

This is a transcript of the proceedings recorded
in this case on the above date.

1 (At 1:39 p.m., the following proceedings were
2 conducted and entered of record:)

3 THE COURT: Okay. We're going to get started
4 with our 1:30 docket and I'm going to call case number
5 2024M446. This is People of the State of Colorado v.
6 Harry Burris.

7 Come on up, Mr. Burris. You can have a seat here
8 at the table.

9 Okay. So Mr. Burris -- Mr. Burris appears here
10 in the courtroom today. I see Mr. Illingworth on Webex.

11 Mr. Illingworth, are you able to hear me?

12 MR. ILLINGWORTH: Yes, Your Honor. Thank you.

13 THE COURT: Okay. Mr. Illingworth appears on
14 behalf of Mr. Burris and Mr. Pierce appears here on behalf
15 of the People.

16 We are set for a hearing today to address a
17 diversion agreement that was filed with the Court on
18 February 6 of 2014 [sic]. The Court set that diversion
19 agreement for hearing, and so at this point in time today
20 my intention is to accept and adopt that diversion
21 agreement and stay proceedings.

22 But at this point in time, Mr. Pierce, I'm going
23 to give the People an opportunity to explain why there was
24 a belief that a diversion agreement was appropriate in this
25 case.

1 MR. PIERCE: Sure, Your Honor, and the People are
2 going to cite Colorado Revised Statute 18-1.3-101(9)(f),
3 exact language. "If the district attorney agrees to offer
4 diversion in lieu of further criminal proceedings and the
5 defendant agrees to all of the terms of the proposed
6 agreement, the diversion agreement may either be filed with
7 the court or held by the parties. A court filing shall
8 only be required if the probation department supervises the
9 defendant. When a diversion agreement is reached, the
10 Court shall," shall, "stay further proceedings."

11 The People would further quote *People v. District*
12 *Court*, 527 P.2d 50, Colorado 1974, a case where a court
13 demanded a record regarding a denial of an offer of a
14 deferred judgment and the People refused to give a record.
15 Quoting exact language from the Supreme Court, "Because of
16 the doctrine of separation of powers and because the
17 district attorney is a part of the executive branch, the
18 respondent court can no more require the district attorney
19 to give his reasons here than a court can require a
20 Colorado Governor to give his reasons for failing to grant
21 a pardon."

22 As the Court notes, this diversion agreement was
23 filed 19 days ago and the Court is in noncompliance with
24 the law. We would ask this Court to immediately stay the
25 proceedings for six months as required by the Colorado

1 Revised Statute and the Court's request for an explanation
2 is unconstitutional.

3 THE COURT: Well, Mr. Pierce, you certainly are
4 under no obligation to offer an explanation for why the
5 District Attorney's Office decided to enter into this
6 diversion agreement today. I did offer you that
7 opportunity, and so if you don't want to make that record,
8 then that's fine by the Court.

9 Mr. Illingworth, do you have anything to add?

10 MR. ILLINGWORTH: (No audible response.)

11 THE COURT: Mr. Illingworth, I think you're
12 muted. I'm not able to hear you.

13 MR. ILLINGWORTH: Can you hear me now,
14 Your Honor?

15 THE COURT: Gotcha now.

16 MR. ILLINGWORTH: Thank you, Your Honor.

17 Your Honor, at this time I just think that, under
18 the statute, the only thing left to do is to stay
19 proceedings. I would ask the Court to set a review date
20 sometime (inaudible) six months from the date the agreement
21 was signed. That's when the agreement would expire under
22 its terms and it would be appropriate for the Court to
23 review at that time whether the defense has been in
24 compliance with the agreement and then at that time the
25 Court would note whether or not it's obligated to dismiss

1 and seal the case.

2 THE COURT: Okay. Well, as noted by Mr. Pierce
3 and by Mr. Illingworth, the Court is in no position to
4 legally deny this diversion agreement at this point in
5 time. Colorado Revised Statute Section 18-3-101(2) [sic]
6 indicates that "in any case, either before or after charges
7 are filed, the district attorney may suspend prosecution of
8 the offense for a period not to exceed two years."

9 18-1.3-101(9)(f) indicates that "When a diversion
10 agreement is reached, the court shall stay further
11 proceedings."

12 And so quite frankly, folks, I'm not in a
13 position where I can do anything about this diversion
14 agreement at this point in time. Legally I have to stay
15 proceedings.

16 Let me make a couple comments about that. First,
17 let me say that, if this matter came before the Court in a
18 different context and this was presented as a plea
19 agreement before the Court, given the allegations in this
20 case and the nature of this case, the Court would
21 absolutely not accept a plea agreement here. I would
22 absolutely not do that under any circumstances.

23 And so yes, this is a diversion that's been
24 offered. Yes, I can't stop that, but I would make the
25 comment that, if this was presented to me as a plea

1 agreement, I absolutely would deny it. The facts in this
2 case that are alleged are very, very concerning to the
3 Court.

4 The facts are that there was a juvenile student
5 and a teacher, there was a report that a juvenile student
6 and a teacher were involved in a sexual relationship. It
7 is alleged that a report was made to the RE-1 School Board
8 and it is alleged that Mr. Burris, the superintendent to
9 the school district, failed to report those allegations to
10 law enforcement.

11 The Court would note that there is a letter in
12 the court file that was filed by the victim, the parents of
13 the juvenile in this case, and that letter was filed that
14 indicates that the victim was adamantly opposed to a
15 diversion agreement in this case.

16 I would also note a couple things. The community
17 puts incredible trust in educators, okay, and Mr. Burris is
18 a superintendent to the school district and, as such, he's
19 at the very top of the food chain in our school district.
20 Educators in our district have several important duties,
21 and one of the most important duties that educators have is
22 their role as mandatory reporters, to report the sort of
23 allegations that in this case that were alleged were not
24 reported.

25 Sitting here, I'm very disturbed that those

1 reports weren't made. I know that school officials go
2 through mandatory trainings regarding mandatory reporting,
3 and in this case what's alleged is that a mandatory report
4 wasn't made. In this case there were allegations of sexual
5 misconduct. The allegations were significant and, quite
6 frankly, looking at what's been ordered as part of this
7 diversion agreement, the Court would note that this looks
8 to me to be a slap on the wrist, okay.

9 What the diversion agreement contemplates is that
10 Mr. Burris pay \$83 in fees, that he complete Colorado
11 Mandated Reporter Training for Child Abuse and Neglect.
12 I'm not exactly clear what this training is, but my
13 assumption is this is the same training that's given
14 anyways to educators, to coaches. When I coached in the
15 school district, I underwent a similar training. And then
16 there's a provision in this that Court costs and fees will
17 be paid and that Mr. Burris not amass any new charges.

18 In essence, as I said, this looks to me like a
19 slap on the wrist in response to very significant
20 allegations. I am not in any sort of a position where I
21 can deny this diversion agreement, but I certainly am in a
22 position where I can sit here and express what appears to
23 me to be -- what appears to me to be, as I said, a slap on
24 the wrist.

25 So at this point in time I will stay proceedings

1 for a period of six months. I'll await further filing from
2 the District Attorney's Office and no further hearings will
3 be set at this point in time. I hope you all have a good
4 day.

5 MR. PIERCE: Thank you, Your Honor.

6 THE DEFENDANT: May we talk sometime?

7 THE COURT: No, Mr. Burris.

8 THE DEFENDANT: Good. Thank you. Have a good
9 day.

10 (The proceedings concluded at 1:48 a.m.)
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TRANSCRIBER'S CERTIFICATE

I, Deborah Moreash, do hereby certify that the foregoing proceedings were reduced to typewritten form by me, personally, from a digital recording of proceedings held on February 25, 2025, in the County Court, Montezuma County, Colorado, in Case No. 24M446, entitled THE PEOPLE OF THE STATE OF COLORADO v. HARRY J. BURRIS and the foregoing is a true and correct transcript of the digital recording to the best of my ability, based upon the recording, and that this is as accurate a transcript of what happened at that time and place as is possible, due to the conditions of the recording and/or duplicating.

Indiscernible, unintelligible, or inaudible statements are due to microphones not working properly, excessive noises, muffled voices, or the parties not staying within close proximity to the microphones.

Dated at Durango, Colorado, this 5th day of March, 2025.

/s/ Deborah Moreash

Deborah Moreash, RPR, CRR, FCRR