

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA :
 :
v. :
 :
 :

MOTION FOR DISCLOSURE AND PRODUCTION OF
BRADY MATERIAL

Terence XXXXXXXXXXXXXXXX, through his undersigned counsel of record, respectfully requests pursuant to Federal Rule of Criminal Procedure 16, the holding in Brady v. Maryland, 373 U.S. 83 (1963), that this Court order the United States of America to make inquiry forthwith and disclose the following information which is either within the possession, custody or control of the Government, or the existence of which is known or through the exercise of due diligence could become known to the Government:

1. Reveal and disclose the names, addresses, telephone numbers, backgrounds and entire criminal records of all witnesses to be presented on the witness stand during the trial of this case by the Government.

2. Reveal and disclose the names, addresses, telephone numbers, backgrounds, and entire criminal records of all persons who have any knowledge whatsoever regarding the case and/or were interviewed by any governmental employee or agent in connection

with this case.

3. Reveal and disclose the names, addresses, backgrounds and entire criminal records of any informants, special employees, alleged co-conspirators (whether indicted or unindicted), alleged accomplices (whether indicted or unindicted) and other persons who participated in the investigation of this case or who may be called as witnesses by the Government during any phase of the trial of this case, and reveal and disclose the same information regarding any persons hired, directed, requested and/or paid by the Government to investigate, "snoop" or otherwise obtain information in any manner whatsoever in the investigation of this case.

4. Disclose the total amounts of money paid out to any informant, special employee, alleged co-conspirator (whether indicted or unindicted), alleged accomplice (whether indicted or unindicted), alleged aider and abettor (whether indicted or unindicted), tipster or snoop who was interviewed in connection with this case or who may be called as a witness by the Government during any phase of the trial of this case, together with the dates of payment, where made, to whom made and the reasons for the payment.

5. Reveal and disclose all transcriptions of any kind whether recorded or written, regarding any conversation with,

discussions with or statements made by informants, special employees, alleged co-conspirators (whether indicted or unindicted), alleged accomplices (whether indicted or unindicted), alleged aiders and abettors (whether indicted or unindicted), tipsters or snoops of the Government who have been involved in any manner whatsoever in the investigation of this case or who may be called as a witness during any phase of this case.

6. State the names and classifications of any and all Federal Bureau of Investigation Agents, United States Attorneys, or other law enforcement or government officials who met with, talked to or who were present at any meeting, telephone conversation or discussion held with any informants, special employees, co-conspirators, accomplices, or snoops used by the Government during this investigation.

7. Reveal and disclose whether any person involved in the investigation of this case has been given a polygraph examination, and if so, list the name of the person(s) examined; the name and address of the operator(s); the date(s) of the examination; and furnish the defendant with a copy of the questions posed, the answers given and the interpretation thereof.

8. Reveal and disclose any information or knowledge in the hands of the Government or which could be obtained by exercise

of reasonable diligence by the Government which would in any manner show that any of the Government's potential witnesses may be suffering from delusions, emotional difficulty, alcoholism, narcotics addiction, the abuse or use of controlled substances of any type, psychological or psychiatric imbalance or any other physical or mental disability that might possibly affect, impair or influence the quality of competency of the potential witnesses' testimony or that in any way could reasonably affect this witness's credibility or memory.

9. State whether any Government agent or anyone acting at the direction or behest of the Government (whether an informant, prison inmate, government witness or otherwise) has communicated with the defendant in order to attempt to obtain any information or facts from the defendant pertaining to this case or his defense thereof, and if so, give the name, address of this individual, together with all the facts and circumstances pertaining thereto.

10. As to all persons who will testify for the Government during its case-in-chief or its rebuttal case, or whose testimony has been used before the grand jury or whose sworn testimony may be used in this trial, or who has been contacted with regard to the investigation of this case, the following specific and detailed information is requested: the existence, substance and manner of execution or fulfillment of any

promises, agreements, understandings, arrangements, either verbal or written, between the Government and any such person or his/her attorneys, family or representatives wherein the Government has agreed, either expressly or impliedly, as follows:

- i. Not to prosecute the person for any crime(s);
- ii. Not to prosecute a third party or family member for any crime(s);
- iii. To provide a formal grant of immunity or provide an informal assurance that the person will not be prosecuted in connection with any testimony given by him or her.

- iv. To recommend leniency in sentencing for any crime(s) that the person is convicted;
- v. To recommend a particular sentence for any crime;
- vi. To make any favorable promise to a witness or a family member, or a recommendation of any benefit, however slight.

11. Reveal and disclose whether the Government has made any attempt or has in fact gained any information from the defendant since the return of the indictment by sending, counseling or advising persons to talk with the defendant and if so, describe all of such activity in detail.

12. Permit the defendant to copy any document or statement which might be arguably admissible under Fed. R. Evid. 801(d)(1)(B) to rebut an express or implied charge against any government witness of recent fabrication or improper influence or motive. These documents are required to be produced because they are evidence that the Government may attempt to introduce during the trial of this case and because they are material to the preparation of the defense as to the method of defense and as to the defendant's approach to the issue of credibility. This request includes any document that might reasonably be foreseen for use during the Government's case-in-chief or its rebuttal case.

13. Reveal and disclose any statements of any type whatsoever made by any individuals who were contacted in

connection with or involved in the investigation of this case which may be inconsistent, in whole or in part, with any other statement made by the same individual; and any statements made by such individuals that are inconsistent, in whole or in part, with any statement made by other individuals who have given statements relevant to the charge(s) against the defendant or with any knowledge held by such individuals.

14. Reveal and disclose all threats and coercive tactics of any type directed at any person interviewed by the government in connection with this case or at any witness or potential witness for the government.

15. Reveal and disclose the existence and identification of each occasion on which a witness or potential witness for the government, especially a witness who is an accomplice, co-conspirator or expert, has testified before any court, grand jury,; other tribunal, etc.

16. Reveal and disclose any and all records, criminal or otherwise, or information that can arguably be helpful or useful to the defense in impeaching or otherwise detracting from the probative force of any potential government witness or of the government's evidence, or that can arguably lead to any records of information that might be used for such impeachment purpose.

17. Reveal and disclose any evidence or information obtained in connection with the investigation of this case that

establishes the defendant's good character or her lack of reputation for committing the act(s) that constitute this crime(s) in this case.

18. Reveal and disclose any evidence or information tending, however slightly, to link the commission of the crime(s) in question in this case to someone other than the defendant.

19. Reveal and disclose any and all evidence of any type which the government is aware of, or which the government could become aware of by the exercise of reasonable diligence, which indicates that any of the individuals whom it has interviewed, debriefed or contacted in connection with the investigation of this case or who may be called as a witness by the government during any phase of trial of this case has been involved, however remotely, in any criminal conduct, at any time up to the present date whether or not this conduct resulted in criminal charges being brought against the individual. This request applies, but is not limited to, any and all informers, alleged accomplices (whether indicted or not), alleged conspirators (whether indicted or not), tipsters or individuals acting in any undercover capacity who may testify in this case or who possess information that is relevant to this case, as well as to all other individuals or any type who were involved in any manner, regardless of how remote it may be, in the investigation of this case.

20. Reveal, disclose and allow inspection and photocopying of any and all toll records of any type whatsoever that allegedly reflect conversations with the defendant and with any person whatsoever, including but not limited to, all persons who have acted in any capacity as an informant, special employee, co-conspirator, (whether indicted or unindicted), accomplice, alleged aider and abettor (whether indicted or unindicted), tipster, snoop, or investigator in this case or who may be called by the government as a witness during any phase of the trial of this case.

21. Reveal and disclose any and all inculpatory evidence of any type that concerns or relates to any individual who has acted in any capacity as an informant, special employee, alleged co-conspirator (whether indicted or unindicted), alleged accomplice (whether indicted or unindicted), alleged aider and abettor (whether indicted or unindicted), tipster, snoop or investigator in this case or who may be called as a witness by the government during the trial of this case. This request specifically includes, but is not limited to, any charges which were the subject of any plea bargains, or any prosecutorial proceedings of any nature involving the aforementioned class of persons.

22. In addition to all of the items specifically mentioned and listed herein, the defendant requests that the government

furnish to the defendant's attorney any and all evidence of whatever type and kind that is within its possession, custody or control, or the existence of which is known or through exercise of due diligence could become known to it, that may be materially favorable to the defendant, either directly, indirectly or in an impeaching manner, within the purview of Brady, Giglio, and their progeny.

WHEREFORE, the Defendant respectfully prays that this Court issue an Order requiring the Government to disclose the foregoing information, and for such other and further relief as this Court may deem just and proper.

Respectfully requested, this _____ day of December, 1999.

Federal Public Defender

Assistant Federal Public Defender
North Carolina State Bar No. _____
101 S. Elm Street, Suite 210
Greensboro, NC 27401
(336) 333-5455

CERTIFICATE OF SERVICE

This is to certify that I have served a copy of the foregoing motion upon, Lisa B. Boggs, Assistant United States Attorney for the Middle District of North Carolina, P.O. Box 1858, Greensboro, North Carolina, 27402, by hand-delivering or by mailing a copy of the same.

This ____ day of December, 1999.

Assistant Federal Public Defender