

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA**

STATE OF FLORIDA

Criminal Division __

vs.

CASE NO.:

DEFENDANT

MOTION TO OBTAIN, DISCLOSE AND PRODUCE BRADY INFORMATION

Defendant, by and through their undersigned counsel, hereby moves this Honorable Court for an order directing the Office of State Attorney to obtain, disclose and produce any and all information required under the opinions Brady v. Maryland, 373 U.S. 83 (1963), Kyles v. Whitley 514 U.S. 419 (1995) and United States v. Bagley, 473 U.S. 667 (1985) that has not been previously disclosed in discovery sent to the defense pursuant to Florida Rule of Criminal Procedure 3.220 and as grounds therefore would show:

1. The above United States Supreme Court opinion applies to the states. Further, Florida Rule of Criminal Procedure 3.220 also requires compliance with the obligations contained within the Brady decision.
2. Specifically, the defense is requesting that this court order the state to conduct all appropriate inquiries to ascertain the existence of any potential Brady material that may be known to all involved police, investigative agencies aligned with the police or prosecution, medical and lay personnel associated with the above prosecution and to search all relevant records, reports, documents and tangible evidence for such information to include:
 - a. Emails (prosecutor to police, police to prosecutor, state witness to police or prosecutor and police or prosecutor to state witness, lay and expert).
 - b. Text messaging and instant messages (see (a) for listings).
 - c. Messaging between officers or officer to station.
 - d. Two-way dispatch messaging.
 - e. 911 calls.
 - f. Audio and/or videotapes (including those captured via body cameras or cell phone cameras).

- g. Any records stored, sent or received via Dropbox or similar cloud computing or FTP (File Transfer Protocol) websites.
 - h. All electronic devices including but not limited to computers, laptops, iPads, cellular phones and smart phones that may contain discoverable material.
 - i. All social media accounts that may bear upon the above prosecution including but not limited to Facebook, Google, AOL, Yahoo, Twitter, Instagram, Snapchat and any online cloud backups which may contain information related to this prosecution.
 - j. All handwritten notes of law enforcement officers (to be reviewed for Brady material).
 - k. All handwritten or memorialized notes of the prosecutor concerning witness interviews of law enforcement officers, experts and lay witnesses involved in the above prosecution. Such notes are intended to include but are not limited to state attorney investigations and trial preparation of witnesses.
 - l. Any and all medical records including psychiatric and clinical that may have relevance to the above prosecution or to any valid defense including those covered by HIPAA.
 - m. Any and all electronic devices including cell phones and computers belonging to witnesses listed by the state in discovery which may contain Brady material.
 - n. The name and address of any witness known to the prosecution that has given a statement to the state or law enforcement that is contrary to the state's theory of the case including pre and post interviews conducted during polygraph testing.
 - o. Any favorable treatment of any kind given or offered to any state witness in return for cooperation as well as any favorable treatment, money or anything of value requested by a state witness in return for cooperation.
 - p. Any Facebook postings made by the alleged victim relevant to this case that were taken down but can be retrieved by the state.
3. The information sought to be disclosed falls under the following categories:
- a. Any information that tends in any way to exonerate the accused.
 - b. Any material impeachment of any listed prosecution witness as it applies to the accusations being made in this case that would affect their credibility.
 - c. Any information that would lessen the punishment in this prosecution.

- d. Any information that would support a valid defense.
 - e. Any exculpatory information that is material to the issues in the above prosecution.
4. The defense is requesting a timely disclosure of the records and information being requested so that there is time to investigate and use the material provided at trial. Such is mandated under Whites v. State, 730 So.2d 762 (Fla. 5th DCA 1999). “Timely pretrial disclosure” is also defined in Miller v. United States, 14 A.3d 1094 (D.C. 2011) as “the defense’s ability to meaningfully use the information” (see also Perez v. United States, 968 A.2d 39 (D.C. 2009)).
 5. The defense is asking this Court to provide enough time for the State to research the areas being requested by the defendant in accordance with the Brady decision and then hold a subsequent hearing for the State to provide the material discovered or if none found, to put on the record the entities, documents, reports, records and persons consulted.
 6. The authority for the requests made in this motion is contained in the memorandum of law filed in conjunction with this motion.

WHEREFORE, Defendant moves this Honorable Court for an order directing the Office of State Attorney to search for all information that comply with the requirements of Brady v. Maryland, Kyles v. Whitley and United States v. Bagley and to bring such information to court and place on the record the entities, documents, reports, records and persons consulted in its search for the information found in paragraph 3 (a-e) of this motion.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished by e-service to Office of State Attorney, on _____.

Attorney for defendant