

FILED

APR 11 2023

MARGARET J. SELF
CLERK, SC STATE GRAND JURY

STATE GRAND JURY OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA
Plaintiff

v.

JERRY RIVER,
Defendant

Case No: 2022-GS-47-21; 2022-
GS-47-33

**MOTION FOR DISCOVERY AND
DISCLOSURE OF EVIDENCE**

TO: Creighton Waters, Esquire

The above-named Defendant would, through his counsel, respectfully request the following information:

1) Any relevant written or recorded statements made by the Defendant, or copies thereof, within the possession, custody or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution; the substance of any oral statement which the prosecution intends to offer in evidence at the trial made by the Defendant whether before or after arrest in response to interrogation by any person then known to the Defendant to be a prosecution agent;

2) A copy of Defendant's prior criminal record, if any, as is within the possession, custody, or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution;

3) Any books, papers documents, photographs, tangible objects, building or places, or copies or portions thereof, which are within the possession, custody or control of the prosecution, and which are material to the preparation of the defense or are intended for use by the prosecution as evidence in chief at the trial, or were obtained from or belong to the Defendant;

4) Any results or reports of physical or mental examinations and of scientific tests or experiments, or copies thereof, which are within the possession, custody, or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become

known, to the attorney for the prosecution, and which are material to the preparation of the defense or are intended for use by the prosecution as evidence in chief at trial;

5) Any relevant written or recorded statements made by any witnesses, or copies thereof, within the possession, custody or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution; the substance of any oral statements made by any witnesses;

6) The names and addresses of any witnesses who have given written or oral statements of information concerning the incident(s) in question;

7) A copy of the original incident report and any supplemental reports produced by the arresting or investigation agency;

8) Any other information or evidence within the knowledge or possession of the State that tends to indicate the innocence of the Defendant, or that tends to mitigate any punishment should he be found guilty;

9) Make any chemist, analyst, and all persons within the chain of custody appear in Court for the purpose of personally testifying. Attorney for the Defense thus objects to the introduction of any chemist's or analyst's report pursuant to Rule 6, S.C. Rules of Criminal Procedure.

This motion is made pursuant to S.C. Criminal Practice Rule 5; Brady v. Maryland, 373 U.S. 383, 83 S.Ct. 1194 (1963); U.S. v. Agurs, 427 U.S. 97, 96 S.Ct. 2392 (1976); State v. Mixon, 274 S.E.2d 406 (1981). Further this information is requested on the grounds that it is essential to insure the Defendant's right to a fair trial, right to confrontation of witnesses, the right to effective Counsel and due process of law guaranteed by the South Carolina Constitution and the United States Constitution.

WHEREFORE, Defendant prays:

(a) That the Solicitor be Ordered to produce all information described herein and allow the Defendant the right to examine, inspect, copy and photograph such materials and information at a specific time and place to be fixed by the Court.

(b) That the information be provided no later than 30 days from the date of this request, as reflected by the Clerk of Court's time-stamp appearing on the face of this document.

(c) That the Court enter an Order requiring the Solicitor's Office to make continuing disclosure of all matter requested herein up to and during the trial of the charges against the Defendant.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Chris Leonard". The signature is written in a cursive, flowing style.

Christopher S. Leonard
1522 Lady Street (29201)
P.O. Box 886
Columbia, SC 29202

ATTORNEY FOR THE DEFENDANT

Columbia, South Carolina
February 14, 2023

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Plaintiff,

v.

JERRY RIVER,

Defendant.

Case No: 2022-GS-47-21; 2022-GS-

47-33

**MOTION FOR PRODUCTION OF
EVIDENCE FAVORABLE TO
THE DEFENDANT**

The Defendant respectfully moves this Court for an Order requiring the **State** to disclose to counsel for the defense and to produce for inspection and copying any and all evidence that may be favorable to the Defendant which is in the possession of the **State**, or whose existence is known or by the exercise of reasonable diligence may become known to the attorneys for the prosecution or agents of the **State**. This request is made pursuant to the due process clause of the Fourteenth Amendment of the United States Constitution and also *Brady v. Maryland*, 373 U.S. 83 (863) and *United States v. Agurs*, 427 U.S. 97 (1976).

I. This request encompasses the following categories of information:

1. Any and all promises, rewards and inducements made to all witnesses herein, whether or not they have testified before any State or Federal Grand Jury, or other investigative agency, and regardless of whether they will testify at the trial herein.
2. Any offers or grants of immunity in this case to any witness relating to any fine, forfeiture, prosecution or punishment in this or any other case, related or otherwise.
3. The names and addresses of the psychiatrists or hospitals and copies of any records relating to any psychiatric examination or treatment of any witness who has or will give testimony to the Grand Jury, any investigative agency or at trial.
4. Any "inconsistent" statements made by a particular witness or between witnesses.
5. Any and all "rap" sheets or histories or arrests or convictions of any State witnesses.

II. In addition, the Defendant requests copies of any and all memoranda, reports and correspondence to and from the various law enforcement agencies of the United States and all State, County, Municipal or Local Law Enforcement Agencies regarding the investigation herein.

III. The Defendant also contends that he is entitled to any statements or admissions by a witness concerning the witness's failure to recollect any part of the incident herein or any past loss of memory in general.

IV. The Defendant contends that this Court should specifically direct the State to seek and produce the items sought herein, irrespective of the State's determination of whether an item is favorable to the Defendant. The Defendant and his attorney, not the Solicitor, ought to be the Judge of his defense and the documents necessary and relevant thereto.

V. To the extent that he is specifically required to demonstrate the materiality of the requested information under *United States v. Agurs*, 427 U.S. 97 (1976); the Defendant submits that this requirement is satisfied in this motion.

VI. With regard to items which the State contends are not favorable to the Defendant or are otherwise not subject to disclosure, the Defendant request that the Court make an *in camera* inspection of those items and further that the Court put a copy of those items into evidence for appellate review in the event of an appeal.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Chris L.", written in a cursive style.

Christopher S. Leonard
1522 Lady Street (29201)
P.O. Box 886
Columbia, SC 29202

ATTORNEY FOR THE DEFENDANT

Columbia, South Carolina
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CERTIFICATE OF SERVICE

The undersigned certifies that on February 14, 2023, by US Postal Mail, a copy was served of *Motion For Discovery And Disclosure Of Evidence* and *Motion For Production Of Evidence Favorable To The Defendant* to the individual below named at this address:

Creighton Waters, Esquire
South Carolina Attorney General's Office
Post Office Box 11549
Columbia, SC 29211



Christopher S. Leonard