

DISTRICT COURT, JEFFERSON COUNTY, COLORADO 100 Jefferson County Parkway Golden, CO 80401	<p style="text-align: center;">▲ Court Use Only ▲</p>
<b>Plaintiff: PEOPLE OF THE STATE OF COLORADO</b>  <b>v.</b>  <b>Defendant: JENNIFER REBA EMMI</b>	
<i>Attorneys for Defendant:</i> G. Aaron Suazo, #31017 SUAZO LAW LLC 9609 S. University Blvd. #631691 Littleton, CO 80130 Phone: 720-715-7900 <a href="mailto:Asuazo@suazolaw.com">Asuazo@suazolaw.com</a>	Case #: 21CR263  Div: 9            Ctrm:
<b>DEFENDANT’S PETITION FOR POST CONVICTION RELIEF          PURSUANT TO RULE 35(C) AND C.R.S. §18-1-410</b>	

COMES NOW, the Defendant, Jennifer Emmi, by and through her attorneys of record, G. Aaron Suazo of Suazo Law LLC, and respectfully submits *Defendant’s Petition for Post Conviction Relief Pursuant to Rule 35(c)* and in support thereof states as follows:

1. Defendant, Jennifer Emmi, respectfully requests that this Honorable Court grant Ms. Emmi’s request for post-trial relief in the above-captioned cases: 20CR181, 20CR1954, and 21CR263. Ms. Emmi makes this request pursuant to Colorado Rules of Criminal Procedure Rule 35(c) and C.R.S. §18-1-410.
2. Ms. Emmi specifically requests that the Court vacate her convictions and order her release from confinement forthwith.
3. This Petition is filed within the time limits set forth in C.R.S. §16-5-402(1).

## BACKGROUND

4. Ms. Emmi is currently incarcerated serving sentences pursuant to a global plea agreement that resolved cases 21CR263, 20CR1954, and 20CR181. Mr. Donald Emmi, Ms. Emmi's former spouse, was a named victim in Ms. Emmi's cases.

5. Ms. Emmi was sentenced to a ten (10) year Department of Corrections sentence in 21CR263, to run concurrent with a four (4) year Department of Corrections sentence in 20CR1953, to also run concurrent with a two (2) year Department of Corrections sentence in 20CR181. Ms. Emmi has been serving those sentences since August 16, 2021, and has been continuously in custody since January of 2021. Pursuant to the plea agreement, the remaining charges were dismissed.

6. Ms. Emmi was originally incarcerated at the Denver Women's Correctional Facility ("DWCF"). However, Ms. Emmi was transferred to the Fluvanna Correctional Facility for Women ("FCCW") in Troy, Virginia in January 2023. Ms. Emmi has never had any case in Virginia, has no connection to Virginia, had a pending divorce appeal underway in Colorado at the time, an attorney seeking to see her at the DWCF,<sup>1</sup> and was transferred without explanation or notice very shortly after reporting to the leadership of the DWCF having been raped by a correctional officer. FCCW is under the supervision of the United States District Court for the Western District of Virginia, Charlottesville Division, pursuant to a settlement agreement in the matter of *Cynthia Scott, et al. v. Harold W. Clarke, et al.*, VAWD 3:12cv36, Doc 221-1, Settlement Agreement, consequent to consistent constitutionally deficient health care of inmates.

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<sup>1</sup> See attached as **Exhibit A** the Register of Actions from Ms. Emmi's Colorado divorce appeal before the Colorado Court of Appeals (Appellate Case No. 2023SC914) reflecting the appeal's pendency at the time of her transfer to Virginia (divorce appeal noted by Ms. Emmi on November 23, 2022 – nearly two (2) full months before her transfer to FCCW); and email correspondence between Maxwell Shaffer, Esq. of Holland & Knight and Ms. Emmi's mother reflecting the former's frustration in securing a visit prior to the unannounced transfer.

At the time of her transfer, Petitioner suffered a host of grave medical conditions sounding in autoimmune deficiency. Her health has declined dramatically and dangerously since her transfer to FCCW.

7. Ms. Emmi will be eligible for parole on May 23, 2025. However, this date may be advanced due to Ms. Emmi's additional accrual of good time.

### **PETITION FOR POST TRIAL RELIEF**

#### **CONVICTION UNDER ATTACK**

8. What was the date of your conviction?

Plead guilty: June 28, 2021

Sentenced: August 16, 2021

9. Which of the following resulted in your conviction? PLEA

10. Were you represented by an attorney? YES

Attorney: M. Colin Bresee

Address: 6465 Greenwood Plaza Blvd., Ste 180, Greenwood Village, CO  
80111

Attorney: Malcolm Seawell

Address: 1873 S Bellaire St., Ste 1400, Denver, CO 80222

Nature of Representation: pretrial, plea, sentencing

#### **DIRECT APPEAL**

11. Was this case appealed? NO

Appeal Case Number: None

Appellate Court: N/A

Result: N/A

Date: N/A

POSTCONVICTION PROCEEDINGS

12. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal, such as Rule 35(a), Rule 35(c), or a Writ of Habeas Corpus? YES
13. If your answer to 5 was “YES” give the following information for each petition filed: On December 6, 2021, Petitioner, through counsel, filed a Motion Under Rule 35(c) To Set Aside Convictions and Withdraw Guilty Pleas Based on Undisclosed Conflict of Interest [on the p[art of the District Attorney]... This Court, on December 16, 2021, ordered the State to respond and the matter set for evidentiary hearing. On December 22, 2021, Petitioner filed *pro se* a “Forthwith Combined Motion for Reduction of Sentence... and Modification of Protection Orders” wherein she adduced newly discovered evidence substantiating the conflict of interest in the form of an offer by counsel for her ex-husband (and principal complaining witness in cases at bar) to “help with the criminal cases and... create a pathway to reunification with the children if [Petitioner] would give up all of the property.” The State responded on December 28, 2021, acknowledging the relationship subject of the conflict of interest. Thereafter, this Court on January 19, 2022, denied without a hearing both Petitioner’s motion through counsel and her *pro se* motion.

## REQUEST FOR COUNSEL

14. Are you requesting that counsel be appointed to represent you on this petition? No.

Ms. Emmi is represented by private counsel.

## CLAIMS

15. First, Ms. Emmi is being held unlawfully as she did not enter a knowing and voluntary plea.

16. Second, Ms. Emmi is being held unlawfully as the District Attorney failed timely to disclose a conflict of interest.

17. Third, Ms. Emmi is being held unlawfully as the District Attorney violated the requirements of *Brady v. Maryland* and its progeny by failing to disclose exculpatory evidence in her possession.

18. Fourth, Ms. Emmi is being held unlawfully because of the unconstitutional conditions of her confinement.

## GROUND OF PETITION

19. Ms. Emmi asserts the following: her conviction was obtained or sentence imposed in violation of the Constitution or laws of the United States or the constitution or laws of this state (see Rule 35(c)(2)(I) and C.R.S. §18-1-410(1)(a)); there exists evidence of material facts, not theretofore presented and heard, which, by the exercise of reasonable diligence, could not have been known to or learned by the Ms. Emmi or her attorney prior to the submission of the issues to the court or jury, and which requires vacation of the conviction or sentence in the interest of justice (see Rule 35(c)(2)(V) and C.R.S. §18-1-410(1)(e)); and any other grounds otherwise properly the basis for collateral attack upon a criminal judgment (see Rule 35(c)(2)(VI) and C.R.S. §18-1-410(1)(g)).

**I. Ms. Emmi Did Not Tender a Knowing and Voluntary Plea.**

20. Ms. Emmi is being held unlawfully as she did not enter a knowing and voluntary plea in light of her illnesses, prior prescribed steroid injections, the circumstances of her confinement prior to the entry of her plea, and the circumstances of her plea colloquy.

21. At the time she came into confinement in January 2021, Ms. Emmi already suffered a host of grave medical conditions sounding in auto immune disorder.<sup>2</sup> These included Antiphospholipid Antibody Disorder, Unclassified Connective Tissue Disease (UCTD), Lupus, and Hypercoagulation defects (clots, emboli). (Howard Opinion I , p. 4.) Additionally, Ms. Emmi had suffered spontaneous episodic blindness tentatively diagnosed as Optic Neuritis and “treated symptomatically with high dose intravenous steroids.” (Howard Opinion I at p. 2.) This constellation of conditions – each grave standing alone – left her in a dramatically debilitated state, i.e., with extreme fatigue, frequent discomfort or pain and general malaise.<sup>3</sup> Under the best conditions, Ms. Emmi’s physical state would have left her severely challenged in confronting any stressful or complicated decision.

22. The conditions of Ms. Emmi’s confinement for the six (6) months preceding her plea, however, were anything but ideal. For reasons never disclosed, Jefferson County opted to keep Ms. Emmi in solitary confinement for nearly the entirety of her six months confinement preceding her plea. However,

Given the severe consequences of long-term placement  
in solitary confinement, such conditions must be treated  
as a last resort, used in only the most extreme of cases. And  
even then, prison officials must meaningfully consider on a

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<sup>2</sup> See attached as **Exhibit B** the opinion of Dr. Charles Howard dated April 2, 2024 (based on his review of Ms. Emmi’s medical records in confinement in Colorado and in Virginia, as well as the diagnoses of treating physicians predating her confinement) (“Howard Opinion I”).

<sup>3</sup> See attached as **Exhibit C** the Second Supplemental Opinion of Dr. Howard dated August 12, 2024 (“Howard Opinion III”).

periodic basis whether solitary remains necessary.

*Grissom v. Roberts*, 902 F. 3d 1162, 1179 (10<sup>th</sup> Cir. 2018) (Lucerno, J. concurring in judgment).

23. Solitary confinement is considered an absolute last resort because confinement deprived of society depresses, disorients and eventually dismantles the cognitive capacities of the subject inmate.

Given our society's present understanding that prolonged solitary confinement inflicts progressive brain injury, we cannot consider such prolonged, unjustified confinement as anything other than extreme and atypical

*Id.* at 1175-77 (Lucerno, J. concurring in judgment).

24. Given the documented effect of solitary confinement on individuals in full enjoyment of their physical and mental capacities, query its effect on an inmate, like Ms. Emmi, already deprived of the normal complement of energy and the mental focus that depends on it?

25. Pretrial detention may not be punitive, as opposed to administrative, but it becomes punitive when "it appears excessive in relation to the alternative purpose." *Bell v. Wolfish*, 441 U.S. 520, 538 (1979).

26. Lacking a compelling justification for the extreme measure of solitary confinement for six months, Ms. Emmi's pre-plea detention operated impermissibly as punishment. More importantly, it combined with her physical infirmities to preclude her ability to enter a plea that is "knowing, voluntary and intelligent" affording her "a full understanding of what the plea connotes and of its consequence." *United States v. Hurlich*, 293 F. 3d 1223, 1230 (10<sup>th</sup> Cir. 2002) (citing *Boykin v. Alabama*, 395 U.S. 238, 244 (1969)).

27. The circumstances of Ms. Emmi's plea – alone in a room at the jail while the Court and her counsel participated in the courtroom in another building – would have done nothing to assist her understanding of the proceedings.

28. Therefore, Ms. Emmi's conviction was obtained in violation of the due process clause of the Fifth Amendment, the Sixth and the Eighth Amendments and the constitution and the laws of the State of Colorado. See Rule 35(c).

29. Ms. Emmi hereby respectfully requests of the Court that it compel disclosure by the State of all documents comprising or reflecting communications between the District Attorney's Office and the Sheriff's Department regarding Ms. Emmi's manner and/or conditions of confinement and/or her medical state prior to her plea of guilt.

## **II. The District Attorney Failed Timely to Disclose a Conflict of Interest**

30. Ms. Emmi is being held unlawfully as the District Attorney failed timely to disclose a conflict of interest.

31. Unbeknownst to Ms. Emmi during the runup to and through her plea of guilt, the Jefferson County District Attorney suffered a profound and undeniably material, undisclosed conflict of interest in prosecuting Ms. Emmi. To wit, the District Attorney's husband was employed by the principal complaining witness in the constellation of cases levied against Ms. Emmi – her erstwhile husband, Donald Emmi. This conflict was revealed to the Court first by Ms. Emmi's erstwhile counsel, Colin Bresee, in his motion of December 6, 2021, to set aside the convictions pursuant to Rule 35(c). Shortly thereafter on December 22, 2021, Ms. Emmi proceeding *pro se* (having terminated Counsel Bresee's representation) filed her motion for reduction of sentence.<sup>4</sup> Mr. Bresee's motion quoted verbatim an email received by him from the District Attorney several weeks before he filed the motion (and well after the case was finalized by sentencing).

Colin,

My husband, David Wunderlich, was an attorney, not a

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<sup>4</sup> Ms. Emmi's *pro se* motion referenced only case 20CR1954 while Mr. Bresee's referenced all three cases at bar.



partner, at Hoban Law where there were no equity partners. At Hoban, David did not get commissions or any work directed to him by Mr. Emmi...

December 6, 2021 Motion at 11.

32. Mr. Bresee further pointed out that, days after Ms. Emmi was taken into custody on January 25, 2021, Mr. Wunderlich had announced on his LinkedIn page his new appointment as “Senior Practice Lead,” at Hoban Law (December 6, 2021 Motion at 12), i.e., an employee in the firm where Mr. Emmi was a partner. The State confirmed Mr. Wunderlich’s employment in a responsive pleading on December 28, 2021.

33. Reversing its earlier order for an evidentiary hearing, the Court denied both the counselled and un-counselled defense motions for relief in two orders (one as to all three cases at bar, and one as to case 20CR1954, the subject of Ms. Emmi’s pro se motion) of January 19, 2022, noting in part, that: “Ms. Emmi could have discovered the information requiring recusal prior to entering a plea and prior to sentencing... [and] there is no evidentiary support for the conclusion recusal would have made any difference.” Order Regarding Crim. P. Rule 35(c) Motion at 9.

34. A criminal defendant has no affirmative duty to seek out evidence of prosecutorial misconduct, just as avoidance of detection does not excuse a prosecutor’s misconduct. Moreover, a prosecutor’s undisclosed receipt of financial benefits (e.g., contributions to household income) from a testifying “victim” constitutes beyond cavil a conflict of interest.

With respect to criminal matters, the Supreme Court ‘established a categorical rule against the appointment of an interested prosecutor, adherence to which requires no subtle calculations of judgment.’

*United States v. Lanier*, 879 F. 3d 141, 151 (5<sup>th</sup> Cir. 2018) (citing *Young v. ex rel Vuitton et Fils S.A.*, 481 U.S. 787, 814 (1987)).

35. It bears noting that the particularized indicator of the conflict's materiality, a January 20, 2021 telephone call between the divorce attorneys for Donald Emmi, and Jennifer Emmi, wherein the former offered to influence the prosecution of the criminal case against the client of the latter, was unknown to Ms. Emmi's erstwhile defense counsel, Colin Bresee, at the time he ceased to represent her. It develops that that conversation was contemporaneously memorialized by Ms. Emmi's divorce lawyer and related to her in a billing statement. The billing statement, reporting the offer of Donald Emmi's divorce counsel to "help with the criminal cases,"<sup>5</sup> connotes Mr. Emmi's dramatically inappropriate influence over the state's charging decisions. Moreover, the billing statement substantiates the explanation for the several specific abuses of prosecutorial authority claimed by Ms. Emmi and listed a. through h. in the Court's order of January 19, 2022 denying relief. (Order Regarding Crim. P. Rule 35(c) Motion at 7).

36. Neither the fact of the conflict of interest, nor its particularized manifestation in the telephone call of January 20, 2021, nor the definitive proof of same in the form of the billing statement was – or reasonably could or should have been – known at the time of Ms. Emmi's sentencing – the operative date for compliance with Crim. R. 35(c)(2)(V). Nor could her erstwhile counsel, calved of responsibility for the case, reasonably be expected to have learned of the proof of the conflict – now timely presented to the Court – prior to departing the case, but for which he could have lodged an appeal of the Court's orders dismissing both of the Rule 35 Motions.

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<sup>5</sup> See attached as **Exhibit D** the billing statement referenced in the *pro se* motion by Ms. Emmi after she had terminated Mr. Bresee's services.

37. The District Attorney's failure to timely disclose her conflict of interest deprived Ms. Emmi of her Fifth Amendment right to due process.

38. Therefore, Ms. Emmi's conviction was obtained in violation of the due process clause of the Fifth Amendment and the Constitution and the laws of the State of Colorado, which violation is timely presented to the Court as the fact and the proof thereof "by the exercise of reasonable diligence, could not have been known to or learned by the defendant or his attorney prior to the submission of the issues to the Court or to the jury." See Rule 35(c).

39. Ms. Emmi hereby respectfully requests of the Court that it compel disclosure by the State of all documents comprising or reflecting communications between or among any member of the District Attorney's Office, the Jefferson County Sheriff's Department and Donald Emmi or anyone acting or speaking on his behalf.

### **III. The District Attorney Withheld Exculpatory Evidence**

40. Ms. Emmi is being held unlawfully as the District Attorney failed to disclose exculpatory evidence in its possession.

41. Ms. Emmi submits that her cell phone was seized and that her seized phone contains exculpatory evidence. This exculpatory content includes photographs of Ms. Emmi bearing bruises inflicted by Mr. Donald Emmi, threatening text messages from Mr. Emmi, and text messages from third parties concerned about Ms. Emmi safety at the hands of Mr. Emmi.<sup>6</sup>

42. The State had an affirmative duty, i.e., regardless of whether it received any request, to disclose evidence in its possession revealing physical and/or emotional abuse by the putative victim of Ms. Emmi's alleged misconduct.

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<sup>6</sup> See attached as **Exhibit E** a photograph of bruising to Ms. Emmi's face from a blow by Donald Emmi, believed, along with other content reflective of his physical and emotional abuse of her, to be stored in Ms. Emmi's iPhone held by the State.

The prosecution's affirmative duty to disclose evidence favorable to a defendant can trace its origins to early 20th-century strictures against misrepresentation and is, of course, most prominently associated with this Court's decision in *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963)...

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In the third prominent case on the way to current *Brady* law, *United States v. Bagley*, 473 U.S. 667, 105 S.Ct. 3375, 87 L.Ed.2d 481 (1985), the Court... held that regardless of request, favorable evidence is material, and constitutional error results from its suppression by the government, "if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different.

*Kyles v. Whitley*, 514 U.S. 419, 437 (1995).

43. The 10<sup>th</sup> Circuit has more recently confirmed a state's affirmative duty to disclose exculpatory information. "Under *Brady*, the prosecution has a duty to disclose material impeachment evidence that is favorable to the defense." *McCormick v. Parker*, 821 F.3d 1240, 1247-48 (10th Cir. 2016).

44. Ms. Emmi has been convicted of threatening and wreaking violence against her principal accuser, her ex-husband. There can be no question that evidence establishing her justified fear of him would have been favorable and material.

45. Ms. Emmi's conviction was obtained in violation of the due process clause of the Fifth Amendment and the constitution and laws of the State of Colorado. See Rule 35(c).

46. Ms. Emmi hereby respectfully requests of the Court that it compel disclosure by the State of the contents of her seized mobile phone – configured and arranged in the order and manner in which it appeared upon the occasion of the seizure of the device.

### **III. Ms. Emmi's Confinement Conditions are Unconstitutional**

47. Ms. Emmi's is being held unlawfully because the conditions of her confinement constitute cruel and unusual punishment.

48. As related earlier in this petition, Ms. Emmi was transferred to prison in Virginia under the Interstate Compact for reasons unclear and never specified – very shortly after reporting that she had been raped by a DCWF corrections officer named Michael Beachley (spelling unknown).<sup>7</sup> It bears repeating that Ms. Emmi was sent to Virginia, a state where she has no one – from Colorado wherein still live her mother and three children. Moreover, at the time of the transfer, Ms. Emmi had judicial proceedings (e.g., her divorce appeal) pending in Colorado. Finally, an attorney engaged to investigate her conditions of confinement in Colorado, Maxwell Shaffer of Holland & Knight, had been treating with the Colorado facility to secure access to her.<sup>8</sup>

49. As earlier stated, at the time of Ms. Emmi's transfer, she suffered a host of serious medical conditions sounding in Auto-Immune diseases, to include Antiphospholipid Antibody Syndrome, Unclassified Connective Tissue Disease, Lupus, and Hypercoagulation defects. These conditions have worsened during her tenure at FCCW – a facility with a documented history of rendering constitutionally deficient medical care to inmates. Worse, FCCW staff appear to have manipulated her medical records to misrepresent the facility's treatment efforts

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<sup>7</sup> Documentary evidence corroborates a troubling nonchalance on the part of DWCF staff about the sexual safety of their inmates. See attached as **Exhibit F** a DWCF health care worker attests in writing to finding Ms. Emmi the summer prior to Ms. Emmi's transfer to Virginia, semi-conscious and in a state of partial undress while a male Corrections Officer stood by as she dressed Ms. Emmi. Regrettably, FCCW's medical records do not include any Rape Kit performed upon her arrival in Virginia notwithstanding her complaint of the rape reflected in the records.

<sup>8</sup> See **Exhibit A** herein comprising the Register of Actions from Ms. Emmi's Colorado divorce appeal before the Colorado Court of Appeals (Appellate Case No. 2023SC914) reflecting the appeal's pendency at the time of her transfer to Virginia (divorce appeal noted by Ms. Emmi on November 23, 2022 – nearly two full (2) months before her transfer to FCCW); and email correspondence between Maxwell Shaffer, Esq. of Holland & Knight and Ms. Emmi's mother reflecting the former's frustration in securing a visit prior to the unannounced transfer.

and Ms. Emmi's responses thereto – e.g., recording refusal of treatment on occasions where none was actually offered or when Ms. Emmi was physically unable to transport herself to the prison clinic.<sup>9</sup>

50. The net effect is that Ms. Emmi, who had no business being sent to Virginia from Colorado in the first place, languishes in a facility notorious for constitutionally deficient medical care of inmates, in imminent danger of a catastrophic health collapse. In the words of Dr. Charles Howard: (Howard Opinion I at 4):

Her working diagnoses for this constellation of findings have been expanded to be Antiphospholipid Antibody Syndrome, Unclassified Connective Tissue Disease,(UCTD), Lupus, Hypercoagulation defects (clots, emboli). They all fall into the category of Auto-Immune diseases.

Howard Opinion I at 4.

He is emphatic in his conclusion of his opinion:

To reiterate, Ms. Emmi requires extraordinarily complex medical care ONLY available at a Major University Medical Center, and NOT in a community of correctional setting.

She is gravely ill with multiple autoimmune diseases. Ms. Emmi has not received proper medical care in confinement. She cannot receive proper medical care in confinement as it is not available. Failure to release her forthwith to appropriate care risks a catastrophic decline in health or death.

Howard Opinion I at 16.

51. The punitive purpose of Ms. Emmi's sentence has been more than met at this stage by the unwarranted suffering created by the gravely deficient medical care she has

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<sup>9</sup> See attached as **Exhibit G** signatures collected by Ms. Emmi of over ten (10) FCCW inmates to the effect that staff routinely record falsely that inmates have refused proffered medical treatment. Note further Dr. Howard's concern articulated in his opinion about the substandard record keeping attending recorded "refusals" of medical treatment at FCCW.

systematically received. Further, considerations of equity impel her release now before her health further deteriorates unnecessarily – perhaps terminally.

52. Were there any doubt as to the gravity of Ms. Emmi’s plight, it has been removed by the heart attack she has recently been revealed to have suffered at FCCW – which event was neither diagnosed nor treated.

53. Medical records finally received from FCCW, reveal that she suffered (sometime between October 2023 and January of this year) a heart attack (her first) – undiagnosed and untreated – while at FCCW. The Supplemental Opinion of Dr. Charles Howard (“Howard Opinion II”) (with pertinent EKGs) confirms that she continues at grave risk of a second – possibly fatal – heart attack.<sup>10</sup>

In lay terms, Ms. Emmi has suffered a myocardial infarction or heart attack. This heart attack occurred sometime after October 18<sup>th</sup> of last year (i.e., while in custody at FCCW) and appears to have been her first.

**There is no indication that FCCW ever diagnosed – much less treated – this heart attack (i.e., the records bear no indication Ms. Emmi was ever sent to any hospital for evaluation and treatment of the heart attack).**

Howard Opinion II at 1 (emphasis included).

54. Dr. Howard leaves no room for confusion in his conclusion.

**Any heart attack – especially one that is not treated – increases the risk of a subsequent heart attack. In addition to my previous conclusions from Ms. Emmi’s records as initially provided, her heart attack within the last seven months gravely enhances her risk of a second – and this time, lethal - cardiac event.**

Howard Opinion II at 2 (emphasis included).

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<sup>10</sup> See attached as **Exhibit H** the Supplemental Opinion of Charles Howard, M.D. (“Howard Opinion II”).

55. Ms. Emmi's confinement may devolve into a death sentence unless the Court grants - quickly - her request for post-conviction relief.

56. Ms. Emmi's confinement violates the Eighth Amendment and the constitution and the laws of the State of Colorado. See Rule 35(c).

57. Ms. Emmi hereby respectfully requests of the Court that it compel disclosure by the State of all documents comprising or reflecting communications between or among any member of the Colorado Department of Corrections and the Virginia Department of Corrections regarding Ms. Emmi's transfer, any internal communications of the Colorado Department of Corrections regarding Ms. Emmi to include without limitation any pertaining to her complaint of any sexual assault in confinement or pertaining to Corrections Officer Michael Beachley, and the entirety of the intake records generated upon Ms. Emmi's arrival at FCCW (to include the photographs of her injuries from the sexual assault at DWCF which have been repeatedly requested – without success – of FCCW).

### **CONCLUSION**

WHEREFORE, Defendant Jennifer Emmi respectfully requests this Court GRANT *Defendant's Petition for Post Conviction Relief Pursuant to Rule 35(c) and C.R.S. §18-1-410*, or in the alternative, that the Court set the matter for a hearing to be heard further on this issue.

Respectfully submitted this 15<sup>th</sup> day of August, 2024.

SUAZO LAW LLC

*/s/ Original Signature on File*

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G. Aaron Suazo, #31017  
ATTORNEY FOR DEFENDANT JENNIFER EMMI



**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing *DEFENDANT'S PETITION FOR POST CONVICTION RELIEF PURSUANT TO RULE 35(C) AND C.R.S. §18-1-410* was served upon the below named party by electronic filing this 15<sup>th</sup> day of August, 2024.

Jefferson County District Attorney's Office                      (via CCES)  
500 Jefferson County Parkway  
Golden, CO 80401

Jennifer Emmi    (via U.S. Mail)  
Fluvanna Correctional Center for Women  
144 Prison Lane  
Troy, Virginia 22974

*/s/ Original Signature on File*

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Courtney Eaton, Paralegal