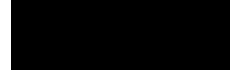


NORTH CAROLINA )  
 )  
FORSYTH COUNTY )

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION



STATE OF NORTH CAROLINA, )  
 )  
 vs. )  
 )  
DEFENDANT )

**DEFENDANT’S MOTION FOR  
DISCOVERY PURSUANT TO  
CONSTITUTIONAL GUARANTEES**

**NOW COMES** defendant, pursuant to N.C.G.S. 15A-1054(c) and the Fifth, Sixth and Fourteenth Amendments to the United States Constitution, and moves the Court as follows:

1. Pursuant to *Brady v. Maryland*, 373 U.S. 66 (1963) and *Kyles v. Whitley*, 514 U.S. 419 (1995), defendant requests the State to divulge any evidence known by the State, and any of its officers and agents, which is favorable to the defendant in that it would tend to exculpate the defendant, reduce the penalty toward the defendant, or otherwise mitigate the alleged offense.

2. Pursuant to *Giles v. Maryland*, 386 U.S. 66 and *Kyles v. Whitley*, 514 U.S. 419 (1995), defendant moves the Court to order that the State produce any information known to the State, and any of its agents and officers, that reflects on the credibility of any witness to be called by the State. Such information could include, but not be limited to:

- statements made by a witness who is expected to testify at trial that differ from other statements made by the same witness;
- statements made by a witness who is expected to testify at trial that differ from the expected testimony of the same witness;
- the criminal record of any witness;
- psychiatric or psychological afflictions of a witness;
- examination and/or treatment of the witness for the abuse of alcohol or controlled substances;
- evidence that a witness had consumed alcohol or a controlled substance within twelve hours before the time of any relevant events which the witness claims to have observed;
- evidence that a witness’s ability to observe events generally is restricted or limited (e. g. the witness’s vision or hearing is impaired);
- evidence that a witness’s ability to observe relevant events was restricted or limited at the time of the observation (e. g. it was dark, the witness was far away, etc.)
- evidence that a witness’s memory is impaired or limited;

- evidence that a witness's cognitive ability is impaired or limited;
- the witness harbored a bias or prejudice against the defendant; and
- any other information relating to a witness's bias, credibility or ability to observe or recall events.

3. Defendant moves the Court to order the State to produce any other evidence or information which would guarantee that the defendant enjoys his rights under the Fifth, Sixth and Fourteenth Amendments to a fair trial, due process, assistance of counsel, and an effective opportunity for cross-examination of witnesses.

**WHEREFORE**, the defendant moves the Court to order that the State provide all information required under applicable statutory and constitutional law.

**FORSYTH COUNTY PUBLIC DEFENDER**

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F. KEVIN MAUNEY  
8 W. Third Street, Suite 400  
Winston-Salem, NC 27101  
Tel: 336-761-2510

CERTIFICATE OF SERVICE

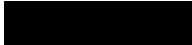
The undersigned attorney for the defendant certifies that he served the State with this Request by delivering a copy to the office of the assistant district attorney handling the case for the State and leaving the copy with the ADA or an employee on his or her office.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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NORTH CAROLINA )  
 )  
FORSYTH COUNTY )

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION



STATE OF NORTH CAROLINA, )  
 )  
vs. )  
 )  
DEFENDANT )

**DEFENDANT'S MOTION FOR  
DISCOVERY PURSUANT TO  
CONSTITUTIONAL GUARANTEES**

Now comes the Defendant and moves the Court, through counsel, for an order requiring the State to furnish to Defendant the following:

1. Any information and evidence which "would tend to exculpate the defendant or reduce the penalty," Brady v. State of Maryland, 373 U.S. 83, 88 (1963), and
2. All information and evidence in the possession of the State or prosecution or its agents that may be materially favorable to the Defendant either of a direct or impeaching nature, Brady v. Maryland, *supra*; Giglio v. U.S. , 405 U.S. 150 (1972); and
3. Any criminal record of any state witness known to the prosecution or its agents, Giglio v. U.S. , 405 U.S. 150 1972; and
4. Any statements from any persons at any alleged crime scene which could tend to conflict with or which do not support the prosecution's theory of guilt in this cause; and
5. Defendant respectfully moves the Court to order the prosecution to inquire of its agents, including law enforcement officers, whether the State intends to call them as witnesses or not, with regard to the information and evidence that is the subject of this motion. Kyles v. Whitley, 514 U.S. 419 (1995).

**WHEREFORE**, the defendant moves the Court to order that the State provide all information required under applicable statutory and constitutional law.

**FORSYTH COUNTY PUBLIC DEFENDER**

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CARA SMITH  
8 W. Third Street, Suite 400  
Winston-Salem, NC 27101  
Tel: 336-761-2510

CERTIFICATE OF SERVICE

The undersigned attorney for the defendant certifies that he served the State with this Request by delivering a copy to the office of the assistant district attorney handling the case for the State and leaving the copy with the ADA or an employee on his or her office.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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