v. Pugh*, 420 U.S. 103, 108 n.9 (1975)] But there, the Supreme Court held that *Younger* did not apply because the issue raised "could not be raised in defense of the criminal prosecution" and any resultant order from the federal civil case "could not prejudice the conduct of the [criminal] trial on the merits." 420 U.S. at 108 n.9. Here, by contrast, Ms. Peters could, and did, raise the issue of her bond pending appeal and whether the denial of such bond violated her First Amendment rights. Moreover, that issue is intricately intertwined with her current appeal that argues that the district court improperly increased her sentence based upon the same statements the trial court relied upon to deny Ms. Peters bond. [#66-1 at 30-31 (arguing that "the trial court incarcerated Peters for speech that produced no threat of violence or lawless action, in violation of her rights under the First . . . Amendment[].")] Thus, any ruling by this Court on that issue will necessarily impact the ongoing criminal proceedings.

As to the second *Younger* condition, the Court concludes that there exists the presence of an important state interest. The Supreme Court "has recognized that the States' interest in administering their criminal justice systems free from federal interference is one of the most powerful of the considerations that should influence a court considering equitable types of relief." *Kelly v. Robinson*, 479 U.S. 36, 49 (1986) (citing

Younger, 401 U.S. at 44-45). And Ms. Peters has not argued that this second requirement has not been satisfied.[4] [#65 at 21-22]

Under the third *Younger* condition, Ms. Peters had the opportunity to raise her claim during the state criminal proceedings. Indeed, the record reflects that she did move both the trial court and the CCA for bond pending appeal. [#102 at 118-22; 185-221] And courts have held that such an opportunity satisfies the third *Younger* requirement. *Spade v. Sharp*, No. 1:24-cv-0866-TMC, 2024 WL 1672304, at *2 (D.S.C. April 18, 2024) (finding that the fact that petitioner "can pursue—and has pursued—his request for bond in state court" afforded an adequate opportunity to present a federal constitutional challenge, satisfying the third *Younger* condition); *see also Brown v. Leeke*, 460 F. Supp. 947, 948 (D.S.C. 1978) (finding *Younger* applies and that the federal court "will not interfere with the state court's determination of the amount of bail required to ensure the defendant's presence while his appeal is pending"), *dismissed*, 601 F.2d 579 (4th Cir. 1979). Indeed, Ms. Peters has not cited a single case where *Younger* was raised with respect to an appeal bond in an ongoing criminal proceeding and the federal court found *Younger* inapplicable.

Thus, all three requirements for *Younger* are met. "When *Younger*'s three requirements are met, abstention is mandatory unless one of three exceptions applies: the prosecution was (1) commenced in bad faith or to harass, (b) based on a flagrantly and patently unconstitutional statute, or (3) related to any other such extraordinary

[4] Ms. Peters' brief focuses upon slightly different *Younger* criteria than those used by the Tenth Circuit. [#65 at 18-20] This Court, sitting as it is in the Tenth Circuit, is bound by Tenth Circuit jurisprudence. *United States v. Young*, 729 F. Supp. 3d 1198, 1200 n.1 (D.N.M. 2024) (noting that courts in the Tenth Circuit are "bound by precedent from the Tenth Circuit").

circumstances creating a threat of irreparable injury both great and immediate." *Winn v. Cook*, 945 F.3d 1253, 1258-59 (10th Cir. 2019) (quotation omitted). Ms. Peters does not argue that one of these three exceptions applies, let alone establish grounds for such rarely invoked exceptions. [#65 at 17-22] She spends one paragraph arguing that she will suffer irreparable injury if relief is not granted, but she does so in the context of analyzing the third *Younger* factor. [#65 at 20] And in doing so, she argues that the "loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." [*Id.* (quoting *Roman Catholic Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020)] But *Roman Catholic Diocese of Brooklyn* dealt with injunctive relief from a COVID-era restriction impacting the right to worship, not an analysis of *Younger* or its extraordinary circumstances exception. 592 U.S. at 15-16. And, in any event, at no point does Ms. Peters argue that this Court should find an exception to *Younger*, as opposed to arguing that the three *Younger* requirements were not satisfied.

Moreover, to the extent Ms. Peters' brief could be seen as arguing the extraordinary circumstances exception to *Younger*, she has failed to satisfy her burden of establishing such an exception. *Hicks v. Miranda*, 422 U.S. 332, 350 (1975) ("Unless we are to trivialize the principles of Younger v. Harris, the federal complaint should have been dismissed on the appellants' motion absent satisfactory proof of those extraordinary circumstances calling into play one of the limited exceptions to the rule of Younger v. Harris and related cases."). Under *Younger*, irreparable injury must be "both great and immediate," and exists only when the threat to federally protected rights "cannot be eliminated by . . . . defense against a single prosecution." *Phelps*, 122 F.3d

at 889 (quoting *Younger*, 401 U.S. at 46). Courts have "consistently refused to find an exception to *Younger* when the injury could ultimately be corrected through the pending state proceeding or on appeal." *Winn*, 945 F.3d at 1259. And because Ms. Peters' appeal remains pending in state court, where she argues that the trial court violated her First Amendment rights by punishing her based upon her speech, any First Amendment error can be corrected through the state appeal.

Without question, Ms. Peters raises important constitutional questions concerning whether the trial court improperly punished her more severely because of her protected First Amendment speech. But because this question remains pending before Colorado courts, this Court must abstain from answering that question until after the Colorado courts have decided the issue. Accordingly, based upon the *Younger* abstention doctrine, her Application must be DISMISSED WITHOUT PREJUDICE. *Goings v. Sumner Cty. Dist. Attorney's Office*, 571 F. App'x 634, 639 (10th Cir. 2014) ("Under our precedent, *Younger*-abstention dismissals have been treated as roughly akin to jurisdictional dismissals and, accordingly, have been considered to be without prejudice." (emphasis omitted)).

III. CONCLUSION

For the foregoing reasons, it is **ORDERED**:

(1) that the Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 [#1] is **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction pursuant to the abstention doctrine of *Younger v. Harris*, 401 U.S. 37 (1971);

(2) that Petitioner's Emergency Motion for Court to Issue Expidited (sic) Opinion And Order on Petitioner's Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 [#89] and Amended Emergency Motion for Court to Issue Expedited Opinion on Petitioner's Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 [#91] are **DENIED AS MOOT**; and

(3) that Plaintiff's Motion to File Exhibit Under Seal [#90] is **GRANTED** for good cause shown and that the Clerk of Court is instructed to maintain Document 90-1 at a restricted level 1.

DATED: December 8, 2025

BY THE COURT:

s/Scott T. Varholak
Chief United States Magistrate Judge

DATE FILED
April 22, 2026 10:42 AM
FILING ID: E00782C5C4724
CASE NUMBER: 2022CR371

❑ Municipal Court ❑ County Court [X] District Court Mesa County, Colorado Court Address: 125 N. Spruce St. Grand Junction CO 81501 People of the State of Colorado VS. Tina Marie Peters	▲ COURT USE ONLY ▲
Attorney or Party Without Attorney (Name and Address): John Case John Case PC 6901 S. Pierce St. #340 Littleton CO 80128 Phone Number:303-667-7407 E-mail: brief@johncaselaw.com FAX Number: Atty. Reg.# 2431:	Case Number: 22CR371 Arrest Number: Warrant Number: Bond Number: Division Courtroom 9

CONSENT OF SURETY TO CONTINUE BOND PENDING APPEAL

BOND POSTED FOR: [X] Defendant ❑ Respondent ❑ Plaintiff ❑ Petitioner ❑ Child

NAME OF PARTY (print or type):
Tina (First) Marie (Middle) Peters (Last) 9/11/1955 (DOB)

The undersigned Chelsea Gonzalez (print/type name of bail bonding agent) a bail bonding agent, authorized to give this consent on behalf of United States Fire Insurance (print/type name of bail insurance company from bond power of attorney, if applicable), consents as follows:

(Check either box 'A' or 'B' below. This form may be used for only one type of consent.)

[X] **A. REINSTATEMENT OR CONTINUANCE.** Consent is given for continuance or reinstatement of the party's appearance bond as follows: (Check one box below. This consent is void if more than one box in this section is checked.)

❑ (1) Reinstatement until entry of an order for deferred prosecution or deferred judgment, plea of guilty, *nolo contendere* or conviction.

❑ (2) Continuance following conviction, but expiring upon the imposition of sentence.

❑ (3) Reinstatement until hearing set for (date) ______________ at (time) ______________

[X] (4) Agent acknowledges and consents that Defendant remain free on bond until all appeals are exhausted and case is remanded to District Court of Mesa County for imposition of sentence, if any. Agent waives any requirement that the party personally appear before the Court to request the new appearance date.

B. PERMISSION TO LEAVE STATE. Consent is given for party to leave the State of Colorado, subject to the terms and conditions of the permission granted to the party by order of Court. (The following Acknowledgement and Waiver must be signed by the party.)

PARTY'S ACKNOWLEDGEMENT AND WAIVER: I acknowledge my responsibility to meet all conditions of the appearance bond and all orders of this Court. In the event I leave Colorado, then with respect to any proceedings upon the appearance bond, I: (1) Waive extradition proceedings; (2) Agree to voluntarily return to custody in Colorado, and (3) Grant the undersigned agent irrevocable permission to transport me back to Colorado and to use such reasonable force as may be required to return me to this Court.

PARTY (signature) ______________________ (date) ______________

IMPORTANT NOTE: This consent must be filed by the date and time ordered by the Court. Consent to reinstatement or continuation is void if this document is not filed with the Court within twenty-four (24) hours of the date and time of execution, shown below. If forfeiture proceedings are pending, this consent is conditional upon those proceedings being vacated by the Court.

EXECUTED BY BAIL BONDING AGENT: (date) 9/26/24 at (time) 2p

Bail Bonding Agent Signature: A Valley for Chelsea Gonzales
Address: 5777 E Evans Ave Ste 204
City, State & Zip: Denver CO 80222
Telephone No: (720) 271 5385

Agent License/registration No: 405638 / 35985
Power of Attorney No: U25-21059492
Date bond executed: 9/28/2023

(NOTICE: *It is unlawful to charge a fee for a consent of surety*)

DATE FILED: March 02, 2022 2:53 PM
DATE FILED
April 22, 2026 10:22 AM
FILING ID: E00782C5C4724
CASE NUMBER: 2022CR371

1 Mesa County Combined Courts
COLORADO
2 125 North Spruce Street
Grand Junction, Colorado 81501
3

4

5 **THE PEOPLE OF THE STATE OF COLORADO,** *FOR COURT USE ONLY*

6 Plaintiff,

7 Versus

8 **BELINDA GAIL KNISLEY,** Case No. 21CR1312

9 Defendant. Div/Room 9

10

11 For the People:
DANIEL RUBINSTEIN, ESQ.
12 JONATHAN MOSHER, ESQ.

13 For the Colorado Attorney General;
Colorado Secretary of State:
14 JENNIFER HUNT, ESQ. (via Webex)

15 For Mesa County Board of County
Commissioners; Mesa County Attorneys
16 Office:
JOHN RHOADS, ESQ.
17 TODD STARR, ESQ.
HEATHER MOSHER, ESQ.
18

19 For the Defendant:
R. SCOTT REISCH, ESQ.
20 SHANNON ROY, ESQ. (via Webex)

21

22 The matter came on for hearing on February 7, 2022, before

23 the HONORABLE MATTHEW D. BARRETT, Judge, Mesa County District

24 Court, and the following FTR proceedings were had.

25

1 THE COURT: Yes.

2 MR. RUBINSTEIN: My paralegal has alerted me that she

3 believes Ms. Peters is recording this.

4 THE COURT: Okay.

5 MR. RUBINSTEIN: She is seated behind Mr. Reisch.

6 UNIDENTIFIED SPEAKER: Judge, may hear?

7 MR. RUBINSTEIN: I've now seen the screen, and indeed

8 it's recording.

9 THE COURT: What do you want me to do? Well, I'll take

10 care of it.

11 (Bench conference ends)

12 THE COURT: Were you recording, ma'am?

13 MS. PETERS: (Indiscernible) was just --

14 THE COURT: You were not recording?

15 MS. PETERS: (Indiscernible)

16 THE COURT: Were you broadcasting this?

17 MS. PETERS: No, sir.

18 MR. MOSHER: Judge, may I approach?

19 THE COURT: Whose speaking?

20 MR. MOSHER: Mr. Mosher. I just want to put on the

21 record my observations.

22 THE COURT: Why don't you go ahead and put it on the

23 record. You don't have to approach.

24 MR. MOSHER: So -- ah -- Ms. Gonzales alerted me to the

25 fact that Ms. Peters appeared to be recording. I waited for an

DATE FILED
April 22, 2026 10:22 AM
FILING ID: E00782C5C4724
CASE NUMBER: 2022CR371

CASE NUMBER: 22CV10

THE PEOPLE OF THE STATE OF COLORADO

v.

BELINDA KNISLEY

AND CONCERNING:

TINA PETERS

DEPOSITION OF:

DANIEL RUBINSTEIN

DATE:

SEPTEMBER 7, 2022

(855) 693-3767 | (720) 738-1300

schedule@yournextdepo.com

1 A -- so I can see what exactly, but yes. Okay.
2 Yes.
3 **Q And are you recording?**
4 A I am not recording.
5 **Q And if I look, would I see that? Is that what**
6 **you basically saw?**
7 A I saw -- I recall seeing the image of the
8 courtroom on the screen and I recall seeing that there
9 was a circle. I have no memory of what color the circle
10 was.
11 **Q And why does that matter, in terms of the**
12 **color of the circle?**
13 A I am not a witness as to whether or not is it
14 was recorded. I have no idea if it was recording or
15 not.
16 **Q So you --**
17 A I was told by -- by Hailey Gonzalez and
18 Jonathan Mosher that they saw it and saw that it was
19 recording, but I -- while I unartfully said to the judge
20 --
21 **Q That's --**
22 A -- I saw it was recording, what I meant in --
23 in my brief, couple of words to Judge Barrett is I saw
24 that it had the image on there is what I meant. I did
25 not actually see that -- the color of the button.

23 October 2023

Richards Carrington, LLC
Douglas Richards
1444 Blake Street
Denver, Colorado 80202

DATE FILED
April 22, 2026 10:22 AM
FILING ID: E00782C5C4724
CASE NUMBER: 2022CR371

RE: People of the Stater of Colorado v. Belinda Knisley and concerning Tina Peters; 2021CR1312 (Div. 9); 2022CV10 (Div. 5)

REPORT OF FORENSIC EXAMINATION

INTRODUCTION

This report is being authored by Robert Kelso, Director of Forensics and E-Discovery at ArcherHall. ArcherHall is a digital forensics collections and analysis company with an office in the Denver area. The C.V. for Robert Kelso accompanies this report as "Exhibit A-RPK CV.pdf" which lists publications for at least the last ten years and testimony for at least the last 4 years, as required by the Federal Rules of Civil Procedure. Mr. Kelso is being compensated at a rate of $695/hour for his work in this matter.

On July 23, 2023, Tina Peters, through her attorney Douglas Richards of Richards Carrington, LLC retained ArcherHall to perform an analysis of one (1) Apple iPad belonging to Ms. Peters. The purpose of the analysis was to search for any video recorded by or with the iPad with a focus on a narrow date range (Feb 7-8, 2022) and further to search for the existence and recoverability of any deleted video that may have been recorded by or with the iPad.

EVIDENCE ACQUISITION

ArcherHall took possession of the iPad in question on July 21, 2023.

001: Make/Model: Apple iPad Pro (11 in 3rd Gen), A2301; S/N: W3HP2MHW0W; iOS 15.1

The iPad was picked up from the Grand Junction Police Department on July 13, 2023 at approximately 1:25 PM and sent to ArcherHall via FedEx (FedEx tracking number: 781111751459). ArcherHall received the FedEx package containing the iPad on July 14, 2023 at approximately 11:00 AM. The chain of custody for the iPad is shown in Appendix A. Device photographs are shown in Appendix B.

Karli Baioni, Forensic Examiner for ArcherHall forensically acquired the iPad on August 8, 2023 using mobile device acquisition software Cellebrite UFED (Version No. 7.65.0.247). ArcherHall performed both a Logical and an Advanced Logical acquisition of the iPad. These were the only two acquisition types available for this specific iPad's model and iOS combination.

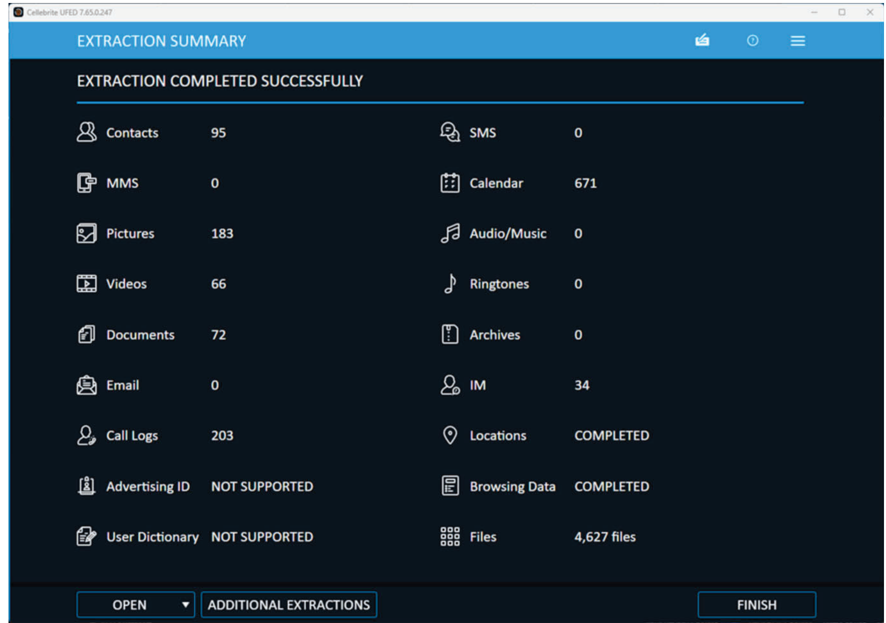

Figure 1. iPad Extraction Summary

Evidence Analysis

ArcherHall analyzed the contents of the iPad with the following goals:

1. Were there any videos existing on the device that were recorded on February 7, 2022.
2. Was there any evidence that videos were deleted from the device on or after February 7, 2022.
3. When was the last time the Apple operating System (iOS) was updated or re-installed.
4. Is there any evidence of cleaning or wiping that might mask deleted data.

The iPad acquisitions were brought into an analysis program called Cellebrite Physical Analyzer (version 7.61.0.12). Cellebrite Physical Analyzer parses iPad acquisitions and makes data available to examiners by category.

Sixty-six (66) videos were extracted from the iPad. None of the 66 videos were deleted. None of the videos was recorded on February 7, 2022. The following is a chart of all videos on the iPad that were recorded in February 2022. The full video exports accompany this report as Exhibit B.

Filename	Date/Time Created	Duration (m:ss)	Description	Sample Frame
IMG_0142.MOV	2/1/2022 9:48:13 AM	9:44	Ms. Peters in an office speaking to a woman behind a desk	
IMG_0143.MOV	2/5/2022 1:06:55 PM	0:02	Appears to be a public meeting. Videos IMG_0143.MOV, IMG_0144.MOV, IMG_0145.MOV, IMG_0146.MOV, IMG_0147.MOV and IMG_0148.MOV all appear to be of the same meeting.	
IMG_0144.MOV	2/5/2022 1:07:07 PM	28:33	Appears to be a public meeting. Videos IMG_0143.MOV, IMG_0144.MOV, IMG_0145.MOV, IMG_0146.MOV, IMG_0147.MOV and IMG_0148.MOV all appear to be of the same meeting.	
IMG_0145.MOV	2/5/2022 1:38:40 PM	0:02	Appears to be a public meeting. Videos IMG_0143.MOV, IMG_0144.MOV, IMG_0145.MOV, IMG_0146.MOV, IMG_0147.MOV and IMG_0148.MOV all appear to be of the same meeting.	

IMG_0146.MOV	2/5/2022 1:38:51 PM	11:35	Appears to be a public meeting. Videos IMG_0143.MOV, IMG_0144.MOV, IMG_0145.MOV, IMG_0146.MOV, IMG_0147.MOV and IMG_0148.MOV all appear to be of the same meeting.	
IMG_0147.MOV	2/5/2022 2:03:12 PM	0:02	Appears to be a public meeting. Videos IMG_0143.MOV, IMG_0144.MOV, IMG_0145.MOV, IMG_0146.MOV, IMG_0147.MOV and IMG_0148.MOV all appear to be of the same meeting.	
IMG_0148.MOV	2/5/2022 2:03:34 PM	52:38	Appears to be a public meeting. Videos IMG_0143.MOV, IMG_0144.MOV, IMG_0145.MOV, IMG_0146.MOV, IMG_0147.MOV and IMG_0148.MOV all appear to be of the same meeting.	

ArcherHall was unable to determine the last update or reinstallation of the iPad operating system software. iOS version 15.1 was released September 20, 2021. Updating of the iOS could have occurred on any day between September 20, 2021 and the date the iPad was shipped to ArcherHall.

There was no evidence of any cleaning/wiping software installed on the iPad.

Possible Future Evidence Acquisition and Analysis

ArcherHall has the ability to perform a type of acquisition on some iPads called a "Full File System Acquisition" (FFS). An FFS acquisition is only available for certain iPad models. As of the date of this report, an FFS acquisition is not supported for iPad Pro 3rd Gen models running iOS 15.1. Cellebrite says the support for FFS for iPad Pro 3rd Gen is "coming soon." The latest release of the Cellebrite Support Matrix was October 2023.

An FFS extraction has the ability to recover additional deleted data during the acquisition process. ArcherHall will make counsel aware if and when support for FFS acquisitions becomes available for this model of iPad.

Sincerely,

Robert Kelso, CHFI, EnCE
ArcherHall

ARCHERHALL

2081 Arena Blvd., Suite 200
Sacramento, CA 95834
ArcherHall.com • 916.449.2820

CHAIN OF CUSTODY

Case Name:	Case #:	Evidence #:	Date of Receipt:
People v. [illegible]	2172-6078 AH: 1493-12	2292954 / 95	07/13/2023

Description of Evidence:	Apple iPad [illegible] / keyboard case for iPad
Make:	Apple
Model:	
Serial Number:	W3H[illegible]
Condition:	Great Good Average Poor **Notes:** Unknown, I did not remove items from their GJPD packaging.

Original Storage Location:
Grand Junction Police 555 Ute Ave, Grand Junction, Colorado 81501

Shipped to Office? Yes (circled) No **If yes, note the address received from:**

Released by:		Received by:		Date/Time:	Purpose:
Print: M. [illegible]	Sign:	Print: [illegible] Powell	Sign: [signature]	7/13/23 1325	Pick up from GJPD + FedEx
Print:	Sign:	Print:	Sign:		to ArcherHall
Print: FedEx	Sign:	Print: [illegible] Baiani	Sign: [signature]	7/14/23 11:04	Fedex: 781111751459
Print:	Sign:	Print:	Sign:		
Print:	Sign:	Print:	Sign:		
Print:	Sign:	Print:	Sign:		
Print:	Sign:	Print:	Sign:		
Print:	Sign:	Print:	Sign:		

APPENDIX A – CHAIN OF CUSTODY

Appendix B – Device Photographs

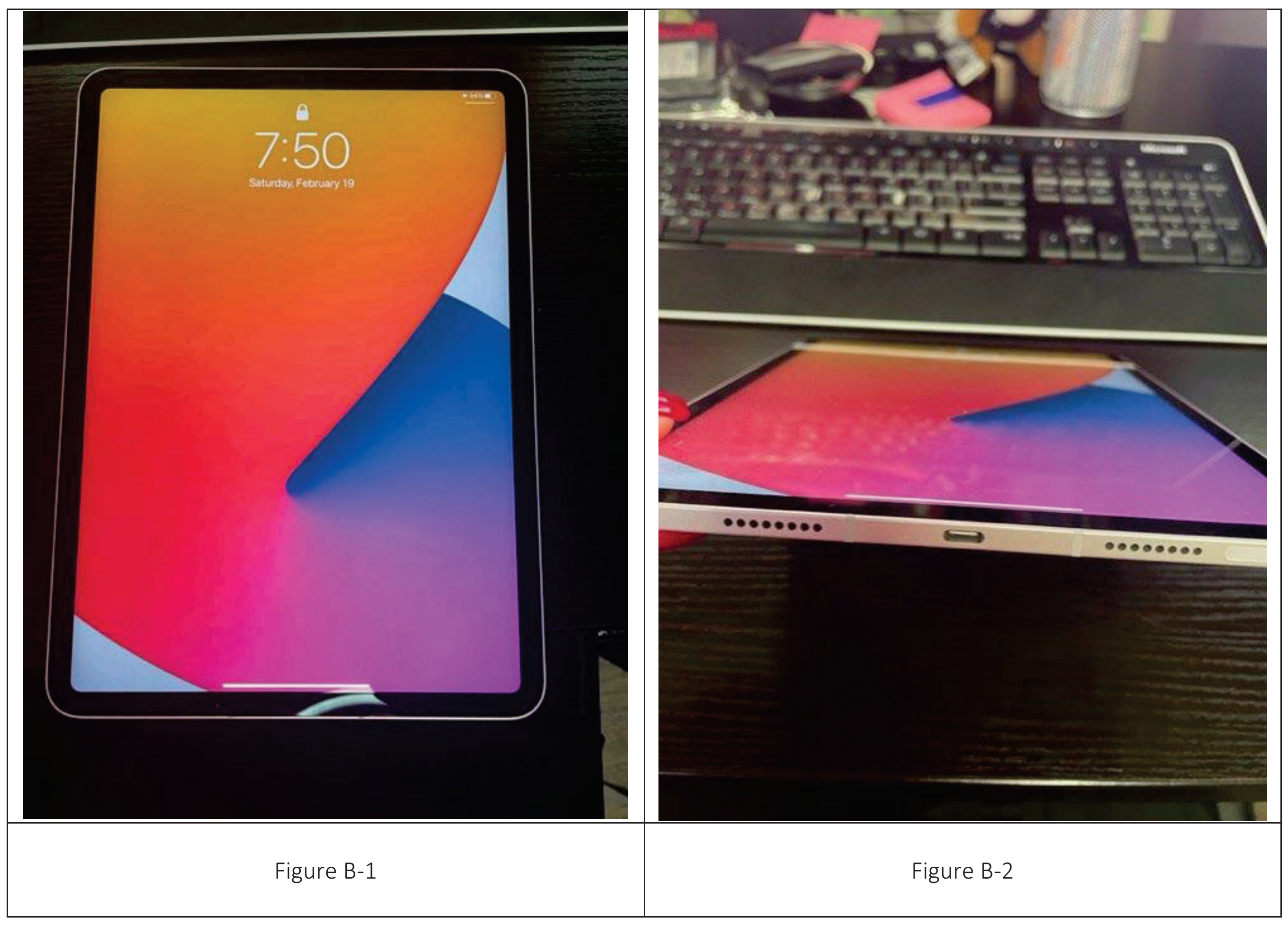

Figure B-1

Figure B-2

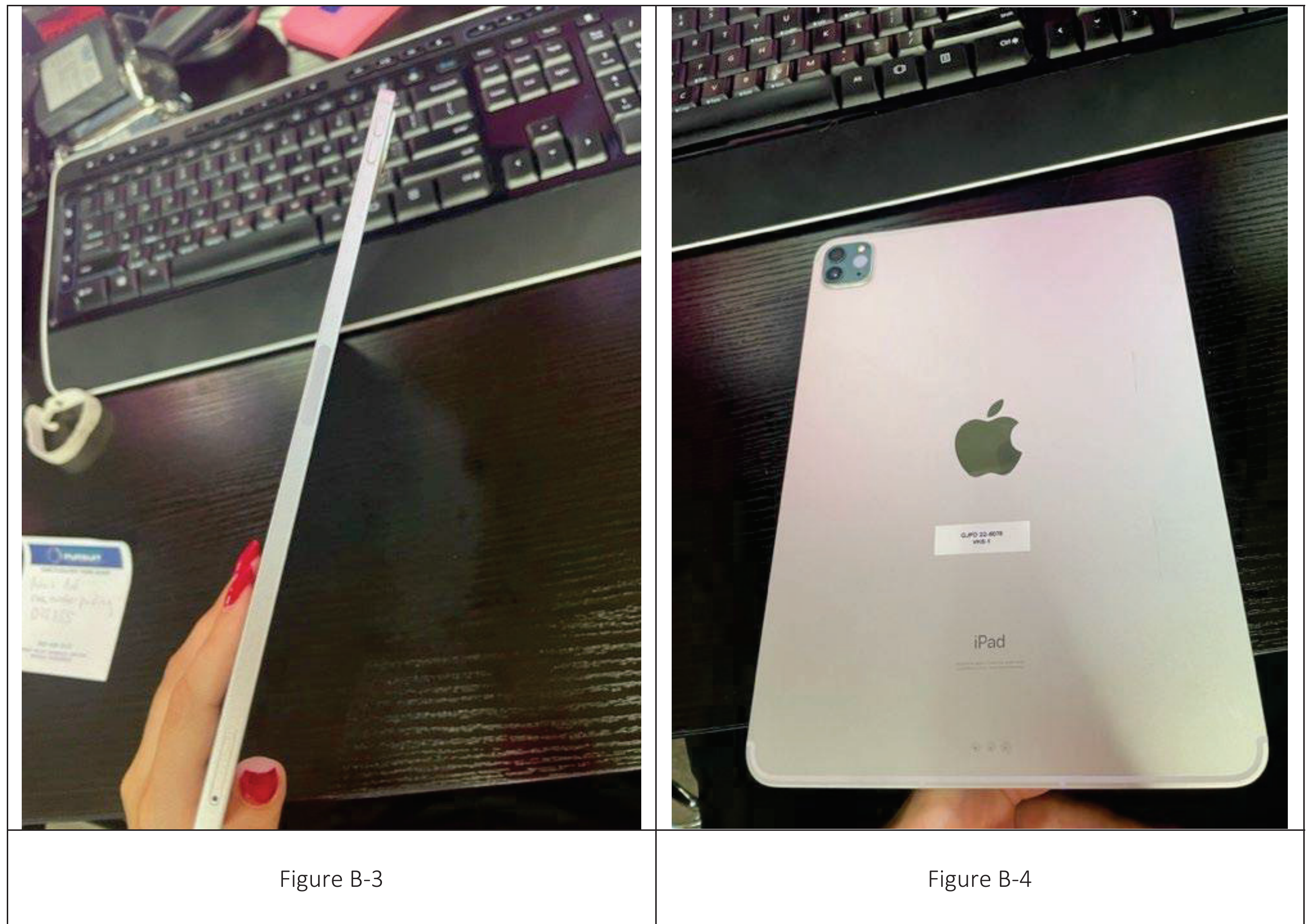

Figure B-3	Figure B-4

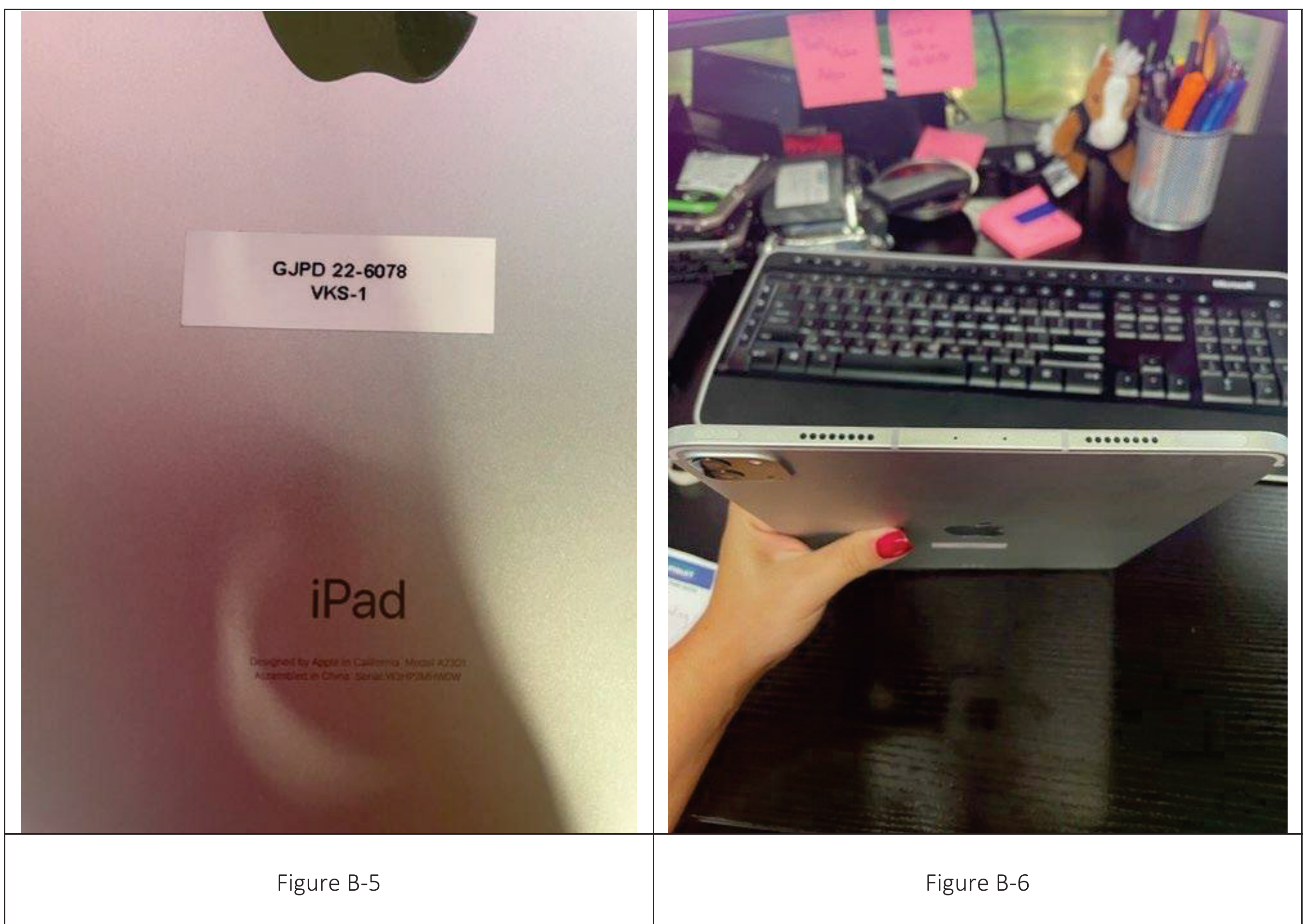

Figure B-5

Figure B-6

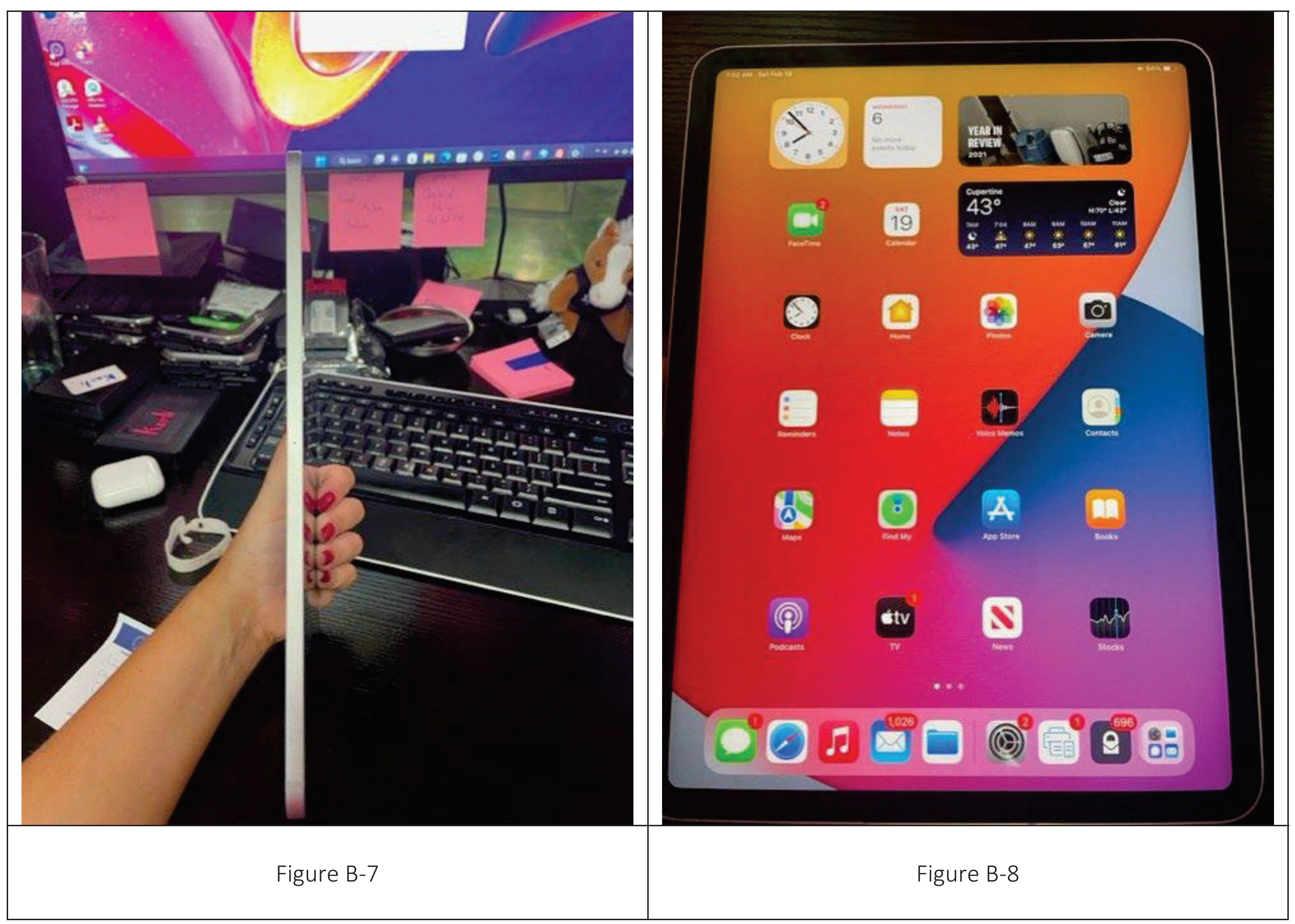

Figure B-7

Figure B-8

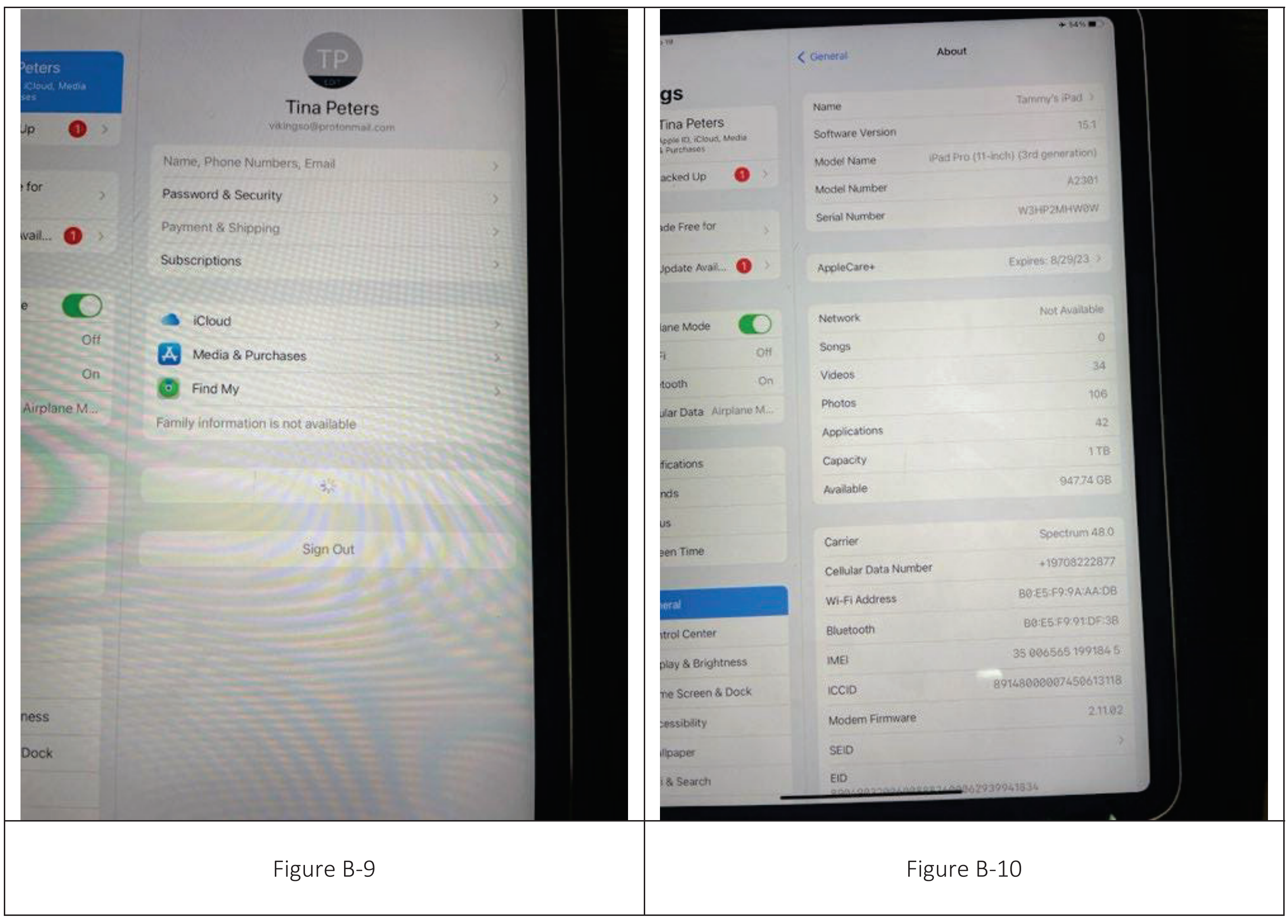

Figure B-9	Figure B-10

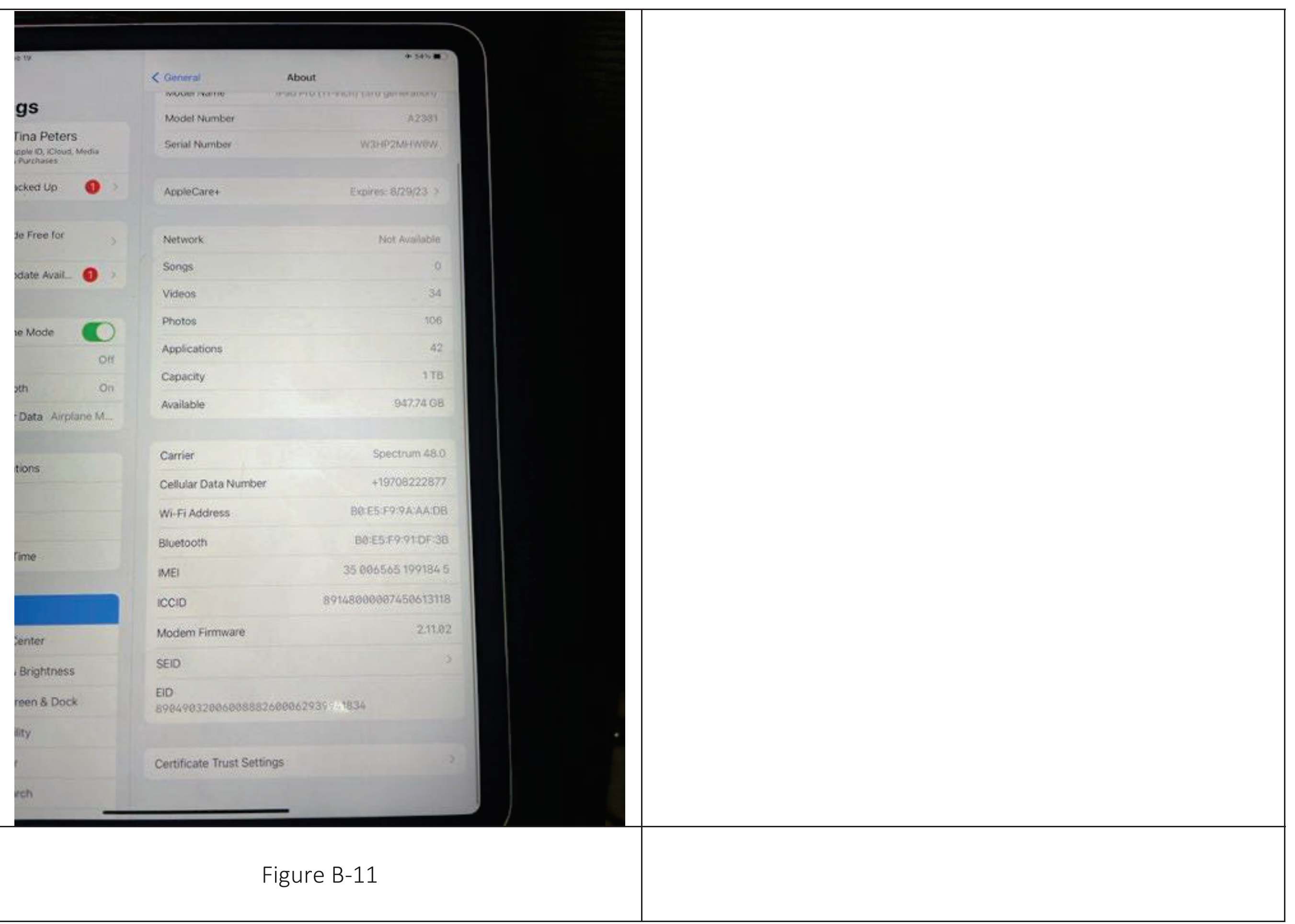

Figure B-11

23CA1073 Peo v Peters 12-19-2024 modified

COLORADO COURT OF APPEALS

DATE FILED
January 20, 2025
CASE NUMBER: 2023CA1073

DATE FILED
April 23, 2025 10:22 AM
FILING ID: 7823C...
CASE NUMBER: 2022CR371

Court of Appeals No. 23CA1073
Mesa County District Court No. 22CV10
Honorable Paul R. Dunkelman, Judge

People of the State of Colorado,

Plaintiff-Appellee,

v.

Belinda Knisley,

Defendant,

and Concerning Tina Peters,

Appellant.

JUDGMENT VACATED

Division III
Opinion by JUDGE DUNN
Gomez and Taubman*, JJ., concur

Opinion Modified
on the Court's Own Motion

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)
Announced December 19, 2024

Daniel P. Rubinstein, District Attorney, Richard Tuttle, Deputy District Attorney, Grand Junction, Colorado, for Plaintiff-Appellee

John Case, P.C., John Case, Littleton, Colorado, for Appellant

*Sitting by assignment of the Chief Justice under provisions of Colo. Const. art. VI, § 5(3), and § 24-51-1105, C.R.S. 2024.

OPINION is modified as follows:

Page 6, ¶ 11 currently reads:

Kinsley

Opinion now reads:

Knisley

¶ 1 Tina Peters appeals the district court's finding of punitive contempt. Because insufficient evidence and findings supported the contempt judgment, we vacate the contempt judgment as well as the punitive sanction.

I. Background and Procedural History

¶ 2 This contempt proceeding arises out of a criminal case filed against Belinda Knisley, one of Peters' former employees in Grand Junction, Colorado. In February 2022, Peters attended a hearing in Knisley's case. At that hearing, the prosecution reported concerns to the court that Peters was recording the proceeding on her iPad. The Knisley court stopped the hearing and asked Peters whether she was recording the proceeding. Peters denied recording it. The court then explained that "there's a sign on the door that says no recording, video, audio, it's all common sense for most folks to know that." The court added that "this is the one warning" and if it "find[s] that someone has violated this order in the future, then [it would] take appropriate action."

¶ 3 Later, the Knisley court revisited the allegation and made the following additional comments:

> [I]t had come to the [c]ourt's attention that someone may have been recording in the courtroom. I do not find one way or another as to whether that person was recording, or broadcasting, or audio recording[,] video recording[,] whatever it may have been. That individual told me that they were not doing any of those three things.
>
> So, I relied on that representation in not entering any type of action at that time. If I had known[,] if it had been confirmed[,] I would have done something differently, and that's in-part, because there is a decorum order that I entered [in Ms. Knisley's case]. There's also a sign on the outside of the door that specifically says that no one is authorized — I shouldn't say the sign on the outside of the door. My decorum order says this — no one is authorized to record any portion of the [c]ourt's proceedings via audio or — or video, and that, of course, would encompass broadcasting of the same. So, I make that additional record.

¶ 4 A few weeks later, the prosecution moved for a contempt citation against Peters, requiring her to "show cause why she should not be held in contempt for being untruthful to the [Knisley] court." Attached to the motion were affidavits from two individuals who claimed that Peters had been recording the proceedings. Though acknowledging "there is a lot to unravel with respect to whether Peters could be charged with knowledge [of] a decorum

order, issued in [Knisley's case] that was not served on [Peters]," the district court issued the contempt citation.

¶ 5 At Peters' contempt hearing, the prosecution presented three witnesses who testified about Peters' conduct and statements at the Knisley hearing. After the hearing, the district court entered an oral ruling finding that Peters had recorded the proceeding and was dishonest to the Knisley court. And it found that her dishonesty "obstructed the administration of justice" and offended the dignity of the court. The district court, therefore, found Peters in contempt and imposed a fine as a punitive sanction.

II. Analysis

¶ 6 Peters argues that the contempt judgment can't stand because insufficient evidence and findings supported it. We agree.

¶ 7 A party seeking punitive sanctions for contempt must prove — and a court must find — beyond a reasonable doubt that (1) a lawful order existed; (2) the alleged contemnor had knowledge of that order; (3) the alleged contemnor had the ability to comply with that order; and (4) the alleged contemnor willfully refused to comply with that order. *People ex rel. State Eng'r v. Sease*, 2018 CO 91, ¶ 23. Thus, as relevant here, to find a party in contempt and to

impose punitive sanctions, a court must find that the alleged contemnor knew about a court order and willfully violated it. *In re Marriage of Cyr*, 186 P.3d 88, 91-92 (Colo. App. 2008).

¶ 8 We review de novo whether sufficient evidence supports a contempt judgment. *People in Interest of K.P.*, 2022 COA 60, ¶¶ 22, 37. But we review a district court's contempt finding for an abuse of discretion. *Sease*, ¶ 24. A court abuses its discretion when it misconstrues or misapplies the law or its decision is manifestly arbitrary, unreasonable, or unfair. *In re Marriage of Evans*, 2021 COA 141, ¶ 25.

¶ 9 Peters is correct that the contempt judgment lacks several required findings, without which it cannot stand. First, the judgment doesn't plainly identify — by date or otherwise — the court order that Peters purportedly violated. And "[t]here can be no contempt without proof of the existence of an underlying court order which is violated." *In re Marriage of Zebedee*, 778 P.2d 694, 697 (Colo. App. 1988); *see also In re Marriage of Nussbeck*, 974 P.2d 493, 499 (Colo. 1999) (The purpose of punitive contempt is "to punish the offending party for refusal to obey lawful orders.").

¶ 10 Even so, the prosecution says that the district court "found that [the Knisley court] noted that there was a sign on the courtroom door 'that says no recording, no video, audio.'" There are three problems with this argument. First, the district court didn't make such a finding, and the prosecution's purported support for the statement is not from the court's findings; rather, it's simply a colloquy between defense counsel and the court. Second, the court couldn't reasonably make such a finding. That's because the prosecution never introduced the sign at the contempt hearing, and it's unknown what the sign said or whether it was a court order. And insofar as the prosecution points to the Knisley court's general reference to a decorum order entered in the Knisley case, the district court specifically declined to judicially notice the Knisley court's statements "for the truth of the matter asserted," though it judicially noticed the transcript of the Knisley hearing for other purposes. Thus, the record is devoid of any evidence about the existence, scope, or content of the court order that Peters allegedly violated. *See Hartsel Springs Ranch of Colo., Inc. v. Cross Slash Ranch, LLC*, 179 P.3d 237, 239 (Colo. App. 2007) ("Generally, there can be no contempt unless an order or decree requires a party to

do, or refrain from doing, some specific act."); *see also People v. Lockhart*, 699 P.2d 1332, 1336 (Colo. 1985) ("A party may be held in contempt only for refusal to do exactly what the court order requires.").

¶ 11 Second, even if we assume the prosecution presented some evidence that the Knisley court entered a decorum order that prohibited recording the proceedings, the district court didn't find that Peters had actual knowledge of the order. And, again, it couldn't make that finding because the prosecution presented no evidence that Peters — a nonparty to the Knisley case — had actual notice or knowledge of such an order.[1] The court seemingly acknowledged the absence of proof that Peters had actual knowledge of an order, stating that Peters' actions at the Knisley hearing indicated that she "was aware" that recording the proceeding "was not acceptable, if not a violation of a [c]ourt order." But some general awareness that certain conduct isn't "acceptable" isn't enough to support a punitive contempt finding. *See People in*

---

[1] In fact, Knisley testified at Peters' contempt hearing that she was unaware of any prohibition against recording the proceedings in her criminal case.

Interest of F.S.B., 640 P.2d 268, 269 (Colo. App. 1981) ("[A] contempt proceeding is fatally defective unless it is shown that the contemnor had actual notice or knowledge of the existence of the order at the time [she] is claimed to have violated it.").

¶ 12 Finally, the district court didn't find that Peters willfully violated the purported decorum order. Because the purpose of punitive contempt is to punish, "the contemnor's mental state of willful disobedience must be shown." *Cyr*, 186 P.3d at 91-92 (A willful act is done "voluntarily, knowingly, and with conscious regard for the consequences of [one's] conduct." (quoting *Nussbeck*, 974 P.2d at 499)).

¶ 13 For these reasons, we vacate the contempt judgment as well as the punitive sanction. Having so concluded, we needn't consider Peters' remaining contentions.

III. Disposition

¶ 14 The contempt judgment is vacated.

JUDGE GOMEZ and JUDGE TAUBMAN concur.

23CA1073 Peo v Peters 12-19-2024

COLORADO COURT OF APPEALS

Court of Appeals No. 23CA1073
Mesa County District Court No. 22CV10
Honorable Paul R. Dunkelman, Judge

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Defendant,

and Concerning Tina Peters,

Appellant.

JUDGMENT VACATED

Division III
Opinion by JUDGE DUNN
Gomez and Taubman*, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)
Announced December 19, 2024

Daniel P. Rubinstein, District Attorney, Richard Tuttle, Deputy District Attorney, Grand Junction, Colorado, for Plaintiff-Appellee

John Case, P.C., John Case, Littleton, Colorado, for Appellant

*Sitting by assignment of the Chief Justice under provisions of Colo. Const. art. VI, § 5(3), and § 24-51-1105, C.R.S. 2024.

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[1] In fact, Knisley testified at Peters' contempt hearing that she was unaware of any prohibition against recording the proceedings in her criminal case.

Interest of F.S.B., 640 P.2d 268, 269 (Colo. App. 1981) ("[A] contempt proceeding is fatally defective unless it is shown that the contemnor had actual notice or knowledge of the existence of the order at the time [she] is claimed to have violated it.").

¶ 12 Finally, the district court didn't find that Peters willfully violated the purported decorum order. Because the purpose of punitive contempt is to punish, "the contemnor's mental state of willful disobedience must be shown." *Cyr*, 186 P.3d at 91-92 (A willful act is done "voluntarily, knowingly, and with conscious regard for the consequences of [one's] conduct." (quoting *Nussbeck*, 974 P.2d at 499)).

¶ 13 For these reasons, we vacate the contempt judgment as well as the punitive sanction. Having so concluded, we needn't consider Peters' remaining contentions.

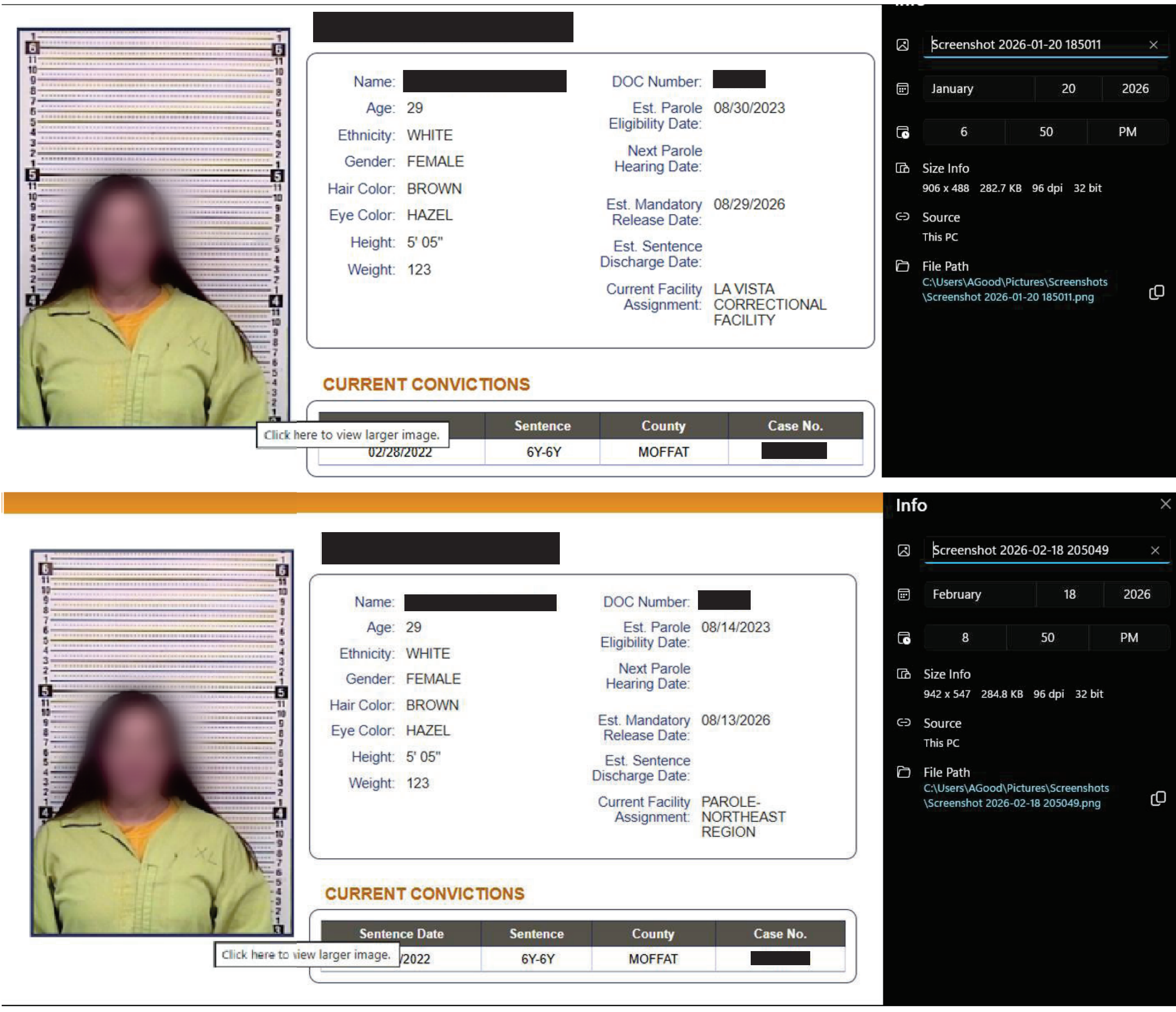
III. Disposition

¶ 14 The contempt judgment is vacated.

JUDGE GOMEZ and JUDGE TAUBMAN concur.

EXHIBIT G

DATE FILED
April 22, 2026 10:22 AM
FILING ID: E00782C5C4724
CASE NUMBER: 2022CR371



RID:D0412020CR000

District Court, Moffat County, State of Colorado
Case#:D0412020CR000 Div/Room: 1M
JUDGMENT OF CONVICTION, SENTENCE Amended

The People of the State of Colorado vs.

DOB 4/08/1996

AKA:
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DATE FILED
April 21, 2026 10:22 AM
FILING ID: ...724
CASE NUMBER: 2022CR371

The Defendant was sentenced on: 2/28/2022
People represented by...: TJOSVOLD, MATHEW
Defendant represented by: BROWN, SEAN
UPON DEFENDANT'S CONVICTION this date of: 2/28/2022
The defendant pled guilty to:
Count # 1 Charge: ASSAULT 2-STRANGULATION
C.R.S # 18-3-203(1)(i) Class: F4
Date of offense(s): 8/29/2020 to 8/29/2020 Date of plea(s): 11/30/2021

IT IS THE JUDGMENT/SENTENCE OF THIS COURT that the defendant be sentenced to
THE CUSTODY OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS
Department of Corrections 6.00 YEARS COUNT 1
Credit for Time Served 33.00 DAYS COUNT 1
CONCURRENT WITH COUNT 2 CASE NUMBER: 2021CR Moffat County
COURT FINDS DEFENDANT IS INDIGENT AND WAIVES ALL FINES AND FEES PER STATUTE.
RESTITUTION TO REMAIN OPEN FOR 91 DAYS. MOFFAT CASE 2020CR IS CONCURRENT
ANDCO-TERMINUS WITH MOFFAT CASE 20CR /LLM
Plus a mandatory period of parole as required by statute.
Months on parole 0036

	Assessed		Balance
$	10,394.81	$	10,248.90

THEREFORE, IT IS ORDERED the Sheriff of MOFFAT COUNTY shall convey the
DEFENDANT to the following department TO BE RECEIVED AND KEPT ACCORDING TO LAW
COLORADO STATE DEPARTMENT OF CORRECTIONS DIAGNOSTIC CENTER

ADDITIONAL REQUIREMENTS

The restraining order pursuant to C.R.S. 18-1-1001 shall remain in effect until final disposition of the action, or in the case of an appeal, until disposition of the appeal.
CREDIT FOR TIME SERVED SAME AS PRESENTENCE CONFINEMENT MOFFAT CASE 2020CR IS CONCURRENT AND CO-TERMINUS WITH MOFFAT CASE 20CR

JUDGMENT OF CONVICTION IS NOW ENTERED, IT IS FURTHER ORDERED OR RECOMMENDED:

District Court, Moffat County, State of Colorado
Case #: 2020 CR 151 Div/Room: 1M
JUDGMENT OF CONVICTION, SENTENCE Amended

The People of the State of Colorado vs. COUNTS, LYNDSEY MARIE

DATE 08/01/2022 NPT 2/28/2022 JUDGE/MAGISTRATE ____________
SANDRA H GARDNER

CERTIFICATE OF SHERIFF

I CERTIFY THAT I EXECUTED THIS ORDER AS DIRECTED
DATE ____________ SHERIFF ____________
BY DEPUTY ____________