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ADVANCE SHEET HEADNOTE
May 4, 2026

2026 CO 27

No. 26SA55, *People v. Schneider*—Jurisdiction—Interlocutory Appeal—§ 16-12-102(2), C.R.S. (2025) – C.A.R. 4.1.

The supreme court concludes that section 16-12-102(2), C.R.S. (2025), and C.A.R. 4.1 do not authorize the prosecution to file an interlocutory appeal to review a district court's order granting a defendant's pretrial motion to exclude evidence under section 24-31-902, C.R.S. (2025). Section 24-31-902 requires officers to activate their body-worn cameras under certain circumstances, and if an officer fails to do so, it creates a rebuttable presumption of inadmissibility for any unrecorded evidence related to the incident. § 24-31-902(1)(a)(II)-(III). In this case, the defendant moved to exclude evidence under section 24-31-902, and the district court granted the motion under that statute. Thus, the supreme court lacks appellate jurisdiction to consider this case as an interlocutory appeal under section 16-12-102(2) and C.A.R. 4.1, and it dismisses the appeal.

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

2026 CO 27

Supreme Court Case No. 26SA55
Interlocutory Appeal from the District Court
Logan County District Court Case No. 25CR186
Honorable Carl Sidney McGuire III, Judge

Plaintiff-Appellant:

The People of the State of Colorado,

v.

Defendant-Appellee:

Collin Schneider.

Appeal Dismissed

en banc

May 4, 2026

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PER CURIAM.

PER CURIAM.

¶1 This case comes before us as an interlocutory appeal under C.A.R. 4.1 asking us to review a Logan County District Court order granting a defendant's pretrial motion to exclude evidence under section 24-31-902, C.R.S. (2025). That statute requires officers to activate their body-worn cameras under certain circumstances and creates a rebuttable presumption of inadmissibility of unrecorded evidence related to the incident if the officer fails to do so. § 24-31-902(1)(a)(II)–(III). Because we conclude that we lack appellate jurisdiction to consider this case under C.A.R. 4.1, we dismiss the appeal.

I. Facts and Procedural History

¶2 Defendant Collin Schneider was charged with vehicular eluding and reckless driving. Schneider filed a pretrial motion to exclude officers' testimony pursuant to section 24-31-902, arguing that the officers failed to activate their body-worn cameras as required by that statute. He contended that there was no basis to rebut the statutory presumption of inadmissibility of the officers' testimony regarding the events that should have been recorded. Thus, he asserted, the officers' testimony regarding approximately twenty minutes of unrecorded police activity was inadmissible and must be excluded from trial. At the motions hearing, the district court's findings and conclusions on this issue related only to

whether the police violated section 24-31-902. Ultimately, the district court granted Schneider's motion.

¶3 The People thereafter filed this C.A.R. 4.1 appeal challenging the district court's order excluding the officers' testimony under section 24-31-902.

II. Analysis

¶4 "Because we must always satisfy ourselves that we have jurisdiction to hear an appeal, we may raise jurisdictional defects sua sponte, regardless of whether the parties have raised the issue." *People v. S.X.G.*, 2012 CO 5, ¶ 9, 269 P.3d 735, 737.

¶5 Here, we conclude we lack jurisdiction to hear this case as an interlocutory appeal under section 16-12-102(2), C.R.S. (2025), and C.A.R. 4.1. Section 16-12-102(2) and C.A.R. 4.1 authorize the prosecution to immediately appeal a district court's order granting a defendant's pretrial motion to suppress evidence based on certain constitutional violations. *People v. Brown*, 2022 CO 11, ¶ 13, 504 P.3d 970, 974. Here, however, the district court's order granted a motion to exclude evidence under section 24-31-902. Because section 16-12-102(2) and C.A.R. 4.1 do not authorize such an appeal, we lack jurisdiction to consider it.

¶6 Section 16-12-102(2) authorizes the prosecution in criminal cases to file an interlocutory appeal in the supreme court under limited circumstances. Largely tracking the statute, Colorado Appellate Rule 4.1(a) limits our appellate review to

district court orders granting a defendant's pretrial motion under Crim. P. 41(e) and (g) and Crim. P. 41.1(i). Crim. P. 41(e) concerns the return of property and the suppression of evidence resulting from an unlawful search and seizure; Crim. P. 41(g) concerns the suppression of an involuntary confession or admission; and Crim. P. 41.1(i) concerns nontestimonial identification evidence seized without sufficient grounds or a proper order. *See Phillips v. People*, 2026 CO 21, ¶¶ 45-46, ___ P.3d ___. Each of these grounds for suppression is premised on a violation of a defendant's Fourth, Fifth, Sixth, or Fourteenth Amendment rights. *See People v. Lindsey*, 660 P.2d 502, 504 (Colo. 1983).

¶7 Moreover, in suppression motions and under C.A.R. 4.1, the word "suppress" "is a specialized term denoting the exclusion from trial of any evidence procured illegally, typically in violation of the defendant's constitutional rights or protections." *Phillips*, ¶ 35. "[W]e have gone so far as to indicate on multiple occasions that suppression is generally reserved for evidence obtained in violation of constitutional rights or protections and does not normally extend to evidence collected in violation of statutory rights." *Id.* at ¶ 36. Relevant here, "*suppress* and *exclude* do not travel together as interchangeable terms." *Id.* at ¶ 39.

¶8 By contrast, the motion and order excluding evidence here were grounded entirely in section 24-31-902. Under that statute, an officer must activate their body-worn camera

when responding to a call for service, entering into a premises for the purposes of enforcing the law or in response to a call for service, during a welfare check except for a motorist assist, or during any interaction with the public initiated by the peace officer, whether consensual or nonconsensual, for the purpose of enforcing the law or investigating possible violations of the law.

§ 24-31-902(1)(a)(II)(A).

¶9 If an officer fails to do so, “there is a permissive inference in any investigation or legal proceeding . . . that the missing footage would have reflected misconduct by the peace officer.” § 24-31-902(1)(a)(III). The failure to comply “creates a rebuttable presumption of inadmissibility” of “any statements or conduct sought to be introduced in a prosecution through the peace officer related to the incident that were not recorded.” *Id.*

¶10 In this case, Schneider did not file a motion to suppress evidence under Crim. P. 41(e), (g), or Crim. P. 41.1(i). Instead, he filed a motion to *exclude* officers’ testimony under section 24-31-902 regarding about twenty minutes of unrecorded police activity. In addressing the motion, the district court did not mention any constitutional or enumerated basis under C.A.R. 4.1 to suppress officers’ testimony. Instead, it granted Schneider’s motion to *exclude* the testimony expressly and solely under section 24-31-902. Such a ruling is not encompassed by the confines of a C.A.R. 4.1 appeal. *See Lindsey*, 660 P.2d at 505 (“Simply stated, interlocutory appeals may not be used to obtain pre-trial review of issues not covered by C.A.R. 4.1. Likewise, C.A.R. 4.1 may not be used to ‘piggyback’ issues

not embraced by that rule to obtain review of pre-trial evidentiary decisions.” (citation omitted) (quoting *People v. Morrison*, 583 P.2d 924, 927 (Colo. 1978))).

¶11 Although we considered the interaction of C.A.R. 4.1 and section 24-31-902 in *People v. Havens*, 2025 CO 65, 580 P.3d 1179, that case is distinguishable. There, the district court suppressed evidence because it was seized in violation of the Fourth Amendment – not based on a violation of section 24-31-902 itself. *Havens*, ¶¶ 1-3, 580 P.3d at 1180. In that case, an officer failed to activate the audio on his body-worn camera when talking to a motel clerk. *Id.* at ¶ 6, 580 P.3d at 1181. The court found that the officer’s testimony about the clerk’s statement was inadmissible under section 24-31-902. *Havens*, ¶ 3, 580 P.3d at 1180. Because the clerk’s statement was the sole basis for the search warrant, the court concluded that the warrant lacked probable cause. *Id.* Accordingly, the court suppressed the fruits of the search. *Id.* We had no reason to question our jurisdiction under C.A.R. 4.1 because the basis of the district court’s ruling was constitutional rather than purely statutory.

¶12 *People v. Soron*, 2026 CO 3, 581 P.3d 778, another case appealed through C.A.R. 4.1, is likewise distinguishable. There, we discussed section 24-31-902 in the context of whether body-worn camera footage contained information within the scope of the physician-patient privilege. *Soron*, ¶¶ 38-42, 581 P.3d at 786. The issue in that case did not concern the body-worn camera activation requirements

under section 24-31-902(1)(a)(II). And although the defendant in *Soron* disputed our C.A.R. 4.1 jurisdiction, contending that the trial court based its order on alleged privilege and statutory violations not at issue here, we concluded that our jurisdiction was proper because the trial court expressly looked to Crim. P. 41(e), analyzed the questions according to the law governing search warrants, and relied on Fourth Amendment principles in issuing its ruling. *Soron*, ¶¶ 18–19, 581 P.3d at 783. By contrast, the district court’s ruling here was grounded entirely in section 24-31-902.

¶13 In sum, the district court granted Schneider’s pretrial motion to exclude evidence under section 24-31-902; it did not grant a pretrial motion to suppress evidence under Crim. P. 41(e), (g), or Crim. P. 41.1(i), nor did it discuss these rules or their underlying constitutional principles as grounds for its ruling. Because C.A.R. 4.1 does not authorize the prosecution to file an interlocutory appeal to review a district court’s order granting a defendant’s pretrial motion to exclude evidence under section 24-31-902, we conclude that we lack jurisdiction to consider the People’s appeal.

III. Conclusion

¶14 Because we lack appellate jurisdiction under section 16-12-102(2) and C.A.R. 4.1, we dismiss the appeal.