

FILED
MAY 04 2004
Sandra Trumbull
Clerk Dist. Court, Hood County, Texas

**IN THE DISTRICT COURT
OF HOOD COUNTY, TEXAS
355TH JUDICIAL DISTRICT
STANDARD DISCOVERY ORDER**

In all criminal cases now or hereafter pending in this Court, the State, through the office of its District Attorney, is ordered to produce and make available to the defendant or his attorney such of the following information and materials as are in the possession, custody or control of the State or any of its agencies or otherwise reasonably available to the prosecution. This information and these materials shall be produced at the office of the district attorney without the necessity of the filing of a motion for discovery.

The State of Texas is to have the following materials and information available to the defense for inspection, photographing, photocopying and duplication, to-wit:

I. RELATING TO DEFENDANT

1. All confessions, incriminating statements and *res gestae* statements purportedly made by the Defendant, including all writings, memos, notes and reports that refer to such confessions or statements;
2. All photographs, sketches, oral recordings and visual recordings of the Defendant;
3. The criminal history of the Defendant as recorded in the TCIC records together with all other crimes, wrongs and acts of which the prosecution has actual knowledge, including all NCIC records reasonably available to the State.
4. Statements by all co-defendants and co-conspirators, whether indicted or unindicted, that mention Defendant by name or other description;

II. RELATING TO WITNESS(ES)

5. The criminal history of all witnesses who could within reasonable probability be called as witnesses for the prosecution as recorded in TCIC records together with all other purported criminal activities of which the prosecution has actual knowledge;

6. All NCIC records in the possession of or reasonably available to the prosecution or peace officers and their administrative support officers involved in the prosecution of the defendant;
7. All plea agreements, offers of plea agreements or suggestions of plea agreements made by or for the prosecution to each and all of the witnesses whose testimony could be offered against the Defendant;
8. The witness list for the prosecution shall be produced to the defense prior to commencement of the jury voir dire examination. Such list shall include all witnesses, whether lay or expert, including witnesses under Rule 701 Texas Rules of Evidence, together with all rebuttal witnesses whose use can be reasonably anticipated by the State;
9. The names of all witnesses who appeared before the Grand Jury shall be endorsed upon the indictment or information by the prosecutor at such time as demanded in writing by the defense;

III. RELATING TO EVIDENCE

10. All physical evidence that could be offered at trial against the Defendant including but not limited to fingerprints, video recordings, audio recordings, documents, papers, books, accounts, letters, photographs, objects or tangible things not privileged which constitute or contain evidence material on any matter involved in this case and which are in the possession, custody or control of the State or any of its agencies; this does not include work product of the prosecutor or the prosecutor's staff or investigators (such as witness statements, officer's notes and reports) unless such material contains impeachment material or exculpatory evidence and is otherwise ordered to be disclosed;
11. Witness statements when and if and at any time it reasonably appears that information contained therein may provide exculpatory evidence or impeachment material for the defense; such materials must be produced for the defendant forthwith after its discovery by the prosecution;
12. All exculpatory evidence known to the prosecution and required to be produced in accordance with the "Brady Rule";

IV. RELATING TO EXPERT WITNESSES

13. All scientific reports regarding any and all evidence that could be offered at trial against the Defendant; if such reports are not in existence the State is required within a reasonable time to reduce same to writing; such reports must include the qualifications of the

expert, the materials considered by the expert and basis for the opinions and conclusions of the expert. The defense must be afforded reasonable access to such materials and such privacy as may be needed to make a proper examination of the materials. The defense is also permitted to have experts inspect such materials at reasonable times and places. The defense may not conduct testing, destructive or otherwise, on any of the materials in the absence of an agreement with the prosecution or a further order of this Court.

14. Either party challenging an expert witness or testimony to be offered by the opponent must file a pretrial motion for a Daubert/Kelly hearing in conformity with the Art. 28.01 C.C.P. to be held by this Court at least 10 days prior to trial.
15. Pursuant to Art. 39.14(b)C.C.P., the Court orders that each party shall disclose to the other the name and address of each person that party may use at trial to present evidence under Rules 702, 703 and 705 Texas Rules of Evidence. The prosecution and the defendant must both disclose to the other party not later than twenty (20) days prior to the date the trial is scheduled, the name and address of each person that party may use at trial to present evidence under Rules 702, 703 and 705 Texas Rules of Evidence. The name and address of the defendant does not have to be disclosed as a possible witness. Each party shall list such witnesses in a document containing the caption of the case and serve it upon the opposing party as provided by Rule 21a, Texas Rules of Civil Procedure.

The prosecution remains under a continuing duty to discover and make available for inspection, copying and duplication all additional information and materials similar to that which is described above within a reasonable time after they become reasonably available to the prosecution. There is also a continuing obligation to provide names and addresses of witnesses forthwith after discovery whose names were not reasonably available to the party at a prior time.

Defendants with retained counsel are expected to bear all discovery expenses. In the event the defense counsel has been appointed by the Court to represent an indigent defendant, the prosecutor's office and their agents are required within reason to furnish copies, photocopies and duplications for no charge to the defense. If the defense intends to submit any other expenses for payment through the Court, a Motion must be filed with the Court and approved before payment will be approved.

It is the obligation of the defendant, counsel for the defendant and counsel for the State to avoid filing motions that duplicate, track or cover, directly or indirectly, any of the provisions of this order. Any such motions will be overruled in their entirety without hearing.

DEFENDANT AND COUNSEL FOR THE DEFENDANT SHOULD NOTE THAT THIS STANDARD DISCOVERY ORDER DOES NOT CHANGE OR AFFECT THE NECESSITY TO TIMELY FILE ON BEHALF OF THE DEFENDANT THE

- 1) ELECTION FOR JURY PUNISHMENT;
- 2) APPLICATION FOR PROBATION;
- 3) REQUEST FOR NOTICE OF EVIDENCE AND MATERIALS UNDER RULE 404(B) & ART.37.07 SEC. 3 C.C.P;
- 4) "GASKIN RULE" MATERIALS;
- 5) ANYTHING ELSE NOT SPECIFICALLY ADDRESSED BY THIS ORDER;
- 6) MOTION FOR AN INTERPRETER.

THE PROSECUTORS AND DEFENSE ATTORNEYS ARE NOTIFIED AND CAUTIONED THAT IN THIS COURT THEY ARE EXPECTED TO OBSERVE THE TERMS OF THE TEXAS LAWYER'S CREED.

Signed this

4 day of may, 2004

Oran Wactor, Jr.
JUDGE PRESIDING

FILED

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Serra Trumble
Clerk Dist. Court, Hood County, Texas