

DISTRICT COURT, ADAMS COUNTY, COLORADO Court Address: 1100 JUDICIAL CENTER DRIVE, BRIGHTON, CO, 80601	DATE FILED: January 18, 2023 8:38 PM CASE NUMBER: 2021CR2782
THE PEOPLE OF THE STATE OF COLORADO v. <b>Defendant(s)</b> RANDY ROEDEMA	<p style="text-align: center;"><b>△ COURT USE ONLY △</b></p> Case Number: 2021CR2782 Division: L                      Courtroom:
<b>Combined Order Concerning Motions to Sever Trials</b>	

The matters are before the Court on motions to sever trials pursuant to Crim. P. 14, and section 16-7-101 C.R.S. Further oral argument or briefing would not assist the Court in issuing findings and orders on these issues.

The matters arise from a state grand jury indictment that ultimately led to the criminal charges against five defendants. The incident involved had a high degree of public interest and scrutiny. The defendants are three police officers and two paramedics. The officers (or former) are Rosenblatt, Roedema, and Woodyard. The paramedics are Cichuniec and Cooper. The fact pattern as alleged is in some dispute. However, the Court will base the findings and orders based upon the grand jury and materials available to the Court to include the motions, responses, and replies filed on these issues.

To condense the facts leading to the indictments, the Court will not attempt to do a full summary of all the evidence. In general, the facts (still in dispute) indicate Woodyard received a call for service concerning a suspicious individual who was apparently aggressively gesticulating while walking in a residential area. The citizen report indicated the person was also wearing a ski mask or similar mask that covered most of the face.

Woodyard arrived at the reported location followed shortly by Rosenblatt and Roedema. Afterwards, a physical struggle occurred after the victim was not following the orders of the officers. The Court will decline to make findings as to the constitutional seizure issues related to the police contact. During the struggle that ensued, Woodyard employed a carotid control maneuver that caused the victim to lose consciousness. He then regained consciousness. Roedema and Rosenblatt were then assisting in gaining control of the victim.

Subsequently, Woodyard left the immediate area of the struggle and the paramedics arrived shortly thereafter. The victim was intermittently calm and then physically uncooperative when attempts to physically subdue him were employed.

Ultimately the paramedics were involved in injecting the victim with Ketamine in attempting to calm Mr. McClain. The victim, Mr. McClain, died shortly thereafter.

After the testimony and evidence was presented, the state grand jury indicted the defendants on several charges for causing injuries and the death of Mr. McClain.

The paramedics, Cichuniec and Cooper, generally assert that the actions of the law enforcement officers occurring prior to their arrival were factually unrelated to their actions implicated in their cases. These defendants each seek severance of trial. Specifically, these defendants seek severance of trial from the law enforcement officers involved.

The People have also filed motions to allow the admission of codefendant statements.

Here, the analysis of the admission of codefendant statements is convoluted. While the defendants were indicted under one proceeding by the grand jury, the factual circumstances do not neatly follow a typical codefendant criminal matter. Colorado appellate courts have departed from the analysis of federal courts on the issues concerning relevant rules of evidence on codefendant statements. To this end, the Court will decline to rule on the People's motions for admission of codefendant statements based upon the Court's severance orders in these matters. The Court will allow further briefing on codefendant statements after the issuance of this order as well as leave for an in camera judicial review of written or recorded statements.

Two reports were issued by the forensic pathologist. The first indicated that the cause of death was undetermined. That report mentioned that several factors could have contributed to the death of Mr. McClain, but left the ultimate cause was undetermined.

Grand jury materials were provided to the forensic pathologist after the first report issued. In that second report, the opinion of the pathologist was that the Ketamine injection ultimately caused the death of the named victim.

The circumstances present in the cases indicate that a struggle ensued between the police officers and Mr. McClain. After and partially during the alleged heated struggle, the Ketamine injection was administered by the medical personnel, the paramedics.

The Court finds and concludes in the discretion of the Court that defendants Cooper and Cichuniec will be tried separately from the other codefendants based upon the alleged facts and circumstances in these cases. These parties do not object to a joint trial involving each other.

Based upon the foregoing, Cooper and Cichuniec will be tried together, but separately from the other codefendants. These motions for severance are granted.

The motions filed by the defendants Woodyard, Rosenblatt, and Roedema are more nuanced.

While the cause of death will ultimately be determined by the juries, a theory may be advanced that the physiological effects of the struggle with the law enforcement officers combined with the Ketamine injection resulted in the death of Mr. McClain. Alternatively, the physiological effects of the physical struggle, to include the effects of the carotid control maneuver used by defendant Woodyard, resulted in serious bodily injury to Mr. McClain.

The forensic pathologist opined that the use of the carotid control maneuver was unlikely to have contributed to the death of Mr. McClain. Part of that opinion was based upon the fact that similar maneuvers are often employed by martial arts participants with no lasting effects. While the Court does not dispute the opinions of the forensic pathologist, there are other factors that inform the Court's findings and orders regarding severance.

The Court is aware of choke hold maneuvers in competitive events and law enforcement encounters that have resulted in the unusual death of individuals subject to such physical maneuvers. Those deadly events have been widely published in the press afterwards. The deadly events have resulted in amended protocols by law enforcement agencies and amended rules for pugilistic competitive competitions.

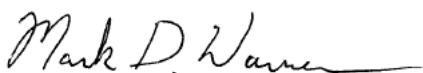
Based upon the facts and circumstances present in this case, the Court will exercise discretion and sever the trial for Mr. Woodyard from the trial of defendants Mr. Roedema and Mr. Rosenblatt. Defendant Woodyard will be tried separately from defendants Roedema and Rosenblatt. Mr. Rosenblatt and Mr. Roedema will be tried together in one trial.

The Court has made the foregoing orders based upon the charges alleged, the potential for spillover prejudice, to ensure a fair and just trial based upon the particular facts and circumstances alleged, to ensure a fair and just trial for the defendants, and the People of the State of Colorado who implicitly seek justice for the named victim and the family.

The Court well understands the legal theory of complicity. Nonetheless, the Court finds that under the particular facts as alleged in this case warrant severance of trials.

Wherefore, the motions filed by defendants Woodyard, Rosenblatt, and Roedema are granted in part and denied in part.

Issue Date: 1/18/2023



MARK DOUGLAS WARNER  
District Court Judge