

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. CRS

STATE OF NORTH CAROLINA)
)
v.)
)
)
)
_____)

**MOTION FOR PRODUCTION
OF EXCULPATORY
INFORMATION**

The Defendant, by and through counsel, moves this court pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963); *United States v. Agurs*, 427 U.S. 97 (1976); and *Kyles v. Whitley*, 514 U.S. 419 (1995); and under the Sixth, Eighth and Fourteenth Amendments to the United States Constitution and Article I §§ 19, 23 and 27 of the North Carolina Constitution to order the prosecution to turn over to defense counsel any materials in the possession of the prosecution and law enforcement agencies which are favorable to the defendant, including, but not limited to the following:

1. Any statement of any witness or from any source, exculpating the defendant or otherwise indicating a lessened role of the defendant in this case by any government agency.
2. Any exculpatory statements made by, or attributed to, the defendant.
3. Any statements of any witnesses or from any sources indicating that the defendant did not act with premeditation or deliberation or which indicate that the defendant did not act with the specific intent to kill.
4. Any reports or evidence of threats, deals, arrangements, promises or inducements made to any prosecution witness in this case.

5. The criminal records of all prosecution witnesses including prior convictions and cases pending at the present time or at the time of defendant arrest.
6. Any evidence of law enforcement officers making monetary payments to, or promises of monetary payments to, any material witness or informant in this case.
7. Any alias or other names used by any prosecution witness.
8. Any evidence of any mental or emotional illness, or drug or alcohol use by, any of the prosecution witnesses at the time of this offense or any time thereafter.
9. Any evidence of any out of court statements by any prosecution witness which differs from the witness= testimony which is expected to be given at the upcoming trial.
10. The names and addresses of any individuals who were considered at any time during the case as possible suspects and the evidence that led to this conclusion.
11. Any evidence that another person other than the accused was in possession of the alleged murder weapon.
12. Any evidence that another person other than the accused attempted to dispose of the alleged murder weapon after the time of this alleged offense.
13. A list of any evidence that has been destroyed by law enforcement authorities in this case and the policy that allowed such destruction.
14. Any evidence or information that indicates that evidence was obtained in violation of the North Carolina or the Federal Constitution.

Defendant respectfully requests that the prosecutor be ordered to inquire of all investigation officers concerning the existence of this evidence and if such or other exculpatory evidence exists, to produce it to defense counsel. Exculpatory evidence,

whether in the hands of the police or prosecution, should be provided. *Kyles*, 514 U.S. at 437 (1995) (The individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf in the case, including the police.)

Defendant further requests that the State be ordered to provide this information in a manner that allows Defendant an opportunity to effectively develop and investigate any exculpatory evidence prior to trial. "The State has not satisfied its duty to disclose unless the information was provided in a manner allowing defendant to make effective use of the evidence." *State v. Canady*, 355 N.C. 242, 252 (2002) (finding the State failed to meet its obligations under *Brady* when it disclosed that someone had given information that a person other than Defendant was responsible for the murder for which Defendant was being tried, but would not disclose the name of the person who had given law enforcement that information).

Further, a defendant has a right to exculpatory "information *in a timely manner* so he [can] effectively use it." *Id.* at 253 (emphasis added). Defendant requests that this Court order that the State provide all such materials within the possession of the State immediately and all such materials no later than two months prior to the start of trial.

This the _____ day of _____, _____

Lisa Anderson Williams, Esq.
Attorney for Ryan _____
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CERTIFICATE OF SERVICE

I certify that I served a copy of the foregoing **Motion for Production of Exculpatory Information** by and delivery to the Office of the District Attorney Durham, NC:

This the 30th day of _____, _____.

Lisa Anderson Williams, Esq.
Attorney for _____
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