



STATE OF * 1 0 2 7 3 5 2 7 1 1 *
CLEVELAND COUNTY J

IN THE DISTRICT COURT OF CLEVELAND COUNTY **FILED** In The
Office of the Court Clerk

STATE OF OKLAHOMA

OCT 03 2014

STATE OF OKLAHOMA,)
)
Plaintiff,)
)
vs.)
)
ALTON ALEXANDER NOLEN,)
)
Defendant.)

DOCKET ___ PAGE ___ RECORDED
Rhonda Hall, Court Clerk
_____ DEPUTY

Case No. CF-2014-1792

DEFENDANT'S MOTION FOR DISCOVERY

COMES NOW the Defendant, by and through counsel of record, Oklahoma Indigent Defense System, Norman Capital Trial Division, and moves the Court to require the District Attorney of Cleveland County, Oklahoma, on behalf of the Plaintiff, the State of Oklahoma, or any assistant or other prosecuting attorney who may be involved in the above-styled and numbered cause, to disclose and produce for copying, all of the following information:

1. Pursuant to the Oklahoma Criminal Discovery Code, Okla. Stat. tit. 22 §§ 2001, 2002 (Supp. 1994), the Defendant requests:
 - a) The names and addresses of any and all witnesses the State intends to call at trial along with their written or recorded statements or significant summaries of their oral statements;
 - b) Law enforcement reports made in connection with this case;
 - c) Any and all written or recorded statements made by the Defendant and the substance of any oral statement the Defendant made;
 - d) The reports or statements made by any experts in connection with this case: including physical or mental examinations and scientific tests or experiments or comparisons;
 - e) Any books, papers, documents, photographs, or tangible objects, buildings or places which were obtained from the Defendant;

 ORIGINAL

- f) The record of any past criminal convictions of the defendant; and,
- g) OSBI rap sheet/records check of any witnesses the State, or the Defendant, intends to call at trial.

Furthermore, pursuant to the Code, the defendant requests the disclosure of any evidence favorable to the defendant with regards to guilt or punishment;

- 2. Any and all prior criminal convictions of persons the State of Oklahoma, as Plaintiff, intends to call as witnesses in the trial of the above-styled and numbered cause. **Stafford v. District Court of Oklahoma Co.**, 595 P.2d 797 (Okl.Cr. 1979);
- 3. All information or material in prosecutor's possession or control or that which could be acquired by due diligence by the prosecutor that would tend to negate the guilt of the accused, or which would tend to reduce the punishment of the accused should the accused be convicted. **Brady v. Maryland**, 373 U.S. 83, 83 S.Ct 1194 (1963); **United States v. Agurs**, 427 U.S. 97, 96 S.Ct 2392 (1976); **Allen v. District Court of Washington Co.**, 803 P.2d 1164 (Okl.Cr. 1990);
- 4. An opportunity to inspect, review, and/or copy all evidentiary material and real evidence including copies of fingerprints, instruments, clothing, or other paraphernalia relating to the charge filed against this Defendant. **Lambert v. State**, 471 P.2d 935 (Okl.Cr. 1970); **Layman v. State**, 355 P.2d 444 (Okl.Cr. 1960);
- 5. An opportunity to inspect and to obtain copies of any and all photographs made at or near the scene of the alleged crime by any photographer or police officer, highway patrolman, district or assistant district attorney, or any other person acting under the supervision and control of the Plaintiff and for its benefit. **Layman v. State**, 355 P.2d 444 (Okl.Cr. 1960);
- 6. Copies of any and all sworn statements obtained from purported witnesses to the alleged crime which has been charged against the Defendant. Okla. Stat. tit. 22 § 749 (1991);

7. All statements made by this Defendant to the District Attorney, his assistants, and agents, or police officers that pertain to this case. Clewis v. Texas, 386 U.S. 707, 87 S.Ct. 1338 (1967); Allen v. District Court of Washington Co., 803 P.2d 1164 (Okl.Cr. 1990). This includes, but is not limited, to the following:
 - a) All oral statements made by the Defendant prior to trial, of which the State and its agents and employees have knowledge. Watts v. State, 487 P.2d 981 (Okl.Cr. 1971); Allen v. District Court of Washington Co., 803 P.2d 1164 (Okl.Cr. 1990);
 - b) Any signed confessions and written statements made by this Defendant; Watts v. State, 487 P.2d 981 (Okl.Cr. 1971); Allen v. District Court of Washington Co., 803 P.2d 1164 (Okl.Cr. 1990);
 - c) Any recorded statements made by the Defendant. Allen v. District Court of Washington Co., 803 P.2d 1164 (Okl.Cr. 1990);
8. An opportunity to inspect and obtain copies of any audio or video recorded statements or conversations between the Defendant and any law enforcement agents, police, confidential informant or any person. Allen v. District Court of Washington Co., 803 P.2d 1164 (Okl.Cr. 1990);
9. An opportunity to inspect and obtain copies of all prosecution exhibits that are to be introduced at trial, including but not limited to photographs and confessions. Doakes v. District Court of Oklahoma Co., 447 P.2d 461 (Okl.Cr. 1968); Layman v. State, 355 P.2d 444 (Okl.Cr. 1960);
10. All prior felony convictions of the Defendant. Stafford v. District Court of Oklahoma Co., 595 P.2d 797 (Okl.Cr. 1979); Allen v. District Court of Washington Co., 803 P.2d 1164 (Okl.Cr. 1990);
11. An opportunity to inspect, review, and obtain samples and copies of reports, records, and/or other evidentiary material which is the basis for an opinion of a state's expert witness. Stafford v. District Court of Oklahoma Co., 595 P.2d 797 (Okl.Cr. 1979);
12. All exculpatory evidence in the form of inconsistent statements made by the state's witnesses, including but not limited to contradictory or inconsistent statements made by the witnesses, police officers, and the Defendant. United States v. Bagley, 473 U.S. 667, 105 S.Ct. 3375 (1985);
13. Endorsement of names and addresses of all witnesses, together with their relevant oral, written, or recorded statements, or summaries of the same. Allen v. District Court of Washington Co., 803 P.2d 1164 (Okl.Cr. 1990);

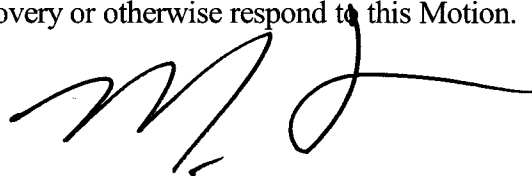
14. The name, Social Security number, address, telephone number, NCIC, OSBI or FBI Rap Sheet/Records Check of any confidential informant(s) used by law enforcement agents or police in the investigation of or as a witness to the alleged crime which has been charged against the Defendant; **Allen v. District Court of Washington Co.**, 803 P.2d 1164 (Okl.Cr. 1990);
15. Notice of other crimes, testifying witnesses, and evidence admissible against this Defendant under Okla. Stat. tit. 12 § 2404(B) (1991); **Burks v. State**, 594 P.2d 771 (Okl.Cr. 1979);
16. Reports and statements, from any and all expert witnesses and/or technical investigators the Plaintiff intends to call at trial, including results of physical or mental examinations, and of scientific tests, experiments, or comparisons. **Stafford v. District Court of Oklahoma Co.**, 595 P.2d 797 (Okl.Cr. 1979); Okla. Stat. tit. 22 § 751 (1991); **Allen v. District Court of Washington Co.**, 803 P.2d 1164 (Okl.Cr. 1990);
17. An opportunity to inspect and obtain copies of all records, reports, and photographs reflecting the manner and the mode in which the State conducted any and all pre-trial identification proceedings. This request includes, but is not limited to, any "live" line-ups, any photographic line-ups, and any other proceeding or investigation during which a State's witness was given the opportunity to view the accused or a photograph of the accused for the purpose or with the result of making an identification of a suspect. **United States v. Wade**, 388 U.S. 218, 87 S.Ct. 1926 (1967); **Thompson v. State**, 438 P.2d 287 (Okl.Cr. 1968);
18. All agreements between the State and any of its witnesses reflecting said witnesses obtaining special or lenient treatment in pending or potential criminal cases in exchange for their testimony in this case. **Napue v. Illinois**, 360 U.S. 264, 79 S.Ct. 1173 (1959); **Binsz v. State**, 675 P.2d 448 (Okl.Cr. 1984);
19. All agreements between the State and any confidential informant(s) reflecting said confidential informant(s) obtaining special or lenient treatment in pending or potential criminal cases in exchange for their assistance or testimony; **California v. Trombetta**, 467 U.S. 479, 104 S.Ct. 2528 (1984); **Giglio v. United States**, 405 U.S. 150, 92 S.Ct. 763 (1972);
20. Any books, papers, documents, photographs, tangible objects, buildings or places which the prosecuting attorney intends to use in this hearing or trial or which were obtained from or belong to the Defendant. **Allen v. District Court of Washington Co.**, 803 P.2d 1164 (Okl.Cr. 1990);

21. OSBI Records Check on any witness listed by the State or the Defense as a possible witness who will testify at trial. **Allen v. District Court of Washington Co.**, 803 P.2d 1164 (Okl.Cr. 1990);
22. The names, addresses, and telephone numbers of all persons interviewed by the District Attorney, Assistant District Attorney, Investigator, detective, Police Officer, or others acting under the supervision and control of the plaintiff or for its benefit, in connection with this case or this Defendant. **Brady v. Maryland**, 373 U.S. 83, 83 S.Ct 1194 (1963); **Burks v. State**, 594 P.2d 771 (Okl.Cr. 1979);
23. A list of names and address of anyone who might have favorable testimony on behalf of the Defendant. **Brady v. Maryland**, 373 U.S. 83, 83 S.Ct. 1194 (1963); **Levin v. Katzenbach**, 373 F.2d 287 (D.C. Cir. 1986);
24. All signed or oral statements by witnesses who have knowledge of the facts of this case. **Brady v. Maryland**, 373 U.S. 83, 83 S.Ct. 1194 (1963); **Giles v. Maryland**, 386 U.S. 66, 87 S.Ct. 793 (1967);

That such obligation to disclose such information be extended to materials and information in possession or control of members of the prosecutor's staff and to those law enforcement agencies who regularly report to the prosecutor or, who have reported in reference to the particular case, and that this duty be continued until the close of this trial. See: Okla. Stat. tit. 22 §§ 2001, 2002 (Supp. 1994); **Allen v. District Court of Washington Co.**, 803 P.2d 1164 (Okl.Cr. 1990).

WHEREFORE, Defendant prays that this Court grant this Motion for Discovery and further Order the State to produce the requested discovery or otherwise respond to this Motion.

Respectfully submitted,



Mitchell Solomon, OBA #11171
Shea Smith, OBA #21548
Bobby Lewis, OBA #20755
Oklahoma Indigent Defense System
Capital Trial Division
P.O. Box 926
Norman, Oklahoma 73070-0926
(405) 801-2700

CERTIFICATE OF SERVICE

This is to certify that on the date of filing, a true and correct copy of the above and foregoing instrument was delivered to Greg Mashburn, Cleveland County District Attorney, County Building, 201 S. Jones Avenue, Suite 300, Norman, OK 73069-6078.



Mitchell Solomon, OBA #11171

Shea Smith, OBA #21548

Bobby Lewis, OBA #20755