

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA

:

vs.

:

No.

:

:

MOTION FOR DISCOVERY AND INSPECTION AND TO
REQUIRE THE GOVERNMENT TO DISCLOSE ALL EXCULPATORY EVIDENCE

NOW COMES the Defendant, by and through counsel, and moves this Court pursuant to Federal Rules Criminal Procedure 16 and the principles of Brady v. Maryland, 373 U.S. 83 (1963), and its progeny, for an order directing the United States of America to make inquiry and to produce and permit Defendant to inspect, copy or photograph each of the following, now known to or in the possession of the government, or any of its agents or which through diligence would become known from the investigating officers, witnesses or persons having knowledge:

1. Any and all tangible objects obtained during the investigation in this case, including:

- (a) tangible objects obtained from the Defendant's person or effects;
- (b) tangible objects obtained from the person or effects of co-defendant(s);
- (c) tangible objects obtained from the person; effects or vehicle driven by a co-defendant;
- (d) clothing worn by Defendant on the day of the alleged offense;

- (e) clothing worn by the complaining witness on the day of the alleged offense;
- (f) tangible objects obtained from the person or effects of the complaining witness.

2. Any and all other books, papers, documents, photographs, videotapes, motion pictures, mechanical or electronic recordings, buildings and places, crime scenes, or tangible objects, or copies of portions thereof, upon which the government relied in returning the Indictment against Defendant(s), or which the government plans to offer in evidence in this case.

3. Any and all property in the possession of the government or its agents or seized by them, belonging to or alleged by the government to belong to Defendant(s).

4. Any and all fingerprint impressions, fingernail scrapings, blood samples, rape kit, clothing, hair, fiber or other materials obtained by whatever means or process from the scene of the offense, the Defendant(s) or co-defendants, or the vehicle occupied by any one of the Defendant(s) or co-defendants, whether such fingerprint impressions, blood samples, clothing, hair, fiber, or other such materials were those of Defendant(s), or those of some other person known or unknown.

5. Any and all comparisons of blood, fingerprints, clothing, hair, fiber or other materials made in connection with

this case.

6. Any and all expert opinions, results, reports, tests and examinations, scientific or otherwise, made in connection with this case whether or not those tests, experiments or examinations are positive or negative, and whether or not they are completed. The Defendant also requests that the Defendant or the Defendant's attorney or representative be permitted to personally examine, inspect and photograph all pieces of physical evidence that were obtained during the Government's investigation of this case and that have been scientifically examined on behalf of the Government. The Defendant further specifically reserves the right to move this Court to have a competent expert of the Defendant's own choosing to perform scientific testings on any of the physical evidence scientifically examined by the Government if the Defendant deems it desirable or necessary, under appropriate and reasonable safeguards imposed by the court.

7. The written report of any chemical analysis of the alleged plant material seized herein, prepared by the government or any of its agents or anyone at its direction, together with any descriptions, test results, test dates, and any determination as to the nature or weight of said substances.

8. Any and all results or reports of physical or mental

examinations.

9. Any and all documents, instruments, forms or statements of any kind signed or purported to have been signed by the Defendant(s).

10. A complete and exact copy of the Defendant's criminal record, both as an adult and juvenile.

11. Any and all FBI and local arrest and conviction records of all persons the government plans to call at trial.

12. 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.

13. Any and all personnel files for any witness who may potentially be called by the Government in this case and the existence and identity of all Government files for the witness.

14. Any and all search warrants and underlying affidavits that concern or were directed at 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 any phase of the trial of this case. This request applies to all search warrants -- whether executed or unexecuted -- that have existed at any time.

15. Copies of any and all records, memoranda, reports and/or documents relating to the monitoring or opening of Defendant's mail, or the mail of any co-defendant, or alleged co-conspirator, regardless of whether said alleged co-conspirator has been indicted.

16. Any and all toll records of any type whatsoever that allegedly reflect conversations that the Defendant had with any person whatsoever, including, but not being limited to, all persons who have 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 by the Government as a witness during any phase of the trial of this case.

17. Copies of any and all diagrams and charts the Government intends to use as evidence in the trial herein, both in its case-in-chief and in its rebuttal.

18. All statements, memoranda and/or documents producible

under 18 U.S.C.A. § 3500 (1983).

19. The date, time, method and circumstances, as well as place of, any seizure of evidence from a particular person or location which the government intends to offer as evidence in the trial of the above-captioned matter.

20. Any and all names and addresses of persons who have knowledge pertaining to this cause or who have been interviewed by the government in connection with the case.

21. The date, place, circumstances and names of all individuals involved in any identification procedures (photographic, corporeal or any other type), interrogations, search or seizures of any type that were conducted in connection with the investigation of this case.

22. Any evidence that the Government has within its possession, custody or control, or the existence of which is known, or could become known through the exercise of due diligence by the Government, concerning any identification procedure, interrogation, search or seizure conducted by the Government, its agents or employees that tends, however slightly, to taint or make illegal the identification procedure.

23. Reveal and disclose whether any person who has been interviewed in connection with this case has undergone hypnosis, age regression or similar procedure, and, if so, list the name

of such person; the date that he or she underwent the procedure; the name and address of the hypnotist or psychologist administering the procedure; and the results thereof.

24. All relevant information concerning whether any person has been videotaped in connection with the investigation of this case.

25. 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.

26. Disclose and identify each occasion on which each potential witness for the Government has testified before any court, grand jury or other tribunal or body with regard to the Defendant or the investigation of this case.

27. Disclose and identify each occasion in 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, stenographer or court reporter.

28. 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.

29. The name, identity and whereabouts of any informer who gave information leading to the arrest of the Defendant(s) or co-defendants, and whether said informer was paid by the Government for such information.

30. The dates and times of every interview conducted by the Government or any of its agents with any cooperating individuals and/or confidential informers involved in this case, and any other witness or person having, or purporting to have, knowledge of the facts herein.

31. The names and classifications of any and all Federal Bureau of Investigation Agents, United States Attorneys or other Government employees who met with, talked to or who were present at any meeting, telephone conversation or discussion held with any informants, special employees or snoops used by the Government during the investigation of this case.

32. Reveal and disclose all transcriptions of any kind, whether recorded or written, regarding any conversations with, discussions with or statements made by informants, special employees, alleged co-conspirators, (whether indicted or unindicted), alleged accomplices, (whether indicted or unindicted), alleged aider 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 the trial of this case.

33. List the date, place and the names and addresses of all persons present when any informer, special employee, alleged accomplice (whether indicted or unindicted), alleged co-conspirator (whether indicted or unindicted), alleged aider and abettor (whether indicted or unindicted), tipster, snoop or individual acting in an undercover capacity who has been involved in any capacity in the investigation or preparation of this case or who may be called as a witness by the Government during any phase of the trial of this case gave sworn testimony (whether during a trial or during pre-trial proceedings) or gave a sworn statement of any type. These sworn statements include, but are not limited to, affidavits, tax returns, firearms records and/or loan applications.

34. State whether any Government agent or anyone acting at the direction or behest of the Government (be he designated as an informant, special employee, snoop, prison inmate 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 and telephone number of such a g e n t , informant, special employee, snoop or prison inmate, together with all the facts and circumstances pertaining thereto.

35. 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 above-styled indictment by sending, counseling or advising persons (whatever their classification may be) to talk with the Defendant or his counsel, and, if so, describe all of such activity in detail and the authorization, if any, for such a procedure.

36. Produce a copy of all original notes, statements and memoranda (whether handwritten, recorded or otherwise) that were made by any and all agents of the Government investigating this case, including any person who was acting as an informer, special employee, tipster, snoop or in an undercover capacity.

37. State and reveal whether any notes, documents or recordings relating to the investigation of this case that were made by any agents of the Government, including any person who was acting as an informant, special employee, alleged accomplice, (whether indicted or unindicted), alleged co-conspirator (whether indicted or unindicted), alleged aider and abettor (whether indicted or unindicted), tipster, snoop or in any undercover capacity, have been totally or partially

destroyed or altered, and, if so, reveal the following with reference thereto:

- (a) The substance of the note, document or recording that was destroyed;
- (b) The substance of the alteration;
- (c) The name, address, and telephone number of all persons involved in the destruction or alteration;
- (d) The reason for the destruction or alteration.
- (e) Whether the note, document or recording was destroyed or altered pursuant to an existing policy, federal regulation or for some other reason;
- (f) When the destruction or alteration occurred; and
- (g) Whether it is the policy and custom of such agent(s) to destroy or alter such notes and memoranda, and, if so, who initiated such policy.

38. Any document or statement which arguably might be admissible under Federal Rules of Evidence 801(d)(1)(B) to rebut and express an implied charge against any Government witness of recent fabrication or improper influence or motive. These documents or statements 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.

39. Reveal and disclose any and all evidence of any type of which the Government is aware, or of which the Government could become aware by the exercise of reasonable diligence, which indicates that any of the individuals who 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 the 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, special employees, alleged accomplices (whether indicted or unindicted), alleged co-conspirators (whether indicted or unindicted), alleged aiders and abettors (whether indicted or unindicted), tipsters, snoops or individuals acting in any undercover capacity who may testify in this case or who possess information that is relevant or related to this case, as well as to all other individuals of any type who were involved in any manner, regardless of how remote it may be, in the investigation of this case.

40. Reveal and disclose any evidence or information obtained in connection with the investigation of this case that establishes the Defendant's good character or his lack of reputation for committing the act(s) that constitute the crime(s) in question in this case.

41. 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.

42. In addition to all of the items specifically mentioned and listed herein, the Defendant requests that the Government furnish to the Defendant's attorney(s) 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, Defendant moves this Court to order production of the above described items, and for such other and further relief as this Court may deem just and proper.

Respectfully submitted, this _____ day of [REDACTED].

[REDACTED]
Federal Public Defender

[REDACTED]
Assistant Federal Public Defender
101 S. Elm Street, Suite 210
Greensboro, NC 27401
(336) 333-5455

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing on the below-mentioned attorney by mailing a copy of the same to the following address:

[REDACTED]
Assistant United States Attorney
P. O. Box 1858
Greensboro, NC 27402

This, the _____ day of [REDACTED].

Assistant Federal Public Defender