

**IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS
CRIMINAL DIVISION**

STATE OF ARKANSAS

PLAINTIFF

v.

Case No. 72CR-2021-981

STEVEN JASON WILLIAMS

DEFENDANT

REQUEST FOR DISCOVERY

COMES NOW, Defendant, by and through his attorney, Steven Williams, and moves for discovery pursuant to the Arkansas Rules of Criminal Procedure and the due process and fair trial provisions of the Sixth and Fourteenth Amendments to the Constitutions of the United States and Art. 2, §§ 8 & 10 of the Constitution of the State of Arkansas whether the information sought is in the possession of the Prosecuting Attorney, ACIC, NCIC, Arkansas State Crime Lab, a Drug Task Force, or any other police or law enforcement agency. Accordingly, the State should provide the following:

1. The names and addresses of persons whom the state intends to call as witnesses at any hearing or trial sufficiently in advance of that hearing or trial to permit preparation.
2. Any written or recorded statements or the substance of any oral statements made by defendant or a codefendant or a potential codefendant or any one given legal or de facto immunity to provide information or testimony. This includes statements intended to be used as admissions.
3. Any reports or statements of experts in this case, including the results of any physical or mental examinations, scientific tests, experiments, or comparisons.
4. Any books, papers, documents, computer records, photographs, videotapes, or tangible objects, including any recreations, whether computer generated animations or whatever, which the state intends to use at any hearing or trial in this case or which were obtained from or belong to the defendant.
5. Further, the state should provide similar disclosure of anything that it does not intend to use at any hearing or trial in this case because

its non-use indicates a great potential that it is *Brady* material.

- (a) Defendant specifically requests production of the notes of the officers from which reports in the file were produced. Those notes commonly include information about leads that did not pan out and people talked to that may have known something else.
 - (b) The State must make a specific request for production of these notes from the officers because it will not be in an "open file," and a discovery response that merely directs defense counsel to come and copy their file does not comply with this request.
6. Any record of any person who may be called as a witness at any stage of this proceeding whether presently known or capable of being ascertained of prior:
 - (a) convictions, by an ACIC or NCIC check, or otherwise.
 - (b) juvenile adjudications that would be admissible for impeachment if committed by an adult.
7. Any inducements, promises of leniency, consideration (financial or otherwise) or anything else that is potential impeachment evidence against a confidential informant or any other witness, pursuant to Ark. R. Crim. P. 17.1(b)(iii), (d); *Brady v. Maryland*, 373 U.S. 83 (1963); *Kyles v. Whitley*, 514 U.S. 419 (1995); *Strickler v. Greene*, 527 U.S. 263 (1999); *Banks v. Dretke*, 124 S. Ct. 1256 (2004); Arkansas Rules of Professional Conduct, Rule 3.8(d), including any written or oral agreements or any documentary evidence concerning an informant or "cooperating individual" that:
 - (a) provides for leniency, protection from arrest, prosecution, or asset forfeiture, sentencing recommendations, or anything of the kind from any past, present, or future criminal acts;
 - (b) provides for payment of anything of value for his or her services including proof of payment, IRS 1099s for their payments, and the informant's tax returns;
 - (c) proof or summaries of the payments to the informant;
 - (d) any psychiatric or drug rehabilitation history of informants.
8. The relationship between the state and any witness the state will call as a witness; *e.g.*, employee of any governmental entity,

informant status, witness in this or another case, a defendant or former defendant in a criminal case in municipal, circuit, or federal court.

9. Whether there has been any electronic (including audio, video, or digital) surveillance or recording of conversations or actions of the defendant (including surreptitious recordings of defendant while in a police interview room or on the street), statements from his or her premises, copying of e-mail or similar electronic transmissions, consented to by one party to the conversation or not; along with a description of the recordings and copies of any transcripts, whether these are directly based on this charge or surveillance preceding defendant's arrest, specifically, but not limited to: 1. any/all body cam footage, during encounters with Defendant; 2. any/all 911 calls related to Defendant in the past five (5) years; 3. Any/all digital, video, social media evidence in any way related to the Defendant.
10. As to any searches and seizures:
 - (a) Disclose and permit inspection, copying, or photocopying of documents of any material or computer or computer-like memory, disks, or hard drives concerning any searches and seizures of the defendant or his or her property or statements that he or she allegedly made. Copying of computer disks and hard drives requires copying "invisible" files that are not visible on the directory but which are still present on disks.
 - (b) If a search warrant was relied upon, provide a copy of:
 - (i) the warrant,
 - (ii) all materials used to obtain the warrant, and
 - (iii) the inventory.
 - (c) If inventory search may be relied on as a justification for the search, please provide the police department's policy on conducting inventory searches, because it is the state's burden to justify the search.
 - (d) Any video or audio of the occurrence.
 11. As to impeachment ("*Brady*") evidence:
 - (a) Any other evidence or thing in the knowledge of, possession, or control of the state or its agents which tends to negate the guilt of the defendant as to the offense charged (including anything which tends to impeach a state's witness) or would tend to reduce the punishment for the offense. See generally, Ark. R. Crim. P. 17.1(d); *Brady v. Maryland, supra*; *Kyles v. Whitley, supra*;

Strickler v. Greene, supra; Banks v. Dretke, supra;
Arkansas Rules of Professional Conduct, Rule 3.8(d).

- (b) Impeachment evidence includes statements of witnesses where they are even slightly inconsistent in their versions of events from one statement to the next (oral statement to written; two written statements; etc.) or that they were given consideration or a reward. *Strickler v. Greene, supra; Kyles v. Whitley*, 514 U.S. at 452 (even if statements of not all witnesses are impeachable); *Banks v. Dretke, supra* (withheld information about reward to witness was impeachment material and required reversal of conviction); *United States v. Sudikoff*, 36 F. Supp. 2d 1196 (C.D. Cal. 1999).
 - (c) This includes any evidence that anyone else was at one time considered a suspect in this case. *Fairchild v. Lockhart*, PB-C-83-272 (E.D.Ark.).
 - (d) The prosecuting attorney has a duty to inquire of the police to be certain that all potentially discoverable "Brady" material has been discovered, provided to the prosecutor by the police, and disclosed. *Kyles*, 514 U.S. at 437-38 (*Brady* includes material known by the police and not prosecutor; "the individual prosecutor has a duty to learn of any favorable evidence known to others acting on the government's behalf in this case, including the police"). An "open file" does not relieve the state of its obligation to specifically disclose impeachment material. *Kyles v. Whitley, supra; Banks v. Dretke, supra*.
 - (e) Negative evidence; e.g., as the result of any type of scientific test that failed to connect the defendant to the crime such as absence of fingerprints, physical, or serological evidence or presence of such evidence of another. *Patler v. Slayton*, 503 F.2d 472 (4th Cir. 1974).
 - (f) The fact that a witness has testified falsely even in an unrelated case. *United States v. Masri*, 547 F.2d 932 (5th Cir. 1977).
12. Any 404(b) evidence; A.R.E. 404(b); which the state intends to or may use against the defendant.
 13. Any evidence which could be used in the punishment phase against the defendant under Ark. Code Ann. § 16-97-103.
 14. While it goes without saying that parties have a continuing duty to

disclose material that comes into the party's hands after a previous disclosure pursuant to Ark. R. Crim. P. 19.2, defendant reasserts this right.

Respectfully submitted,

By: /s/ Pine Drewyor

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CERTIFICATE OF SERVICE

I, Pine Drewyor, attorney for Defendant herein, certify that I have on this 12th day of May 2021, emailed; faxed; Via the Arkansas Judiciary e-Flex filing system and/or mailed a true and correct copy of the foregoing document to the following:

Denis A. Dean Via email / e-Flex

/s/ Pine Drewyor

Pine Drewyor