

45576CR
CAUSE NO. ~~44576CR~~

THE STATE OF TEXAS	§	IN THE 443 RD JUDICIAL
	§	
VS.	§	DISTRICT COURT
	§	
JOHN ERIC ARMSTRONG	§	OF ELLIS COUNTY, TEXAS

**MOTION FOR DISCOVERY
OF EXCULPATORY AND MITIGATING EVIDENCE**

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes the Defendant, by and through the undersigned counsel, and respectfully moves this Court to order the State to disclose all evidence in its possession and in the possession of its agents, which is both favorable to Defendant and material either to guilt or to punishment, including impeachment evidence.

1. Such disclosure is required by the Due Process Clause of the Fourteenth Amendment to the United States Constitution. *See Brady v. Maryland*, 373 U.S. 83, 87 (1963); *see also United States v. Bagley*, 473 U.S. 667, 675-78 (1985). Disclosure is also required under the Due Course of Law provisions of Article I, §§ 13 and 19 of the Texas Constitution.

2. Rule 3.09(d) of the Texas Disciplinary Rules of Professional Conduct requires prosecutors to “make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, to disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal.”

WHEREFORE, PREMISES CONSIDERED, Defendant prays that this Court order the State to disclose all exculpatory and mitigating evidence in its possession.

Respectfully Submitted,

/s/Sarah Jacobs

Mark D. Griffith, SB #00785928

Chad A. Hughes, SB #24082019

Sarah D. Jacobs, SB #24068658

GRIFFITH & ASSOCIATES

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document was this date provided to the Attorney for the State of Texas, Ellis County District Attorney's Office, 109 S. Jackson St., Waxahachie, Texas 75165, by e-filing service, on this 9th day of October, 2020.

/s/Sarah D. Jacobs

Attorney, GRIFFITH & ASSOCIATES

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**ORDER ON
MOTION FOR DISCOVERY
OF EXCULPATORY AND MITIGATING EVIDENCE**

On this the _____ day of _____, 2020, came on to be considered the above entitled Motion and after consideration of same and arguments of counsel is the ORDER of this Court that said Motion be and hereby is:

- () GRANTED
- () DENIED, to which ruling Defendant objects.

Signed this the _____ day of _____, 2020.

JUDGE PRESIDING