

DISTRICT COURT, EL PASO COUNTY, COLORADO 30 East Pikes Peak Avenue, Suite 200 Colorado Springs, Colorado 80903	DATE FILED: January 20, 2023 10:00 PM
PEOPLE OF THE STATE OF COLORADO, Plaintiff v. <b>ANDERSON ALDRICH,</b> Defendant	<input type="checkbox"/> COURT USE ONLY <input type="checkbox"/>
Megan Ring, Colorado State Public Defender Joseph Archambault #41216 Chief Trial Deputy Michael Bowman #48652 Deputy State Public Defender 30 East Pikes Peak Avenue, Suite 200 Colorado Springs, Colorado 80903 Phone: (719) 475-1235 Fax: (719) 475-1476 Email: <a href="mailto:springs.pubdef@coloradodefenders.us">springs.pubdef@coloradodefenders.us</a>	Case No. <b>22CR6008</b>          Division <b>21</b>
<p style="text-align: center;"><b>OBJECTION TO THE COURT TAKING POSSESSION OF ATTORNEY-CLIENT PRIVILEGED MATERIAL</b></p> <p style="text-align: center;"><b>[D-15]</b></p>	

Mx. Anderson Aldrich<sup>1</sup>, by and through counsel, OBJECTS to the Court taking possession of any and all attorney client related material – specifically that material identified in [P-3] People’s Notice of Deposit:

1. On Friday, January 20, 2023 at 12:26pm, the state filed a notice of deposit with the court and tendered, to the court, material that: (a) has not been provided to defense counsel; and (b) is protected by attorney-client privilege and confidentiality.
2. Despite repeated attempts to obtain a WORKING copy of the media discussed in [P-3], which contains the violation of Mx. Aldrich’s attorney-client privilege and confidentiality, Mx. Aldrich still has not been given a copy of the material. *See* Attached Exhibit A 1/20/23 Letter from Defense to Prosecution.
3. The prosecution for some reason has shared this material that contains violation of Mx. Aldrich’s attorney-client privilege with the United States Attorney’s Office. *See*

<sup>1</sup> Anderson Aldrich is non-binary. They use they/them pronouns, and for the purposes of all formal filings, will be addressed as Mx. Aldrich.

Attached Exhibit B, DA investigator report. The prosecution has now also given this material to the Court.

4. Mx. Aldrich is aware of no legal authority and the Prosecution did not cite to any in [P-03] which allows the prosecution to violate Mx. Aldrich's constitutional rights to due process by hiding discoverable material in the Court's chambers, instead of disclosing it to the defense. *See* U.S. Const. amends. V, VIII, XIV; Colo. Const. art. II, §§ 20, 25; Crim. P. 16; *Brady v. Maryland*, 373 U.S. 83, 87 (1963).
5. This is not the first time the prosecution has acted inappropriately regarding their non-compliance with discovery. At a hearing on January 13, 2023, the prosecution claimed that the voluminous discovery they provided to the defense the week of January 9, 2023, contained the Club Q surveillance. This claim was factually inaccurate. *See* Exhibit C, Letter from defense to prosecution, 1/18/23.
6. It is also now clear that the prosecution has violated Crim. P 16, as they gave discovery in this case to the U.S. Attorney's Office in violation of Crim. P. 16. (III)(c).
7. In addition, Exhibit B makes it clear that the prosecution is currently in blatant violation of the Court's order regarding [D-11], which the prosecution AGREED to be bound by. TR 12/6/21, p 24-26. [D-11] argued that the prosecution was not allowed to access the visitor logs. The Court granted [D-11], and the only exception the Court made to [D-11] was related to incident logs. *Id.* Exhibit B, proves the District Attorney in POSSESSION of professional visitor log for Mx. Aldrich, in violation of the Court's order on [D-11].
8. Mx. Aldrich has a constitutional right to counsel. U.S. Const. amend. VI, XIV; Colo. Const. art. II § 16.
9. A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is otherwise permissible given certain explicit exceptions. *See* C.R.P.C. 1.6 (a).
10. A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to information relating to the representation of a client. C.R.C.P. 1.6.
11. "[A]ttorney-client privilege" means the protection that applicable law provides for confidential attorney-client communications. C.R.E. 502 (f)(1).
12. C.R.E. 502 outlines when a waiver exists and the limitations of such a waiver. *See*. C.R.E. 502.



13. "The burden of establishing such a waiver [of attorney client privilege] rests with the party seeking to overcome the privilege." *People v. Madera*, 112 P.3d 688 (Colo. 2005) (quoting *Wesp v. Everson*, 33 P.3d 191, 198 (Colo. 2001)).
14. Mx. Aldrich has provided no waiver of either attorney-client privilege or confidentiality, and the Court has made no such finding. Although Mx. Aldrich has already made it explicitly clear in [D-2], that they were asserting their right to attorney-client privilege; Mx. Aldrich is making it again explicitly clear here. Mx. Aldrich objects to the District Attorneys Office, the U.S. Attorney's Office, the Court and any members of the judiciary, and any other agents and employees of state or federal law enforcement accessing ANY material that implicates attorney-client privilege.
15. "The general policy against invading the privacy of an attorney's course of preparation is so well recognized and so essential to an orderly working of our system of legal procedure that a burden rests on the one who would invade that privacy to establish adequate reasons to justify production through subpoena or court order." *Hickman v. Taylor*, 329 U.S. 495, 512 (1947).
16. Defense counsel has no knowledge of what material the court is now in possession of, only that it relates to a recorded meeting between defense counsel and Mx. Aldrich. Defense counsel and its investigators have made repeated efforts to secure this privileged material from the district attorney's office. The district attorneys have failed to turn over the requested materials, and *actively deleted* the materials from a hard drive that was set to be returned to defense counsel.
17. Mx. Aldrich MAY in the future, ask that this material be made part of the appellate record, but at this current time, this material has been hidden from Mx. Aldrich and their counsel have no ability to determine how egregious the outrageous government conduct is.
18. Mx. Aldrich requests the court return any privileged and confidential material now in its possession to counsel no later than Monday, January 23, 2023. Counsel further requests the court order the material disclosed to defense counsel by the prosecution immediately.
19. Mx. Aldrich requests a hearing on this matter if the Court does turn this material over to the defense, and requests the court order the prosecution to comply with their disclosure obligations.

MEGAN A. RING  
COLORADO STATE PUBLIC DEFENDER



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Joseph Archambault #41216  
Chief Trial Deputy



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Michael Bowman #48652  
Deputy State Public Defender

Dated: January 20, 2023

**Certificate of Service**

I certify that on January 20, 2023, I served the foregoing document electronically through Colorado Courts E-Filing to all opposing counsel of record.  
s/skoslosky