



AUG 21 2015

TIM RHODES
COURT CLERK

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STATE OF OKLAHOMA,)
)
Plaintiff,)
)
v.)
)
DANIEL K. HOLTZCLAW,)
)
Defendant.)

Case No. CF-2014-5869

MOTION FOR DISCOVERY

COMES NOW the Defendant, Daniel K. Holtzclaw, by and through his attorneys of record, R. Scott Adams and Robert W. Gray, and submits the following Motion for Discovery.

It is the duty of the government to disclose to the Defendant and counsel for the Defendant all evidence favorable to the Defendant, whether such information relates to guilt, mitigation of punishment, or the credibility of witnesses. Brady v. Maryland, 373 U.S. 83, 10 L.Ed.2d 215, 83 S.Ct. 1194 (1963). The government's obligation extends to impeachment evidence as well as exculpatory evidence. U.S. v. Bagley, 473 U.S. 667, 676, 105 S.Ct. 3375, 87 L.Ed.2d 481 (1985). Scott v. Mullin, 303 F.3d 1222, 1231 (CA10, 2002). The government's duty to disclose extends to all information known by any government agent, and is not limited to information within the knowledge of the particular prosecutor assigned to this case. Giglio v. U.S., 405 U.S. 150, 31 L.Ed.2d 490 (1995). Furthermore, Brady material must be disclosed even when not specifically requested. U.S. v. Agurs, 427 U.S. 97, 49 L.Ed.2d 342, 96 S.Ct. 2392 (1976).

Defendant therefore requests that the government produce all evidence, information, material, statements, property, documents, or other evidence of any sort whatsoever which is

required to be produced under the Constitution, statutes, and court decisions of the United States and/or the State of Oklahoma.

Without limiting the foregoing, in order to aid the Government in identifying all of the evidence and information which should be produced in this case, the Defendant makes the following specific requests:

DEFINITIONS

Unless the context clearly requires otherwise, the following words should be construed to have the meaning indicated:

1. "Government" shall include:
 - a. The office of the prosecuting authority and each assistant.
 - b. Any person working as an agent or otherwise with or on behalf of the prosecuting authority.
 - c. All law enforcement personnel employed by the federal, state, county or municipal governments, including without limitation all Police Officers, Sheriffs, and their Deputies, Highway Patrol Troopers, OSBI Agents, Attorney General Investigators, State and Federal Tax Agents, Treasury Department Agents, Military Police, US Marshals, Secret Service, and other law enforcement officers.
 - d. Any person working as an agent or otherwise with or on behalf of any law enforcement personnel, including without limitation all civilian employees, informants and citizens acting at government direction, and all security guards and members of law enforcement auxiliaries and organized citizens' anti-crime groups.

2. "Identify" shall mean:

- a. With regard to a document, the author, date of creation, and respective revisions, and the current location and custodian of the original.
- b. With regard to a photograph, the photographer, the date exposed, the date developed, all witnesses to the photograph being taken, and the current location and custodian of the negative.
- c. With regard to an audio or video recording, the persons present, the date recorded, the date transcribed, all witnesses to the recording, and the current location and custodian of the original.
- d. With regard to computer created data, the operating system, application program and the current location and custodian of the original.
- e. With regard to a statement or conversation, the persons present, the date, and all documents and/or other records reflecting the contents.
- f. With regard to computer created data, the operating system, application program and the current location and custodian of the original.
- g. With regard to persons or witnesses, the name, home address and phone, and work address and phone.

3. "Produce" shall mean:

- a. With regard to a document, provide a photocopy of both sides of each page (which has information on it – no blank pages), or make the original available for private inspection and copying.
- b. With regard to a photograph, provide a positive copy, or make the negative and/or original positive available for copying.
- c. With regard to an audio or video recording, provide a copy [standard audio cassette or VHS format video cassette], or make the original

available for copying. In the event a complete or partial transcript shall have been prepared, the transcript shall also be produced.

- d. With regard to computer created data, provide a disk copy of the operating system, application program and data, or make the original[s] available for inspection and copying.
- e. With regard to a statement or conversation, provide the contents of the statement and identify the time, place, persons present, and method of recording.
- f. With regard to property, make it available for preliminary inspection and then make all reasonable arrangements for further inspection or testing.

4. "Report" shall include:

- a. All documents, whether in the form of field notes, typed summaries, or prepared forms which record the activities of government personnel and the statements of witnesses.
- b. All audio or visual records prepared in connection with this case.
- c. A document prepared expressly for the production of information gathered from various sources, as in, "Produce a report setting out..."

5. "Statement" shall include:

- a. Spontaneous or voluntary utterances.
- b. Questions and respective answers.
- c. Conversations
- d. Actions, where those actions are declaratory (i.e., convey the thoughts or intent of the actor.)

6. "Contents" include:

- a. When referring to a statement, the gist, summary, paraphrase or transcript of the statement.
- b. When referring to a document, the complete text of the document and all other documents referred to within the text of the primary document.

BRADY MATERIAL

7. Identify and produce all evidence tending to negate the guilt of the Defendant and/or tending to suggest the guilt or complicity of any other person.
8. Identify and produce all evidence tending to impeach the credibility of each potential witness, including but not limited to the complaining witness if any.
9. Identify and produce each statement made by any person to the government concerning the credibility of any potential witness.
10. Produce the complete "criminal record," or, "rap sheet," of the witnesses or potential witnesses in this case.
11. Identify and produce all evidence tending to mitigate the alleged guilt of the Defendant.
12. Identify and produce all evidence tending to place the alleged actions of the Defendant in a more favorable light.
13. Assuming arguendo that the Defendant were somehow to be convicted of any offense, identify and produce all evidence tending to favor or justify a lesser or minimum sentence.

OKLAHOMA DISCOVERY CODE

14. Identify and produce all of the evidence, information and material required to be produced under the provisions of the Oklahoma Discovery Code.

15. Identify and produce all of the evidence, information and material required to be produced under Allen v. District Court of Washington County, 1990 OK CR 83, 803 P.2d 1164. Without limitation to the following:
- a. Identify and produce the names and addresses of witnesses, together with their relevant oral, written or recorded statement, or summaries of the same;
 - b. Identify and produce any written or recorded statements and the substance of any oral statements made by the accused or made by a codefendant;
 - c. Identify and produce any reports or statements made by experts in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments or comparisons;
 - d. Identify and produce any books, papers, documents, photographs, tangible objects, buildings, or places which the prosecuting attorney intends to use in the hearing or trial or which were obtained from or belong to the accused;
 - e. Identify and produce any record of prior criminal convictions of the Defendant, or of any codefendant;
 - f. Produce the OSBI or FBI rap sheet/records check on any witness listed by the State or the Defense as a possible witness who will testify at trial;
 - g. Identify and produce any material or information within the government's possession or control which tends to negate the guilt of the accused as to the offense charged or which would tend to reduce the punishment of the accused.

OPEN RECORDS ACT

16. Identify and produce all materials, documents and information required to be released under the Oklahoma Open Records Act, 51 O.S. §§ 24A.1, *et seq.*

SEIZED PROPERTY

17. Each inventory of property taken from the Defendant at the time of arrest and/or booking.
18. Each inventory of property seized at or about the scenes of the alleged offenses.

STATEMENTS

19. Identify and produce the contents of each sworn statement made by any person or witness.
20. Identify and produce the contents of all written, signed, or adopted statements of any person or witness, whether sworn or not, together with any report or documents reflecting the contents of such statements.
21. Identify and produce the contents of all oral statements of any person or witness, together with any report or document reflecting the contents of such statements.
22. Identify and produce the contents of all statements made by the Defendant to the government together with any report or document reflecting the contents of such statements.
23. Identify and produce the contents of all statements made by the government to the Defendant together with each report or document reflecting the contents of such statements.

TANGIBLE EVIDENCE

24. Identify and produce each item of tangible evidence pertaining to this case.
25. Identify and produce the contents of each inventory of property prepared in connection with this case, together with any report or document which reflects the existence of, or contents of such inventories.
26. Identify and produce all property taken from the Defendant at the time of his arrest or booking.

OTHER CRIMINAL ALLEGATIONS OR "BAD ACTS"

27. Identify and produce a report setting out all unadjudicated crimes for which the Defendant is believed or suspected to have been involved, excluding only crimes set out in the information in this case or any "bad acts" evidence which the state intends to introduce into evidence in this case.

RECORDINGS AND PHOTOGRAPHS

28. Identify and produce each audio recording relevant to this case, together with any report or document which reflects the contents of such recordings, all without regard to whether or not such recordings may be admissible as evidence.
29. Identify and produce each photograph obtained at the scenes of the alleged offenses, together with any report or document which reflects the contents of such photographs.
30. Identify and produce each photograph obtained at or about the time of the arrest or booking, together with any report or document which reflects the contents of said photograph.
31. Identify and produce each photograph depicting any exhibit relevant to this case, together with any report or document which reflects the contents of said photograph.

32. Identify and produce each photograph or video recording depicting the Defendant.
33. Identify and produce each audio recording of the voice of the Defendant.

SCIENTIFIC AND TECHNICAL INVESTIGATIONS

34. Identify all property and/or evidence that has been subjected to any scientific, forensic or technical investigation in this case.
35. Identify each person conducting or participating in each such investigation, including peer review and produce each person's resume or curriculum vita.
36. Identify and produce all protocols, procedures, and interpretation guidelines used by each person conducting or participating in each such investigation, including peer review.
37. Identify and produce all training manuals used as reference or training for each person conducting or participating in each such investigation, including peer review.
38. Identify all machinery and/or equipment used in each such investigation, including peer review.
39. Identify and produce a report setting out in detail the precise procedures employed in each such investigation.
40. Identify and produce each analyst's complete case file including, but not limited

to:

- a. Notes and bench notes;
 - b. Correspondence;
 - c. Peer review documentation.
41. Identify and produce all evidence, whether in the form of exhibit, report, document, statement or testimony derived from each such investigation and/or reflecting the results of each such investigation.

42. Identify and produce all recordings, photos and drawings made or prepared in connection with each such investigation.
43. Identify and produce all proficiency tests and results for each person conducting or participating in each such investigation, including peer review.
44. Identify and produce all accreditation requests for each facility or laboratory conducting or participating in each such investigation, including peer review, together with the results of each such request.

CRIME SCENE PROCESSING AND RECONSTRUCTION

45. Identify all procedures involved in processing each crime scene relevant to this case.
46. Identify and produce all photos and drawings used for preservation and/or interpretation of crime scene evidence.
47. Identify and produce all evidence derived from each attempted crime scene reconstruction relevant to this case, whether or not the effort was considered successful.

FINGERPRINTS

48. Identify all complete and/or partial fingerprint evidence relevant to this case, whether or not it has been the subject of analysis or interpretation.
49. Identify and produce all proficiency tests and results for each analyst that has participated in the interpretation of fingerprint evidence in this case.

INFORMANTS, OFFERS, AND INDUCEMENTS

50. Identify all persons, including without limitation all "informants," so-called "jailhouse snitches" and/or "confidential informants," and/or anyone who has

been or could be charged with a criminal offense, will have provided or offered to provide information to the government concerning the Defendant.

51. With respect to each such informant, produce the criminal history and all law enforcement reports, reflecting the suspected criminal activities of such persons, whether or not these activities related directly to the Defendant.
52. Without limiting the foregoing, with respect to each such informant provide: 1) any and all evidence pertaining to, or with respect to, formal or informal assistance concerning pending or potential criminal charges, trials, parole or probation; 2) any and all consideration, or promises of consideration, given to or on behalf of a witness, whether bargained for or not; and 3) any and all, informal or unstated, agreements or "agreements to agree in the future" concerning the same issues.

LEADS AND CRIME STOPPERS TIPS

53. Identify all lead's relating to this case or the Defendant which were generated by Crime Stoppers or other "tip line" or neighborhood watch programs, whether or not such leads were deemed useful or not.
54. Identify all persons applying for or receiving any financial benefit for information relating to this case or the Defendant submitted to Crime Stoppers or other "tip line" programs.

WARRANTS AND NOTICES

55. Identify and produce each arrest, search, seizure or electronic surveillance warrant or authorization relevant to this case.
56. Identify and produce each and all waiver of rights notice or consent signed by or read by or to the Defendant, including without limitation Miranda rights and search and seizure rights.

57. Identify and produce each affidavit, declaration, or sworn statement presented to any Judge in support of any request for the authorization or issuance of any search or arrest warrant or any criminal information or indictment.

LAW ENFORCEMENT REPORTS

60. Identify and produce all reports, including field notes, of any law enforcement agency concerning or relating to this case.

OTHER WITNESSES

61. Identify all persons known to have knowledge of relevant facts favorable to the Defendant on the issues of guilt or punishment.
62. Identify all persons known to have knowledge of relevant facts unfavorable to the Defendant on the issues of guilt or punishment.
63. Identify all persons interviewed by law enforcement whether or not they accused the Defendant of any wrongdoing.
64. Identify all persons known or believed by the government to have been present at any time during the commission of the alleged offenses.
65. Identify all persons known or believed by the government to have been present at the time of the arrest, and or booking of the Defendant.
66. Identify all persons present during any interrogation of the Defendant.
67. Identify all witnesses not previously endorsed as witnesses.
68. Produce all evidence which might aid the Defendant in identifying additional witnesses.

REWARDS

69. Identify all rewards or other public solicitations for information relating to this case or to the Defendant, including if appropriate the date, source and amount of

the reward and information received in response to the reward or solicitation whether deemed useful or not.

70. Identify all persons requesting, applying for, or receiving all or part of any reward for information relating to this case or the Defendant.

MODELS, CHARTS, AND SUMMARIES

71. Identify and produce each item, document, PowerPoint presentation, model, chart, graph, sound effects or music or summary or other demonstrative evidence which the government intends to display to the court or the jury.

MISCELLANEOUS

72. Identify and produce each item of evidence which may be introduced into evidence against the Defendant and which has not been described in other paragraphs of this motion.

AUTHORITIES

In further support of these specific requests, Defendant would inform the Court of the following citations of Oklahoma law:

73. 22 O.S. §§ 192, 303, 749
74. 22 O.S. §§ 2001, *et seq.*, [The Oklahoma Discovery Code]
75. Allen v. District Court of Washington County, 1990 OK CR 83, 803 P.2d 1164
Anderson v. State, 2006 OK CR 6, 130 P.3d 273; Blevens v. State, 1971 OK CR 262, 487 P.2d 991; Burks v. State, 1979 OK CR 10, 594 P.2d 771; Dodd v. State, 2000 OK CR 2; Giglio v. U.S., 405 U.S. 150, 92 S. Ct. 763, 31 L.Ed.2d 104 (1972); Harris v. State, 2000 OK CR 20, 13 P.2d 489; Taylor v. State, 1995 OK CR 10, 889 P.2d 319; Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579, 113 S.Ct. 2786, 124 L.Ed.2d 469 (1993); Kumho Tire Co. v. Carmichael, 526 U.S. 137, 119 S. Ct. 1167, 143 L.Ed.2d 238 (1999); LaFortune v. District Court of Tulsa County, 1998 OK CR 64, 972 P.2d 864;