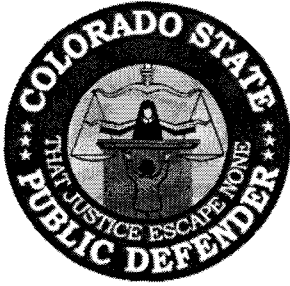


REDACTED

DATE FILED: February 8, 2023 1:43 PM

Exhibit A



OFFICE OF THE STATE PUBLIC DEFENDER

MEGAN A. RING
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, 4th 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 "E-04 -22CR6008-21 CJC Surveillance 11.22.22 – 12.05.22 – CSPD Barcode 2301332";
2. Please provide to us the names of every employee from the 4th 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,

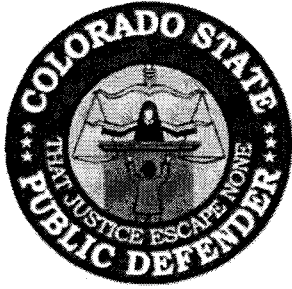


Joseph Archambault (No. 41216)
Chief Trial Deputy State Public Defender



Michael Bowman (No. 48652)
Deputy State Public Defender

Exhibit B



OFFICE OF THE STATE PUBLIC DEFENDER

MEGAN A. RING
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.

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

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