

DISTRICT COURT, DENVER COUNTY, COLORADO		DATE FILED: August 14, 2022 4:55 PM CASE NUMBER: 2022CR1916
Court Address: 1437 BANNOCK STREET, RM 256, DENVER, CO, 80202		
THE PEOPLE OF THE STATE OF COLORADO		<p style="text-align: center;">△ COURT USE ONLY △</p> Case Number: 2022CR1916 Division: 5F Courtroom:
v.		
Defendant(s) ELROY BLANCHETTE LEE		
Order:OBJECTION TO REQUEST TO RELEASE ALL UNEDITED VIDEO AND AUDIO RECORDINGS OF THE INCIDENT INVOLVED IN THIS CASE PURSUANT TO 24-31-901 [D08]		

The motion/proposed order attached hereto: DENIED.

This matter is before the court on a request for the release of body worn camera ("BWC") footage associated with police interactions and an accident involving Mr. Emmanuel Amani on April 4, 2022 that are within the possession, custody or control of the Denver Police Department ("DPD"). This request was made pursuant to C.R.S. 24-31-902. The court has reviewed the request for records, the objection filed by the defense, and the arguments made by counsel at a hearing conducted on August 8, 2022. Being fully advised the court finds and orders as follows.

The defense objects to the disclosure of the BWC footage. The defense raises constitutional objections to the release of the BWC asserting that the release of this BWC footage may impact the defendant's ability to have a fair trial. Specifically, the defense argues that if the BWC footage was released, ear and eyewitnesses in the criminal case would have access to this evidence prior to testifying at trial and that would taint their testimony. The defense also argues that the release of this footage could result in pretrial publicity that could impact on the court's ability to convene a fair and impartial jury.

At the hearing conducted on April 8th, the court was informed that the BWC footage depicts police interaction with Mr. Armani, the victim in the criminal case against Mr. Lee. This footage is of an encounter between the police and Mr. Armani while Mr. Armani was driving his car down an ally while the police were investigating a report of shots being fired. Shortly after this encounter with police the officers engaged with the defendant, Mr. Lee, and then discovered that Mr. Armani had been shot and his car had crashed into a police vehicle in the same ally.

Because the defense has raised a constitutional objection to the disclosure of the BWC footage, the court must determine if there would be any prejudice flowing from the release of the BWC footage that would affect the defendant's right to a fair trial.

First, the defense argues that the disclosure would impact the defendant's right to confrontation and would invalidate any sequestration order because witnesses could have access to this evidence prior to trial. While the court appreciates the position of the defense in this regard the court is not persuaded that the disclosure of the BWC footage would amount to a violation the defendant's right to confrontation. As was disclosed during the April 8th hearing, written and audio recorded statements have already been collected by law enforcement concerning the events of April 8th. If there is any "contamination" due to a witness viewing the BWC footage prior to trial, that can be effectively addressed during the cross examination of a witness.

Second, the defense argues that the disclosure could result in the inability to empanel an impartial jury due to media coverage of the allegations in the complaint. In support of this argument the defense presented no evidence other than speculation. The court is again not persuaded by the defendant's argument.

For the reasons cited above the court denies the defendant's objection and the BWC footage shall be released pursuant to C.R.S. 24-31-902.

Issue Date: 8/14/2022

A handwritten signature in black ink, appearing to read 'JSG' with a stylized flourish extending to the right.

JAY SUTHERLAND GRANT
District Court Judge

death, any and all records related to investigations of the circumstances of Mr. Amani's death and the arrest of Elroy Lee, including but not limited to all video and witness statements.

2. Ms. Newman requested this information be provided within 21 days of submission of the request (no later than June 10, 2022).
3. In her letter, Ms. Newman alleges police misconduct, pursuant to C.R.S. § 24-31-902(2)(a). It is unclear from her letter, however, what type of misconduct she is alleging the police committed.
4. It is also unclear from Ms. Newman's letter, who she is representing or what she plans to do with the requested information. Ms. Newman states: "Please expedite this request, as Mr. Amani's cultural and religious customs call for his body to be laid to rest as soon as possible. In addition, his wife cannot return to work until he has been buried, which will not occur until the family reviews the body camera footage." Given, this statement, it appears Ms. Newman is representing Mr. Amani's family and his wife. It should be noted that Mr. Amani's wife is a fact witness in this case, as she was on the phone with the decedent when he was shot.
5. On June 13, 2022, two days after the 21-day deadline, the prosecution filed a "Notice of Request to Release All Unedited Video and Audio Recordings of the Incident Involved in This Case Pursuant to C.R.S. § 24-31-902(2)(A).
6. C.R.S. § 24-31-902 (2)(c) states:

If criminal charges have been filed against any party to the incident, that party must file any constitutional objection to release of the recording in the pending criminal case before the twenty-one-day period expires. Only in cases in which there is a pending criminal investigation or prosecution of a party to the incident, the twenty-one-day period shall begin from the date of appointment of counsel, the filing of an entry of appearance by counsel, or the election to proceed pro se by the defendant, receipt of the criminal complaint, and the defendant's receipt of the video in discovery in the criminal prosecution made on the record before a judge. If the defendant elects to proceed pro se in the criminal case, the court shall advise the defendant of the twenty-one-day deadline for the defendant to file any constitutional objection to release of the recording in the pending criminal case as part of the court's advisement. The court shall hold a hearing on any objection no later than seven days after it is filed and issue a ruling no later than three days after the hearing. The hearing is considered a critical stage as defined in section 24-4.1-302 and gives victims the right to be heard pursuant to section 24-4.1-302.5.

7. Given the timeline of this request, and the notice provided to counsel, the defense could not respond within the statutory 21-day period. However, if the Court finds that counsel has responded out-of-time, Mr. Lee requests this Court to consider that there is good

cause to grant the defense's objection, because Mr. Lee's Constitutional rights will be violated if this information is released.

8. Releasing this information to a fact witness in this case could impact testimony during trial and impede on Mr. Lee's rights to Confrontation, Due Process, and a Fair Trial. U.S. Const. amends. V, VI, XIV; Colo. Const. art. II, § 16 and 25.
9. Releasing this information to the public will violate Mr. Lee's rights to a fair trial and an impartial jury. U.S. Const. amends. VI, XIV; Colo. Const. art. II, § 16.

WHEREFORE, Mr. Lee, through counsel, objects to releasing all unedited video and audio recordings of the incident involved in this case, pursuant to C.R.S. § 24-31-902.

MEGAN A. RING
COLORADO STATE PUBLIC DEFENDER

Respectfully Submitted,



Sonja Prins, #50126
Deputy State Public Defender

Date: July 29, 2022

Certificate of Service

I hereby certify that on July 29, 2022, I served the foregoing document via Colorado Courts E-Filing to the court and opposing counsel. 