STATE OF SOUTH CAROLINA)) COUNTY OF BERKELEY))	IN THE COURT OF GENERAL SESSIONS FOR THE NINTH JUDICIAL CIRCUIT INDICTMENT NUMBER: 2016-GS-08-02603 WARRANT NUMBER: 2016A0810400692
STATE OF SOUTH CAROLINA,)) Plaintiff,)) -versus-)) MICHAEL COLUCCI,)) Defendant.))	**MOTION TO COMPEL DISCLOSURE OF PROSECUTOR'S JURY SELECTION DATA**

For jurors summoned to report for service on October 8, 2018, Michael Colucci ("Colucci") asks this Court for an Order requiring that the State make available to him whatever juror background data has been obtained by the unique capabilities of the Prosecutor through means unavailable to Slager.

BACKGROUND

Upon information and belief, the State of South Carolina, by using restricted government resources, compiles information including behavior data about prospective jurors. Neither Colucci nor his attorneys have the security credentials to take advantage of these resources. The requested information if made available to Colucci will enhance his ability to select *a fair and impartial jury*.[1]

[1] (1) United States Constitution Amendment VI; (2) South Carolina Constitution Article I §14

ARGUMENT

The data obtained by the Prosecutor through her use of restricted resources, if not provided to Mr. Colucci is a violation of the Due Process Clause found in Article 1, §3 of the South Carolina Constitution and the 5th and 14th Amendments of the United States Constitution.

Not sharing this data creates an unfair imbalance of advantage favoring the prosecution. An informed jury selection is a predicate for a fair trial. The due process clause of our federal constitution "speak(s) to the balance of forces between the accused and his accuser. " Wardius v. Oregon, 412 U.S. 470, 474, 93 S.Ct. 2208, 2212, 37 L.Ed.2d 82 (1973).

Practices such as the gathering of information regarding prospective jurors through means available only to the States provides "non-reciprocal benefits to the State" with regard to the investigation and preparation of its case. Wardius at 474, 2212, n.6. As Justice Marshall noted, "when the lack of reciprocity interferes with the defendant's ability to secure a fair trial such may indeed violate the defendant's constitutionally protected right to due process." Id. In fact, the Supreme Court went on to state:

> "[t]he State's inherent information gathering advantages suggest that if there is to be imbalance in discovery rights, it should work in the Defendant's favor." Id. at 475, 2212, n. 9.

CONCLUSION

A criminal trial "is not a sporting event." *Giles v. Marlyand*, 368 U.S. 66, 102, 87 S.Ct. 793, 811, 17 L.Ed.2d 737 (1967) (Fortas, concurring). When the prosecutor uses exclusive investigative and information gathering resources to compile data on prospective jurors and then refuses to disclose this data to the defense, it deprives Colucci's right to due process and equal protection of

the law. This is all the more so harmful when Mr. Colucci possesses no alternative means to obtain the information, thereby impeding his ability to make an informed decision when selecting jurors and ultimately to select an impartial jury.

WHEREFORE, this Court should compel the Prosecutor to disclose the information which she was uniquely able to obtained about prospective jurors by virtue of her office using publicly funded yet restricted means.

Respectfully submitted,

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