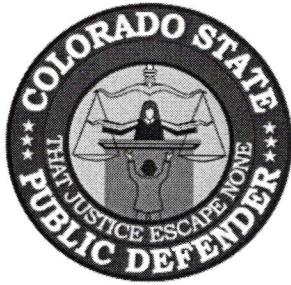


Redacted

DATE FILED January 26, 2023 3:45 PM
U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

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 22CR6008-21 CJC Surveillance 11.22.22 – 12.05.22 – CSPD Barcode
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,

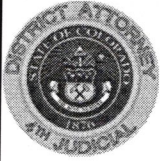


Joseph Archambault (No. 41216)
Chief Trial Deputy State Public Defender



Michael Bowman (No. 48652)
Deputy State Public Defender

Exhibit B



OFFICE OF THE DISTRICT ATTORNEY
FOURTH JUDICIAL DISTRICT
INVESTIGATIVE REPORT
105 E. Vermijo Avenue
Colorado Springs, CO 80903
719-520-6000

DA Case No:

22DA239

Court Case No:

2022CR6008-21

Outside Agency Case No:

CSPD 22-43279

Defendant name: **Anderson Lee Aldrich**

Date of Birth: **05/20/2000**

NARRATIVE

Investigator Martinez Supplemental Report #11

Thursday, January 19, 2023

On Wednesday, January 18, 2023, and Thursday, January 19, 2023, I, Investigator Kimberly Martinez of the 4th Judicial District Attorney's Office, was working on resolving media issues for defense, regarding item 22CR6008-21 CJC Surveillance 11.22.22 – 12.02.22 (should state 12.05.22) – CSPD Barcode

This task resulted in me transferring individual files to their external hard drive one and two at a time and then verifying media was present, due to the complete download failing each time when attempting to transfer the entire contents at once, causing the player to not function for defense counsel. I verified the media was present by pulling each camera download provided, dragging it to the play screen and observing a screen capture. I did not play the video and only verified there was media available in each file provided. While reviewing these files, I observed what appeared to be a still image of a visitation between Aldrich and other individuals at a round table. The other individuals appeared to be wearing professional dress attire, which led me to believe it was potentially a professional visit. I did not play the footage to confirm this, and I do not have record or knowledge of what video file, from which I viewed the still image, and I do not recognize who is in the footage, I based my decision off of the professional attire that the people in the visit were wearing. When I became aware of the potential of having a professional visit between Aldrich and others, I notified a supervisor and Chief Deputy District Attorney Reginald Short. I was directed to delete the contents of the video that I had in my possession, to delete the copy from defense's external hard drive, and to notify the United States Attorney's Office. I was then directed to have a paralegal with the 4th Judicial District Attorney's Office, Kim Daniluk, complete appropriate paperwork to seal the footage and provide one copy to the court.

I contacted the Colorado Springs Police Department evidence unit, requested they release the evidence item, logged under barcode , item , Hard Drive 22CR6008-21 CJC Surveillance 11.22.22 to 12.05.22. At approximately 3:26pm, I signed for custody of the hard drive at CSPD evidence, took the sealed envelope containing the hard drive to the 4th Judicial District Attorney's Office and placed it into a secured evidence locker by Investigator S. Daly until it could be hand delivered to court staff at the El Paso County Combined Courts, Division 21.

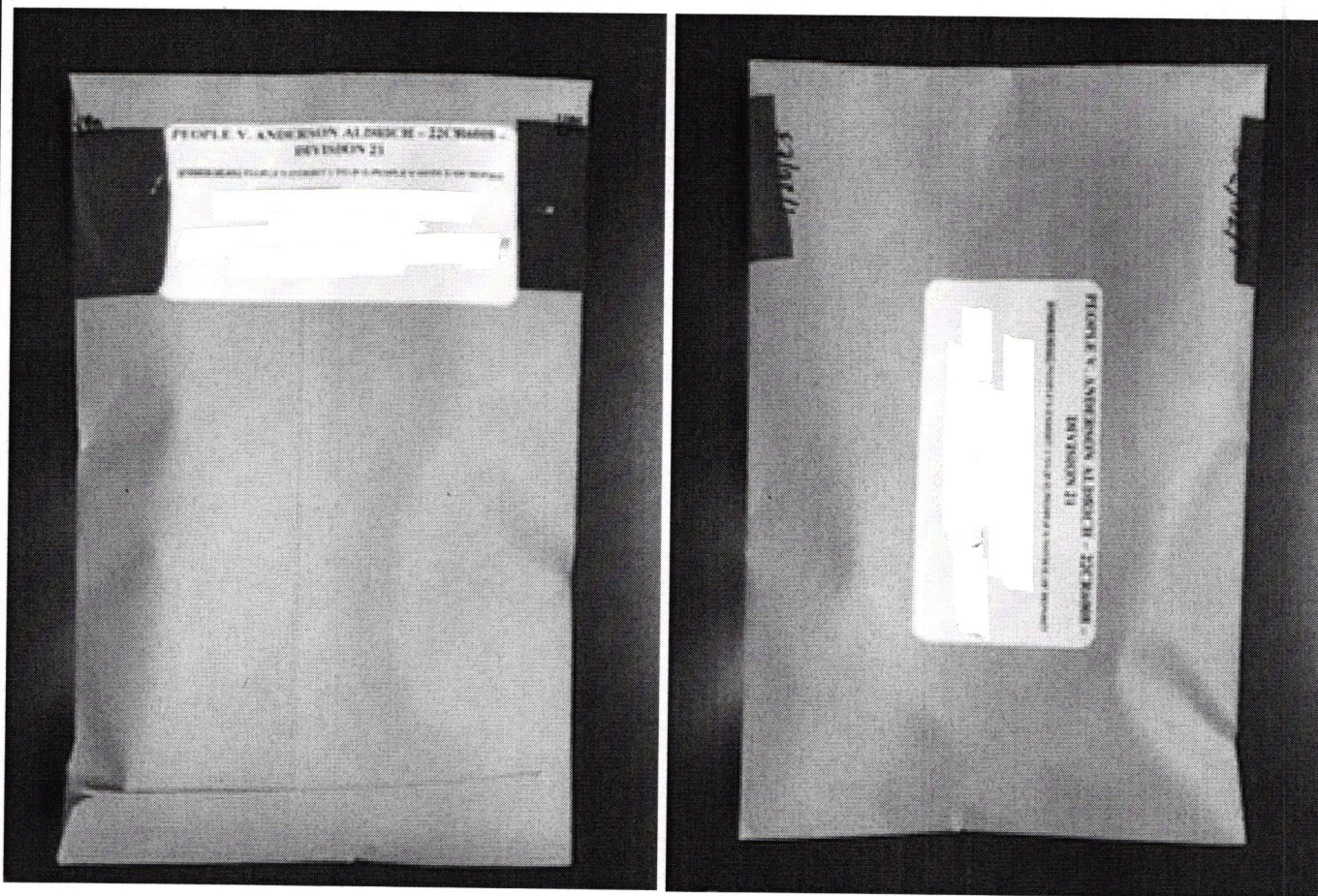
At 5:49pm, I sent two requests for video surveillance from 11.22.22 to 12.05.22 to be re-downloaded and to exclude any possible professional visit video footage. I also asked for footage of Aldrich while housed in medical between 12.05.22 to 12.15.22, while housed in ward 1B1 from 12.15.22 to 01.01.23, while housed in ward 1B4 01.01.23 to 01.05.23, while housed in ward 1B3 01.05.23 to 01.07.23, while housed in ward 2D2 01.07.23 to 01.12.23, and while housed in ward 1B3 01.12.23 to 01.18.23. Each request specifically demanded the exclusion of any possible professional visits. A log of professional visits from the El Paso County Criminal Justice Center's (CJC) database was also provided with the memos, for their reference on exact dates and times

Defendant Name: Anderson Lee Aldrich	DOB: 05/20/2000	DA case no.: 22DA239	Court case no.: 2022CR6008-21
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to be excluded from their downloads. These documents were placed into Colorado Springs Police Department evidence, under case number 22-43279, item ... The date on the memos reflected 11.30.22 by error and I notified Deputy Urbina that the memos reflected that date, but for record the appropriate date of notice of those memos to CJC was 01.19.2023 and reflects this date on the evidence item. This has also been provided to CSPD for pagination and release through discovery.

Friday, January 20, 2023

At approximately 11:35am, Ms. Daniluk met me at my office, she advised me she had seal labels for the hard drive and requested I obtain it from the secured evidence locker. I retrieved the hard drive, which was still in the original sealed envelope it was placed in for evidence and at 11:37am, I opened the envelope in the presence of Ms. Daniluk. The hard drive was removed from the evidence envelope and was tagged with a CSPD barcode label to identify it. The hard drive was then placed in a new envelope, two seal labels were placed on the envelope, along with evidence tape, initialed, dated and a photograph was taken of the front and back. The two photographs are below.

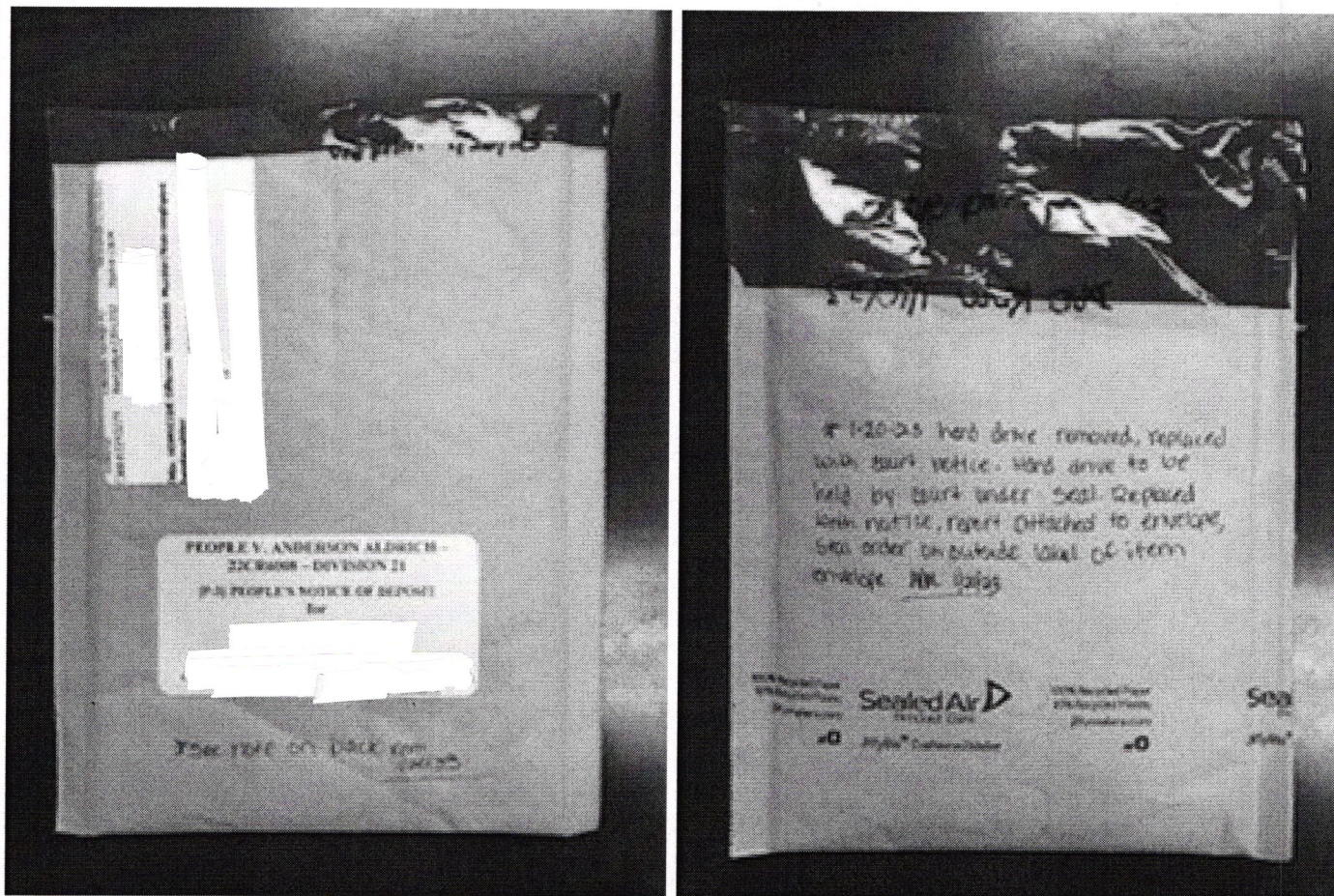


I, along with Investigator S. Daly, walked to the El Paso County Combined Courts, with the hard drive, went to Division 21's Clerk window and spoke with the Honorable Judge McHenry's Clerk, Gary Kennedy, advising him that I had a hard drive that needed to be delivered to the court. At 12:13pm, Mr. Kennedy personally accepted the sealed envelope containing the hard drive. At

Defendant Name: Anderson Lee Aldrich	DOB: 05/20/2000	DA case no.: 22DA239	Court case no.: 2022CR6008-21
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12:23pm, I notified Ms. Daniluk the hard drive was hand delivered to Mr. Kennedy at 12:13pm and at 12:26pm, Ms. Daniluk filed a "P3 - People's Notice of Deposit for People's Exhibit 1" with the El Paso County Combined Courts, Division 21, which is stamped as filed on January 20, 2023 at 12:26pm, filing id 3ADC482518237, case number 2022CR6008. This notice is attached to this report.

The notice was printed and placed inside of the original evidence envelope for barcode item Hard Drive 22CR6008-21 CJC Surveillance 11.22.22 to 12.05.22. A note was placed on the outside of that envelope after it was sealed and initialed, stating the hard drive was replaced with the notice and was accepted by the court and in their possession. I took a photograph of the front and back of the evidence envelope and those photos are below.



A copy of this report will also be attached to the evidence envelope after approval.

Investigator: Kimberly Martinez	Date: 1/20/2023	Approving Supervisor: Senior Inv. David Guest	Date: 1/20/2023
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DISTRICT COURT, El Paso County, Colorado Court Address: 270 South Tejon Street Colorado Springs, Colorado 80903	DATE FILED: January 20, 2023 12:26 PM FILING ID: 3ADC482518237 CASE NUMBER: 2022CR6008 ▲ COURT USE ONLY ▲
People of the State of Colorado vs. Defendant: Anderson Lee Aldrich	
District Attorney: Michael J. Allen, #42955 Chief Deputy District Attorney: Reginald Short #35656 Chief Deputy District Attorney: Jennifer Viehman, #33163 105 E. Vermijo Colorado Springs, CO 80903 Phone Number: 719-520-6000	Case #: 2022CR6008 Division #: 21 Courtroom #: W450
[P-3] PEOPLE'S NOTICE OF DEPOSIT	

Comes now, Michael J. Allen, District Attorney for the Fourth Judicial District, and his duly appointed Chief Deputies, respectfully submits the following, [P-3] People's Notice of Deposit.

In support thereof, the People state:

1. On December 7, 2022, the People received Barcode Evidence Item Number _____ containing *Item Description -Hard Drive 22CR6008-21- CJC Surveillance* from the dates of November 22, 2022, to December 5, 2022.

2. On January 19, 2023, District Attorney Investigator, Kim Martinez discovered that this hard drive contained surveillance of what appears to be an attorney/client meeting or professional visit with the Defendant. There is no audio to this surveillance, so no conversations were heard by Inv. Martinez. No member of the prosecution team other than Investigator Martinez viewed the footage, and she stopped once the observations were made.

3. The People have hand-delivered the original hard drive containing Barcode Evidence Item Number 2301332 containing *Item Description - Hard Drive 22CR6008-21- CJC Surveillance* from the dates of November 22, 2022, to December 5, 2022, to the Court [Under Seal] - (*People's Exhibit 1*). At the present time, the People are just asking the

Court to retain possession of the exhibit without further need of review until such time as the People believe any evidence related to this item may be at issue in the case.

Respectfully submitted this 20th day of January 2023

MICHAEL J. ALLEN, #42955
DISTRICT ATTORNEY

By: /s/ Michael J. Allen
Michael J. Allen, #42955
District Attorney

/s/ Reginald Short
Reginald Short, #35656
Chief Deputy District Attorney

/s/ Jennifer Viehman
Jennifer A. Viehman, # 33163
Chief Deputy District Attorney

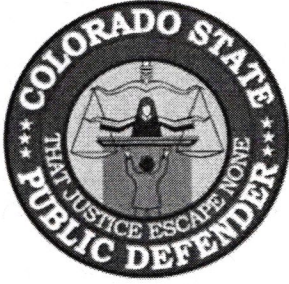
CERTIFICATE OF SERVICE

I certify on the 20th day of January 2023, a true and correct copy of [P-3] People's Notice of Deposit, was served via Colorado Courts E-Filing on all parties who appear of record and have entered their appearances according to Colorado Court's E-Filing.

/s/
Kim Daniluk, Paralegal

Redacted

Exhibit C



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