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STATE OF SOUTH CAROLINA )

COUNTY OF BERKELEY )

STATE OF SOUTH CAROLINA )

Plaintiff, )

-versus- )

MICHAEL COLUCCI, )

Defendant. )

IN THE COURT OF GENERAL SESSIONS  
FOR THE NINTH JUDICIAL CIRCUIT  
INDICTMENT NO.: 2016-GS-08-02603  
WARRANT NO.: 2016A0810400692

**FOURTH SUPPLEMENTAL MOTION FOR  
THE PRODUCTION, INSPECTION AND  
COPYING OF DOCUMENTS**

MICHAEL COLUCCI (Colucci), respectfully requests an ORDER OF THE COURT:

To require that the Solicitor make available to the defense all information in the custody, possession, control or knowledge of the State, private parties acting as agents or employed on behalf of the State or its subdivisions, State Administrative Agencies, or any State or Federal Law Enforcement Agency or prosecutors involved in the investigation of the above-captioned matter, particularly that material and potential sources specifically identified, in accordance with the requirements of: the Due Process requirements of S.C. Const. Art. I, § 3, and U.S. Const. amends. V & XIV, Rule 5, SCRCrimP; Appellate Court Rule 407, Rules of Professional Conduct, Rule 3.8(d); Model Rule 3.8(d) of the American Bar Association's Standards for Criminal Justice; *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.E.2nd 215 (1963); *Giglio v. United States*, 405 U.S. 150, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972), *United States v. Agurs*, 427 U.S. 97, 96 S.Ct. 2392, 49 L.Ed.2d 342 (1976); *United States v. Bagley*, 473 U.S. 667, 105 S.Ct. 3375, 87 L.Ed.2d 481 (1985); *Kyles v. Whitley*, 514 U.S. 419, 115 S.Ct. 1555, 131 L.Ed.2d 490 (1995); *Strickler v. Green*, 527

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U.S. 263, 119 S.Ct. 1936, 144 L.Ed.2d 286 (1999); *United States v. Acosta*, D. Nev., No. CR-S-03-0542 JCM (PAL), (2005); *Gibson v. State*, 334 S.C. 515, 514 S.E.2d 320 (1999); *In the Matter of Larry F. Grant*, 343 S.C. 528, 541 S.E.2d 540 (2001); *Leka v. Portuondo*, 257 F.3d 89 (2001); *State v. Proctor*, 348 S.C. 322, 559 S.E.2d 318 (2001), *Riddle v. Ozmint*, 369 S.C. 39, 631 S.E.2d 70 (2006), and their progeny.

Colucci filed a Discovery Motions on May 12, 2016, April 2, 2018, August 2, 2018, and August 15, 2018 and served them on the Solicitor on or about May 12, 2016, April 2, 2018, August 2, 2018 and August 15, 2018.

In the Discovery Motions filed April 2, 2017, August 2, 2018, and August 15, 2018, Colucci made a specific request for the following:

**“A copy of the DVD containing FARO raw data referenced on the SLED Laboratory Forensic Services Request, Submission 4 dated April 13, 2016, as well as any reports, drawings or other items produced using the FARO data. “**

Following the informal direction of the Court issued on September 10, 2018, on September 11, 2018, Colucci received a disk from the State which purported to contain the requested FARO data. In fact, the original scan files were not included and instead the disk contains a “packaged” version or “Webshare2Go”.

In order to authenticate the information provided and to ensure proper procedures were followed in the preparation and use of a FARO scan, Colucci requests that he be provided the following:

1. Any and all original/raw scan files as they were recorded by the scanner in .fls format;

2. A copy of the project file with all revisions made to the project (.lsproj file and all supporting folders and directories);
3. Any and all media added to the project such as photographs, videos or other documentation;
4. Make, model and a copy of the calibration certificate of the laser scanner; and
5. Software and revision used to process the data and deliver results.

Without the original/raw data - which has been repeatedly requested - Colucci is unable to do the necessary preparation of this evidence for trial. He is unable to have his expert analyze the data and, as this data was not been produced until a mere three weeks before trial, Colucci moves this Court to suppress the State's FARO evidence as previously requested in his Motion to Restrict Discovery Not Produced in Advance of Trial which was filed on July 20, 2018, or to postpone the trial of his case to give adequate time for the State to produce the requested evidence so that he may be properly prepared to ensure a constitutionally adequate fair trial.

Respectfully submitted,

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BY: \_\_\_\_\_

  
ANDREW J. SAVAGE, III  
ATTORNEY FOR DEFENDANT

Charleston, South Carolina

September 12, 2018.