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1. WELD COUNTY; Woman says memory loss should block criminal case

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Body

The Colorado woman who was hit by a train after police officers locked her inside a patrol vehicle that was parked on railroad tracks in Weld County says the memory loss she suffered in the crash should block the criminal case against her.

Yareni Rios-Gonzalez, 21, was stopped by Fort Lupton and Platteville police officers on Sept. 16 after a 911 caller told dispatchers that she'd flashed a gun at him during a road rage incident. Officers took Rios-Gonzalez into custody and then locked her in the back of a police vehicle that was parked on train tracks near U.S. 85 and Weld County Road 38.

The officers then failed to move the police SUV or help Rios-Gonzalez as a train bore down on the vehicle, horn blaring, and as Rios-Gonzalez screamed for help. The train hit the SUV with Rios-Gonzalez inside. She suffered significant injuries that included broken ribs, broken and dislocated wrists, a punctured lung, a broken leg, a traumatic brain injury and amnesia, according to the 28-page motion to dismiss filed Monday.

She survived the crash and was later charged with a single count of felony menacing in connection with the alleged road rage incident. Two of the involved officers, Fort Lupton Officer ***Jordan Steinke*** and then-Platteville police Sgt. Pablo Vazquez, have been criminally charged in connection with the crash.

Rios-Gonzalez's attorney, Chris Ponce, said in the motion to dismiss that his client cannot remember the alleged road rage incident because of the injuries she suffered during the crash. She both cannot remember past memories and cannot form new memories, he wrote. Ponce

argues that her memory loss amounts to the destruction of evidence and that going forward with the criminal case would violate Rios-Gonzalez's due process rights.

He argues that Rios-Gonzalez's memory of the alleged road rage incident would have been exculpatory evidence, and since there is no way for her to regain that evidence, the case must be dismissed. Police body-worn camera video from that night shows Rios-Gonzalez questioned why she was being arrested, which suggests she did not believe she'd done anything wrong, Ponce argues.

"The fact that Ms. Rios asked what was happening provides prima facie evidence that any statements she would have given about what occurred leading up to the stop would have been exculpatory," the motion states.

WELD COUNTY; Woman says memory loss should block criminal case

A representative for the Weld County district attorney's office declined to comment Thursday. During a brief hearing in Weld County District Court on Thursday, Judge Vincente Vigil gave the prosecution 21 days to file a written response to Ponce's motion to dismiss the charge against Rios-Gonzalez.

The case is next set for a hearing on the motion on Aug. 25.

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