

STATE OF NORTH CAROLINA  
  
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF  
JUSTICE  
SUPERIOR COURT DIVISION

██████████

STATE OF NORTH CAROLINA )  
 )  
 v. )  
 )  
 ██████████ ██████████ )  
 )  
 \_\_\_\_\_ )

**REQUEST FOR DISCOVERY**

*NOW COMES* the Defendant, ██████████ ██████████ by and through counsel, hereby requests that the following materials be provided to him by the State:

1. All materials covered by N.C. Gen. Stat. § 15A-903,<sup>1</sup> including “the complete files of all law enforcement and prosecutorial agencies involved in the investigation of the crimes committed or the prosecution of the defendant.” ██████████ ██████████ also requests that the State verify on the record that all law enforcement agencies involved in the investigation or prosecution of this matter have complied with their obligations under N.C. Gen. Stat. § 15A-501, to “make available to the State . . . all materials and information acquired in the course of all felony investigations.” Without such compliance, the open file provisions of section 15A-903 are meaningless. Finally, ██████████ ██████████ requests that all discovery be provided well in advance of trial. As the Fourth Circuit has observed, “[i]f it is incumbent on the State to disclose evidence favorable to an accused, manifestly, that disclosure to be effective must be made at a time

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<sup>1</sup> All references in this document are to the “new” versions of N.C. Gen. Stat. §§ 15A-902 through 910 and 15A-501, which become effective Oct. 1, 2004, and apply to all cases set for trial after that date, as this case is.

when the disclosure would be of value to the accused.” Hamric v. Bailey, 386 F.2d 390, 393 (4<sup>th</sup> Cir. 1967).

2. Notice of any expert witness that the State reasonably expects to call as a witness at trial, including that expert’s report, curriculum vitae, opinion, and basis for opinion, all at a reasonable time in advance of trial. See generally N.C. Gen. Stat. § 15A-903(a)(2). [REDACTED] [REDACTED] likewise requests all information and materials supporting any opinion pursuant to State v. Fair, \_\_\_ N.C. App. \_\_\_, 596 S.E.2d 871 (2004), State v. Dunn, 154 N.C. App. 1 (2002), and State v. Cunningham, 108 N.C. App. 185 (1992).

3. At the beginning of jury selection, a witness list as required by N.C. Gen. Stat. § 15A-903(a)(3). Should the State contend that there are any witnesses whose identities need not be disclosed due to a risk of coercion or due to any other “compelling need,” [REDACTED] [REDACTED] requests that he be served with the State’s “writing . . . under seal” (except for the name of the witness), in order that he may contest the State’s showing.

4. All items, information, and materials subject to disclosure under Brady v. Maryland, 373 U.S. 83 (1963), and its progeny, including all items, information, and materials that have exculpatory and/or mitigating and/or impeachment value. This request specifically encompasses any evidence material to punishment as well as to guilt, including any evidence that suggests the existence of a statutory or non-statutory mitigating factor or that tends to rebut or to reduce the weight of an aggravating factor.

5. Information regarding any alleged co-conspirators and/or confidential informants, including the individuals’ names, addresses, telephone numbers, and criminal records. As to alleged co-conspirators, the United States Supreme Court has stated that

“[a] conspiracy case carries with it the inevitable risk of wrongful attribution of responsibility to one or more of the multiple defendants. . . . In our adversary system for determining guilt or innocence, it is rarely justifiable for the prosecution to have exclusive access to a storehouse of relevant fact.” Dennis v. United States, 384 U.S. 855, 873 (1966). As to confidential informants, the Supreme Court has strongly suggested that the defense is entitled to an informant’s identity if the informant was a percipient witness to, or participated in, the alleged criminal transaction, and the informant’s testimony may be helpful to the defense. See Roviario v. United States, 353 U.S. 53, 61-62 (1957).

6. Any other items, information, and materials subject to disclosure that have not been specifically enumerated above.

7. Any items, information, and materials that the State wishes to disclose in the interest of justice. See N.C. Gen. Stat. § 15A-903(b).

8. Defendant notes that the State’s obligations to provide the requested materials are continuing ones under N.C. Gen. Stat. § 15A-907 and hereby requests continued compliance by the State with the above-numbered requests.

This the 20<sup>th</sup> day of July, 2015.

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Toussaint C. Romain  
700 East Fourth Street, Suite 400  
Charlotte, NC 28202  
ATTORNEY FOR DEFENDANT

**CERTIFICATE OF SERVICE**

I hereby certify that I have served the foregoing Motion on [REDACTED]  
Assistant District Attorney, Twenty-Sixth Judicial District, by hand delivering, this the  
20<sup>th</sup> day of July, 2015.

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700 East Fourth Street, Suite 400  
Charlotte, NC 28202  
ATTORNEY FOR DEFENDANT