



OFFICE OF THE STATE PUBLIC DEFENDER

MEGAN A. RING

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

January 18, 2023

Second Request

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

Re: Case No. 22CR6008, Surveillance of Club Q

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

In our review of discovery, it has come to our attention that we have not been provided certain materials that tend to negate guilt or mitigate punishment in this case. *See* Crim. P. 16(I)(a)(2); *People v. Rodriguez*, 786 P.2d 1079, 1082 (Colo. 1989). In our letter dated January 2, 2023, we requested that you disclose to us:

“Any and all video footage, raw or edited, taken or preserved on 11/19/22 from 6pm until 3am 11/20/23. “ *See* Letter dated 1/2/23.

On January 2, 2023, we made sure you were aware that while we had received approximately 7 clips of edited video from the evening of November 19, 2022, none of them were longer than 5 mins in length. We asked that you comply with your discovery obligations and disclose the surveillance to us.

In court on January 13, 2023, you made representations on the record to Judge McHenry that your office had disclosed to us surveillance from Club Q. Our staff has discovered this was not true. The surveillance that was discovered to us last week, the week of January 9, 2023, was NOT surveillance from Club Q. The surveillance that we did receive which was NOT from Club Q appears to be jail surveillance and our staff confirmed this with members of your office. However, the jail surveillance files are in a format that cannot be opened. Your staff also represented to us that they were working to disclose functioning jail surveillance files. To date, we have still never received the actual footage from Club Q. We have only received approximately 7 clips of edited video from the evening of November 19, 2022, however none of them are longer than 5 mins in length, which is what we had received when we sent you our first request to comply with your constitutional discovery obligations on this issue, on January 2, 2023.

Based on your representations to the Court on the record on January 13, 2023, that you had the discovery of the surveillance from Club Q, and your claim that we have it; we are requesting that you disclose to us all Club Q surveillance that is in your possession immediately.

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To be clear we are 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 all video footage, raw or edited, taken or preserved on 11/19/22 from 6pm until 3am 11/20/23.

Please provide these materials as soon as possible but no later than **5:00 p.m. on Tuesday January 18, 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 **5:00 p.m. on Tuesday January 18, 2023**, we will consider that as a formal refusal of our request.

If you made a misrepresentation to the Court on January 13, 2023, you need to correct the record immediately with the Court and also inform us when you will discover this material to us.

Sincerely,



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



Michael Bowman (No. 48652)
Deputy State Public Defender