



## OFFICE OF THE STATE PUBLIC DEFENDER

MEGAN A. RING

DATE FILED ~~January 20, 2023~~ ~~January 20, 2023~~ STATE PUBLIC DEFENDER

January 20, 2023

The 4th Judicial District Attorney's Office  
 District Attorney Michael Allen  
 105 E. Vermijo Ave  
 Colorado Springs, CO 80903

Re: Case No. 22CR6008, 4<sup>th</sup> Judicial District Attorney's Violation of Attorney-Client Confidentiality

Dear Mr. Allen, Ms. Viehman, and Mr. Short,

It has just come to our attention that you have been in possession of attorney client confidential material since December 7, 2022. We have no idea why your office never notified us of this constitutional violation of our client's right for almost two months' time. We have no idea why you have still not discovered this material to us as of this time. We are aware that your office made a misrepresentation to the Honorable Judge McHenry about your compliance with your constitutional obligations regarding discovery, when you stated on the record that you had given us all the Club Q video surveillance and that in fact had not occurred and still had not occurred.

We learned from the pleading which you filed today that your employees have actually reviewed the material that contains attorney-client privilege, we are a loss as to why you have given material that violates attorney-client privilege to the Court, Mx. Aldrich HAS NOT and DOES NOT give permission for you or your agents to violate their right to attorney client privilege, and Mx. Aldrich also HAS NOT and DOES NOT give permission for the Court, Judge McHenry to violate Mx. Aldrich's attorney-client privilege and the Court should not possess any material that violates attorney-client privilege.

This jail surveillance, that your pleading says contains the attorney-client privilege material, we still do not from you. Just so it is clear, we have made the following multiple attempts to get the discovery to work:

1. 1/11/23, our investigator picked up the discovery dated 1/9/23 that has this jail surveillance;
2. 1/13/23, we discovered that we needed a program to view this footage; and it was not working;
3. 1/16/23, our office contacted your investigator Kim Martinez informing her that were never given the program to be able to access it;
4. 1/17/23, at your office's request, our investigator brought the drive containing the discovery back to your office.

PUBLIC DEFENDER • 30 PIKES PEAK, SUITE 200  
 COLORADO SPRINGS, COLORADO 80903-1603  
 PHONE: (719) 475-1235 • FAX: (719) 475-1476

5. 1/20/23, your officer notified our office that your office had fixed the problem and to come and pick up the drive again. Our investigator picked up the drive, upon return to our office, that folder was completely empty;
6. 1/20/23, at 3:40 p.m. our investigator sent an email to Ms. Martinez at your office with a video showing that the file is completely empty.

As of the writing of this letter we still do not possess this jail surveillance. It is entirely unclear to us, why you and the Judge but of whom do not have permission to violate Mx. Aldrich's attorney client privilege are in possession of this material, and Mx. Aldrich's attorneys still not possess this material.

We are requesting that you disclose to us all surveillance of Mx. Aldrich at the El Paso County Jail that is in your possession immediately.

To be clear we are specifically requesting pursuant to *Brady v. Maryland*, 373 U.S. 83, 87 (1963), *Kyles v. Whitley*, 514 U.S. 419 (1995), *Giglio v. United States*, 405 U.S. 150 (1972), *United States v. Bagley*, 473 U.S. 667 (1985), and Crim. P. 16(I)(a)(1), (2), the disclosure of:

1. Any and "jail surveillance footage, specifically " 22CR6008-21 CJC Surveillance 11.22.22 – 12.05.22 – CSPD Barcode ;
2. Please provide to us the names of every employee from the 4<sup>th</sup> Judicial District Attorneys' that possessed, transferred, accessed, or copied, the above mentioned file;
3. Please provide to us the names of every employee from the El Paso County Sheriff's Office that possessed, transferred, accessed, or copied, the above mentioned file;
4. Please provide to us the names of every member of law enforcement that possessed, transferred, accessed, or copied, the above mentioned file;

Please provide these materials immediately but no later than **9:00 p.m. on FRIDAY January 20, 2023**. If you believe that this material has already been sent to us to in discovery, please inform us of the bates stamp page number of these documents.

A hard copy of this letter will follow in the mail. If we do not hear from you by **9:00 p.m. on FRIDAY January 20, 2023**, we will consider that as a formal refusal of our request.

Sincerely,



---

Joseph Archambault (No. 41216)  
Chief Trial Deputy State Public Defender



---

Michael Bowman (No. 48652)  
Deputy State Public Defender