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CAUSE NO. 44576CR

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

REQUEST FOR DISCOVERY INFORMATION PURSUANT TO TEX. CODE OF CRIM. PROC. 39.14 & MOTION FOR DISCOVERY OF EXPERT WITNESSES

Griffith & Associates now represents JOHN ERIC ARMSTRONG, as reason we are making the following request pursuant to Article 39.14 of the Texas Code of Criminal Procedure.

I. Discovery Information

Defendant hereby requests that within 30 days of this request, and at least 30 days prior to any plea hearing, or 90 days before any scheduled trial or pre-trial hearing, the state to produce and permit the inspection and the electronic duplication, copying, and photographing, by or on behalf of the defendant, of any offense reports, any designated documents, papers, written or recorded statements of the defendant or a witness, including witness statements of law enforcement officers and their notes or report, or any designated books, accounts, letters, photographs, or objects or other tangible things not otherwise privileged that constitute or contain evidence material to any matter involved in the action and that are in the possession, custody, or control of the state or any person under contract with the state.

Defendant hereby "designates" for the purpose of Art. 39.14 the following items "that constitute or contain evidence material to any matter involved in the action".

A. WITNESS INFORMATION

1. The criminal record of each witness for the state showing every conviction or probation for felony or misdemeanor involving moral turpitude.

2. The criminal record of each witness for the state showing every event which can be used to impeach the witness including any deferred adjudication probations, arrests, or juvenile adjudications pending against the witness between the time of the offense alleged against Defendant and Defendant's trial.

3. All inducements offered by the state which might tend to motivate its witnesses to testify against Defendant, including, but not limited to, plea bargain agreements, fee, expense, or reward arrangements, agreements to dismiss or reduce or not bring charges, or any other agreement of leniency.

4. All writings used to refresh the recollection of any witnesses, as provided in Rule 612 of the Texas Rules of Evidence.

B. STATEMENTS

1. All written confessions, admissions and statements, made by Defendant to the state in connection with this case.

2. All oral confessions, admissions and statements, made by Defendant to the state in connection with this case, which have been electronically recorded.

3. The substance of all oral confessions, admissions and statements made by Defendant to the state in connection with this case, which were not electronically recorded.

4. All statements, written or oral, electronically recorded or not, given by Defendant which are exculpatory or which tend to mitigate punishment.

5. All testimony given by Defendant before the grand jury in connection with this offense.

6. All written warnings, admonitions, rights and waivers given by the state to Defendant before Defendant gave any written or oral statements, admissions or confessions or testimony at any examining trial or grand jury hearing.

7. All statements of a nature as would be arguably admissible as a "res gestae" statement, spontaneous statement, or other utterance which the State intends to introduce in its case in chief, either during the guilt/innocence stage, or during the punishment stage.

8. All confessions, admissions or statements given by Co-Defendants, parties, accomplices or co-conspirators which the state intends to offer into evidence in Defendant's trial.

9. All confessions, admissions or statements given by Co-Defendants, parties, accomplices or co-conspirators which tend to exculpate Defendant or to mitigate punishment.

10. All witness statements as that term is used in Rule 615 of the Texas Rules of Evidence, whether in final, rough, draft, or other form.

C. WARRANTS AND WAIVERS

1. The search warrants and affidavits in support thereof obtained by law enforcement authorities to search Defendant's real property, residence, vehicle, effects, papers or person in this case.

2. The search warrants and affidavits in support thereof obtained by law enforcement authorities to search real property, residence, vehicle, and effects, papers or person of any Co-Defendants, co-conspirators, parties, accomplices, witnesses or suspects in this case.

3. The arrest warrants and writs of *capias*, and affidavits in support thereof, obtained by law enforcement authorities to arrest Defendant in this case.

4. The arrest warrants and writs of *capias*, and affidavits in support thereof, obtained by law enforcement authorities to arrest any Co-Defendants, co-conspirators, parties, accomplices, witnesses or suspects in this case.

5. The written consent to search Defendant's real property, residence, vehicle, effects, papers or person alleged by the state to have been signed prior to the search and seizure of said property.

6. Any written waiver alleged by the State to have been signed by the Defendant involving the Defendant's right to counsel, the right to remain silent, or the right to be free from search and seizure.

D. LAW ENFORCEMENT AND INVESTIGATION

1. Offense reports, police reports, crime scene investigation reports or records or reports of any third parties, by way of written memoranda, letters, notes or transcriptions involving the alleged facts of the offense, the crime scene or any location which may have a bearing on any issue of the case.

2. The name, rank and badge number of any law enforcement officer and any employee of the Office of the District Attorney who participated in any way in the investigation of this case, whether at the scene, in transporting Defendant, at the Police Station, at the jail or elsewhere.

3. The disciplinary record and personnel files of all law enforcement personnel associated with this case or referenced in any report, notes, recordings or other evidence otherwise produced to Defendant, regardless of whether that person was a principal or ancillary actor in this case.

4. The name and address of any person (including any suspects in this case) interviewed by representatives of the State of Texas, whether an employee of a law enforcement agency or of the Office of the District Attorney or otherwise, in connection with this case.

5. All hand-written, typed or otherwise recorded notes of law enforcement officers, relating to any part of this case (such as arrest, investigation, interrogation, interviews, or any other aspect) who investigated or participated in the preparation of this

case for trial, enforcement agency or of the Office of the District Attorney or otherwise, in connection with this case.

6. All recordings and transcriptions of all information and evidence obtained by means of electronic eavesdropping, surveillance, or wiretapping by law enforcement officers, obtained in this case.

7. The name, address, and telephone numbers of each informer who participated in this alleged offense, in Defendant's arrest, or who is a material witness to this alleged offense.

8. The name, address and telephone numbers of each informer whose testimony is necessary to a fair determination of guilt or innocence in this case, as required by Rule 508(c)(2) of the Texas Rules of Evidence.

9. The name, address and telephone numbers of each informer relied upon by law enforcement to establish the legality of the means by which evidence was obtained in this case.

E. PHOTOGRAPHIC EVIDENCE

1. All photographs, videotapes, audiotapes, drawings, charts and diagrams made by the state or law enforcement agency with reference to this case, including, but not limited to those of the scene of the crime and the scene of Defendant's arrest.

2. All photographs of the complainant, whether taken at the scene of the alleged offense, at the scene where the complainant was discovered, at the hospital, or at the time of the autopsy, if any.

3. All photographs of suspects which were shown to all witnesses to the alleged offense, concerning the identity of the perpetrator of the offense for which Defendant has been charged.

4. All photographs of Defendant which were used in the investigation of this case, including any photograph which may have been shown by any law enforcement officer to any potential witness in this case.

5. All "mugshots" or "booking photos" of Defendant made by the state following his arrest in this case.

6. All photographs of all line-ups conducted in this case, including any line-up in which Defendant participated.

7. All photographs, line-ups, or show-ups presented to any witness in this case, whether or not Defendant was in it, or was identified by the witness.

8. The notes generated by law enforcement authorities in connection with these line-ups or show-ups.

9. The names and address of any persons who were shown line-ups or photographs show-ups of any suspects, including Defendant, whether or not Defendant was identified.

F. PHYSICAL EVIDENCE

1. All physical evidence seized by the state from Defendant in connection with this case.

2. All physical evidence seized by the state from Co-Defendants, co-conspirators, parties or accomplices, before, during, or after their arrest, in connection with this case.

3. All physical evidence, property, documents, papers, books, accounts, letters, photographs, objects, records or tangible things belonging to Defendant which are now in the possession of the state or its agencies.

4. All physical evidence in possession or control of the state which the state intends to offer at trial in this case.

5. All physical evidence alleged to be the instrumentality of the crime for which Defendant stands indicted.

6. All physical evidence removed by the state from the scene of the alleged crime.

7. All weapons in possession or custody of the state, alleged to have been used by Defendant, Co-Defendants, co-conspirators, parties, accomplices, complainants or witnesses in this case, including ammunition, shells, cartridges, bullets, slugs, wadding, projectiles, missiles, and fragments recovered from the scene or any person.

8. All blood samples, bodily fluids, tissues or hair samples taken from the scene of the alleged crime or from any person.

9. All contraband including drugs, controlled substances, and/or paraphernalia which was seized as a result of the investigation of this cause, in order to permit counsel for Defendant an opportunity to examine the same and to have an expert examine, test and inspect the same.

10. The location from which each piece of physical evidence was found, the time it was found, and the name of the person who found it.

11. All other physical evidence, property, documents, papers, books, accounts, letters, photographs, objects, tangible things or records which constitute or contain evidence material to any matter involved in this case which are in the possession, custody or control of the state or any of its agencies.

G. TESTS, REPORTS AND SCIENTIFIC EVIDENCE

1. All latent fingerprints, palm prints, foot prints, tire tracks or tool marks and reports generated with respect to said prints, discovered by the state which are material to the commission of the crime for which Defendant has been charged.

2. The results of the comparison of all latent fingerprints, palm prints, foot prints, tire tracks and tool marks with known prints, along with the names of the persons who lifted the latent prints and who performed the comparisons.

3. All reports of scientific tests, experiments and comparisons, and the name of each person who made such report or performed such tests, experiments or comparisons, including, but not limited to, weapons, bullets, shots, waddings, cartridge cases, tool marks, blood, DNA, bodily fluids, breath, hair, threads, drugs and controlled substances, fingerprints, medical or psychological examinations.

4. All autopsy reports generated in connection with this case.

5. All toxicology reports based on an examination of the complainant, Defendant, Co-Defendants, co-conspirators, parties, accomplices, suspects or any witnesses for the state.

6. All notes, reports, memoranda, diagrams, charts, and photographs made or taken by the medical examiner's office, the regional crime laboratory, and its investigators.

7. All notes, reports, memoranda, diagrams, charts, photographs, videotapes and audiotapes made or taken by emergency medical technicians who treated the complainant or any other person involved in this case.

8. All medical reports which show the physical condition of the complainant at or about the time or after the commission of the alleged offense.

9. All medical and psychiatric reports submitted by any doctor, psychiatrist or psychologist at the request of the state or the Court in conjunction with any examination of Defendant, the complainant and all state's witnesses.

H. STATE EVIDENCE

1. Any evidence as to the incompetency of Defendant to stand trial which is in the possession of, or within the knowledge of, the state or its agents.

2. Any evidence as to the insanity of Defendant at the time of the alleged commission of the offense charged herein, which is in the possession of, or within the knowledge of, the state or its agents.

3. Any evidence in the possession of the state or its agents or within their knowledge that Defendant has ever been adjudicated or declared insane or incompetent to stand trial.

4. All information regarding Defendant which was obtained by the police in this case through the so-called "Crime Stoppers Programs."

5. All recorded incoming telephone calls (and any transcriptions thereof) to "911" or the sheriff's office or the police station requesting assistance at the time this incident was reported.

6. All recorded communications between the dispatcher and law enforcement agents who were called to the scene in this case.

7. All dispatch records reduced to writing showing the interactions between law enforcement and dispatch.

8. Evidence of a pertinent trait of character of the alleged victim of the crime with which Defendant is charged, admissible under Rule 404(a)(2) of the Texas Rules of Evidence.

9. All evidence in possession of, or within the knowledge of, the state or any of its agencies, including impeachment evidence, which is favorable to Defendant and material to any matter in this case.

II. POLICY

1. All local law enforcement manuals, handouts, or policy books on the procedures to be used in the execution of law enforcement duties, including: procedure and technique for interrogations, the giving of Constitutional rights to suspects, grounds, circumstances, and actions to take related to arrests, grounds, circumstances, and actions to take related to search and seizure, and grounds and circumstances and actions to take related to ensuring "officer safety" during interactions with the public or suspects.

2. All manuals, treatises, or other materials relied upon by a law enforcement officer during the investigation of the alleged offense, or by any witness in rendering an opinion on a matter related to the case.

3. All training materials used or relied upon by law enforcement in the execution of their duties.

4. Policy manuals or materials related to the use of surveillance of suspects or use of recordings in interactions with the public, witnesses, or suspects.

The state may provide to the defendant electronic duplicates of any documents or other information described by this article through e-mail to counsel for Defendant's e-mail at mark@griffithlegal.com, chad@griffithlegal.com, or sarah@griffithlegal.com or by CD/DVD with delivery/acceptance by arrangement.

Defendant further requests that if any document is redacted or withheld, the State inform in writing to the Defendant that a portion of the document, item, or information has been withheld or redacted and to state the reason for the redaction or withholding of the information.

III. Exculpatory Material

The Defendant requests that the State disclose to the defendant any exculpatory, impeachment, or mitigating document, item, or information in the possession, custody, or control of the state that tends to negate the guilt of the defendant or would tend to reduce the punishment for the offense charged.

IV. Motion for Notice of Expert Witnesses

Defendant, moves the Court to order the State to reveal a list of the name and address of each person the State may use at trial to present evidence under Rules 702, 703, and 705, Texas Rules of Evidence.

V. Information Prior to Plea or Trial

Defendant requests that the state electronically record or otherwise document any document, item, or other information provided to the Defendant.

Defendant, requests that the Court before accepting a plea of guilty or nolo contendere, or before trial, the State acknowledge in writing or on the record in open court the disclosure, receipt, and list of all documents, items, and information provided to the defendant under this article.

Defendant requests that if at any time before, during, or after trial the state discovers any additional document, item, or information required to be disclosed under Article 39.14, the State promptly disclose the existence of the document, item, or information to the Defendant personally, wherever he may be, to his counsel of record if any exists, and to the Court.

VI. No Agreement Between State and Defense

Defendant states neither he nor his Counsel have entered into an agreement for discovery. Defendant does not waive any rights and preserves all rights to discovery as outlined in Art. 39.14.

VII. Legal Foundation

In support of this request and motion, Defendant would show that: (a) the items requested are in the exclusive possession, custody and control of the State of Texas or the United States Government by and through its agents, the police or the prosecuting

attorney's office, and Defendant has no other means of ascertaining the disclosure requested; (b) the items requested are not privileged; (c) the items and information requested are material to this cause and the issues of guilt or innocence and punishment to be determined in this cause; (d) Defendant cannot safely go to trial without such information and inspection, nor can Defendant adequately prepare a defense herein; (e) Defendant's rights will be violated under Article 39.14 of the Texas Code of Criminal Procedure, Article I, Sections 3, 3a, 10, 13 and 19 of the Constitution of the State of Texas, and the Fifth, Sixth, Eighth and Fourteenth Amendments to the Constitution of the United States of America by such absent such discovery.

Respectfully Submitted,

/s/Sarah D. Jacobs

Mark D. Griffith, SB #00785928

Chad A. Hughes, SB #24082019

Sarah D. Jacobs, SB#24068658

GRIFFITH & ASSOCIATES

108 W. Main

Waxahachie, TX 75165

(972) 937-9555 or (972) 938-8343

(972) 938-8333 FAX

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing *Defendant's Request for Discovery* was delivered to the Ellis County District Attorney's Office, 109 South College, Waxahachie, Texas, 75165, on the 9th day of October, 2020, by e-filing service.

/s/Sarah D. Jacobs

Attorney, GRIFFITH & ASSOCIATES