

DISTRICT COURT, WELD COUNTY, COLORADO Court Address: 915 10 th Street, Greeley, CO 80631 Mail Address: P.O. Box 2038, Greeley, CO 80632 (970) 475-2400	DATE FILED: October 12, 2018
PEOPLE OF THE STATE OF COLORADO, Plaintiff v.	▲ COURT USE ONLY ▲
CHRISTOPHER LEE WATTS, Defendant Non-Party Movants: Colorado Press Association, Colorado Broadcasters Association, Colorado Freedom of Information Coalition	Case Number: 18CR2003 Div: 5
(C-20) ORDER RE: PEOPLE’S MOTION [L] and NON-PARTY MOVANTS’ NOTICE AND REQUEST	

THIS MATTER comes before the court on the *People’s [L] Motion to Deny Disclosure of Public Record Pursuant to C.R.S. § 24-72-204(6)(a)* filed on September 17, 2018. On October 4, 2018 the above captioned Non-Party Movants filed a *Notice That the Court Lacks Subject Matter Jurisdiction to Resolve (L)... And Request to Have County Coroner File an Appropriate Petition Under CORA*. To date, no response has been file to the Non-Party Movants’ Notice and Request. The Court finds and concludes as follows:

The People seek an order from the court permitting to restrict the disclosure of the autopsy reports prepared by the Weld County Coroner’s Office pursuant to C.R.S. § 24-72-201, et seq. (“CORA”). C.R.S. § 24-72-204(6) sets forth the standards by which a District Court must resolve a petition by a custodian of public records.¹ In addition, CORA sets forth the exclusive procedures for persons requesting records and record custodians to resolve disputes concerning record

¹ The standards and other relevant legal authorities were illustrated in the Court’s Order “(C-14) REGARDING [L] MOTION TO DENY DISCLOSURE OF PUBLIC RECORD PURSUANT TO C.R.S. 24-72-204(6)(A)” filed on 9/21/2018.

accessibility. *See In re A.A.T.*, 759 P.2d 853, 855 (Colo. App. 1988). Sections of CORA contain their own filing, notice, and hearing requirements, and they contemplate the filing of independent actions in the district court to resolve disputes over the accessibility of documents such as autopsy reports.

The procedure for such a dispute requires “that any action filed either by the custodian or the party requesting the record be a separate, independent action in the appropriate district court and that the action cannot be filed as part of any ongoing proceeding.” *Id.* If the action is filed as part of any ongoing proceeding, the court will be determined to lack subject matter jurisdiction. *Id.* The *A.A.T.* court held that several aspects of CORA’s underlying policies were furthered by the requirement of an independent action. *Id.* at 884-855. These important policies include the fact that separate actions often allow for more expeditious determinations in the trial court and of any appeal resulting therefrom. Also, CORA disputes present issues distinct from the issues related to the ongoing proceeding. *Id.*

However, there are some competing positions regarding whether the statutory procedure under CORA provides an exclusive jurisdictional basis to resolve a dispute over public records access. Compare *A.A.T.*, with *Citizens Progressive All. v. Sw. Water Conservation Dist.*, 97 P.3d 308, 311-12 (Colo. App. 2004) (“We do not read *A.A.T.* as precluding [a party] from seeking declaratory relief [in relation to a CORA request].”), and *Aviado v. Indus. Claim Appeals Office*, 228 P.3d 177, 183 (Colo. App. 2009) (We generally “construe a statute to limit jurisdiction only when that limitation is explicit.”).

Even with the competing positions regarding whether the statutory procedure under CORA provides an exclusive jurisdictional basis to resolve a dispute over public records access, this Court

concludes the holding in *A.A.T.* is binding on this Court based on the practical policy concerns presented.

WHEREFORE, this criminal court lacks subject matter jurisdiction to consider the prosecution's *Motion to Deny Disclosure of Public Record Pursuant to C.R.S. § 24-72-204(6)(a)*. The Motion is therefore **DENIED**. In order to seek the relief requested the custodian of the autopsy reports shall be required to file a separate, independent action in Weld County District Court.

BY THE COURT:

Dated: October 12, 2018

A handwritten signature in black ink, appearing to read "Marcelo A. Kopcow". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Marcelo A. Kopcow
District Court Judge