

<b>District Court, Arapahoe County, State of Colorado</b> Court Address: 7325 S. Potomac St. Centennial, CO 80112	DATE FILED: October 5, 2021 4:32 PM
<b>THE PEOPLE OF THE STATE OF COLORADO</b>  <b>vs.</b>  <b>SHAWN RALPH,</b> <i>Defendant</i>	<b>▲ COURT USE ONLY ▲</b>
Attorneys for the Defendant: Donald C. Sisson, #35825 Reid Elkus, #32516 Elkus & Sisson, P.C. 7100 E. Belleview Ave., Suite 101 Greenwood Village, CO 80111 Phone No.: 303-567-7981 <a href="mailto:dsisson@elkusandsisson.com">dsisson@elkusandsisson.com</a> <a href="mailto:relkus@elkusandsisson.com">relkus@elkusandsisson.com</a>	Case No.: 2021CR2072  Division: 302
<p align="center"><b>PURSUANT TO C.R.S. §24-31-902 DEFENDANT’S OBJECTION TO RELEASE OF VIDEO AND/OR AUDIO RECORDING</b></p>	

COMES NOW, the Defendant, Shawn Ralph, by and through his undersigned counsel, Elkus & Sisson, P.C., and hereby files pursuant to C.R.S. §24-31-902 his objection to the disclosure of the body-worn camera. As grounds, Mr. Ralph states the following:

1. Pursuant to C.R.S. §24-31-902(2)(c), it states the following:

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.

2. On September 28, 2021, the Defense filed its Entry of Appearance. Under the statute, the twenty-one (21) days to file the objection is October 19, 2021. This objection is timely filed under the statutory time period.

3. As this Court is aware, with body-worn cameras and in the era of cellphone videos, video images and recordings of law enforcement officers engaged in uses of force have been circulating with great speed on statewide and national news outlets. In some instances, the media is displaying video footage of law enforcement officers using use of force when the officer(s) are charged with criminal conduct. This was seen recently in the matter of the *People v. John Haubert*, 2021CR01676.<sup>1</sup> The denial of a fair trial may be presumed when pretrial publicity is massive, pervasive, and inherently prejudicial. *Sheppard v. Maxwell*, 384 U.S. 333 (1966); *People v. Loscutoff*, 661 P.2d 274 (Colo. 1983); *Walker v. People*, 458 P.2d 238 (Colo. 1969). Should this Court allow the disclosure of the at-issue body-worn camera without judicial intervention, Mr. Ralph may be denied a fair trial.

4. Mr. Ralph's concern, which is significant in light of the current atmosphere surrounding law enforcement officers, is that disclosing the body-worn camera, like in the matter *People v. Haubert*, the Defendant may not receive a fair trial. This is particularly true when members of the law enforcement community (e.g. like the Aurora Chief of Police) or media pundits provide their own opinions on the evidence – in this case the body-worn camera – well before a trial even commences. It is imperative at this stage that the Court provide as much protection to Mr. Ralph's due process rights as legally permissible.

WHEREFORE, Mr. Shawn Ralph objects to the disclosure of the body-worn camera, and seeks relief from this Court as just and proper.

Respectfully submitted on October 5, 2021

ELKUS & SISSON, P.C.

/s/ Reid J. Elkus  
Donald C. Sisson, #35825  
Reid Elkus, #32516  
Attorneys for Defendant

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<sup>1</sup> The Chief of Aurora Police Department improperly disclosed the body-worn camera of the accused Mr. John Haubert prior to the twenty-one (21) day objection period under C.R.S. §24-31-902. Such disclosure may have violated Mr. Haubert's right to a fair trial. Please see the following news feed which documented the Chief of Aurora's press release of the body-worn camera: <https://www.rmpbs.org/blogs/news/john-haubert-aurora-police-arrest-body-camera>.

**CERTIFICATE OF SERVICE**

I hereby certify on October 5, 2021, a true and correct copy of the foregoing was filed with the Court, and served on counsel of record, via Colorado Courts E Filing.

/s/ Amy H. Morris

Amy H. Morris, Paralegal