

STATE OF OKLAHOMA,

Plaintiff,

v.

DANIEL K. HOLTZCLAW,

Defendant.

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Case No. CF-2014-5869

MOTION FOR DISCOVERY

COMES NOW the Defendant, Daniel K. Holtzclaw, by and through his attorneys of record, R. Scott Adams and Robert W. Gray, and submits the following Motion for Discovery.

It is the duty of the government to disclose to the Defendant and counsel for the Defendant all evidence favorable to the Defendant, whether such information relates to guilt, mitigation of punishment, or the credibility of witnesses. Brady v. Maryland, 373 U.S. 83, 10 L.Ed.2d 215, 83 S.Ct. 1194 (1963). The government's obligation extends to impeachment evidence as well as exculpatory evidence. U.S. v. Bagley. 473 U.S. 667, 676, 105 S.Ct. 3375, 87 L.Ed.2d 481 (1985). Scott v. Mullin, 303 F.3d 1222, 1231(CA10,2002). The government's duty to disclose extends to all information known by any government agent, and is not limited to information within the knowledge of the particular prosecutor assigned to this case. Giglio v. U.S., 405 U.S. 150, 31L.Ed.2d490 (1995). Furthermore, Brady material must be disclosed even when not specifically requested. U.S. v. Agurs. 427 U.S. 97, 49 L.Ed.2d 342, 96 S.Ct. 2392 (1976).

Defendant therefore requests that the government produce all evidence, information, material, statements, property, documents, or other evidence of any sort whatsoever which is

32. Identify and produce each photograph or video recording depicting the Defendant.
33. Identify and produce each audio recording of the voice of the Defendant.

SCIENTIFIC AND TECHNICAL INVESTIGATIONS

34. Identify all property and/or evidence that has been subjected to any scientific, forensic or technical investigation in this case.
35. Identify each person conducting or participating in each such investigation, including peer review and produce each person's resume or curriculum vita.
36. Identify and produce all protocols, procedures, and interpretation guidelines used by each person conducting or participating in each such investigation, including peer review.
37. Identify and produce all training manuals used as reference or training for each person conducting or participating in each such investigation, including peer review.
38. Identify all machinery and/or equipment used in each such investigation, including peer review.
39. Identify and produce a report setting out in detail the precise procedures employed in each such investigation.
40. Identify and produce each analyst's complete case file including, but not limited

to:

- a. Notes and bench notes;
 - b. Correspondence;
 - c. Peer review documentation.
41. Identify and produce all evidence, whether in the form of exhibit, report, document, statement or testimony derived from each such investigation and/or reflecting the results of each such investigation.

DAVID W. PRATER
DISTRICT ATTORNEY

SCOTT ROWLAND
FIRST ASSISTANT DISTRICT ATTORNEY

October 23, 2015

Mr. Scott Adams
Via Hand Delivery

Re: State v. Holtzclaw CF-2014-5869

Dear Mr. Adams,

Please find enclosed the following:

- 1) Discovery Items relating to Sherry Ellis
Case 14-066104 OCPD Supp Rpt (016) Item #80-81
- 2) Discovery Items relating to Carla Johnson
Case 14-066583 AVL Map Item #60
- 3) Discovery Items relating to Tabitha Barnes
Case 14-068166 Line-Up 3/25/14 Item #174
- 4) Discovery Items relating to Janne Ligons
Case 14-049-050 Alan Slamon Docs Item #340-347
- 5) Per your request, NCIC Reports on:
 Adaira Gardner
 Carla Johnson]
 Florene Mathis/Lynn Gibson
 Tabitha Barnes
 Terry Williams
 Sherry Ellis
 Rosetta Grate
 Terri Morris
 Kala Lyles

Regina Copeland/Williams
Shardayreon Hill
Syrita Bowen
Carla Raines
Janne Ligons

- 6) Per your request, a copy of the Oklahoma City Police Department Laboratory Services Division - DNA Procedure Manuel
- 7) Per your request, a copy of the Bench Notes created by Elaine Taylor in performing the DNA Analysis relevant to this case.
- 8) Per your request, a copy of the OCPD Report documenting the arrest of Janne Ligons - OCPD Case #881017720 in 1988

Please contact me if you have any questions.

Gay d G. Gieger
Assistant District Attorney

Enclosures

1 IN THE DISTRICT COURT IN AND FOR OKLAHOMA COUNTY,
2 STATE OF OKLAHOMA
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4 STATE OF OKLAHOMA,
5 **Plaintiff,**
6 vs. CASE NO.: CF-2014-5869
7 DANIEL K. HOLTZCLAW,
8 **Defendant.**

9 **Filed IN DISTRICT COURT**
10 **OKLAHOMA COUNTY**

11 **MAR 16 2016**

12 * * * * * **TIM RHODES**
 405 COURT CLERK

13 TRANSCRIPT OF THE
14 MOTION FOR NEW TRIAL AND SENTENCING
15 HAD ON THE **21ST DAY OF JANUARY, 2016,**
16 BEFORE THE HONORABLE TIMOTHY R. HENDERSON,
17 DISTRICT JUDGE IN AND FOR OKLAHOMA COUNTY,
18 OKLAHOMA CITY, OKLAHOMA

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25 REPORTED BY: Kristin L. Taylor, RPR

1 his boast on Facebook says. He is correct but, however,
2 that is consistent with what was produced in discovery.
3 It's my understanding -- and I want to double-check that he
4 is completely incorrect with what he boasts about being
5 multiple DNA on the pants.

6 THE COURT: Are you saying boast or post?

7 MR. GIEGER: I'm saying boast. Whatever, Judge.
8 Whatever -- I think both -- both probably apply.

9 And I will double-check the DNA reports that are
10 in there to make sure there was no unidentified female
11 component. If there was it's contained in the reports that
12 have already been produced to the defense.

13 The only other document that I think became
14 specifically relevant in regards to the DNA -- and, again,
15 there were multiple. I think the entire DNA file, if I'm
16 not mistaken, was produced to the defense and all of the
17 what do they call them -- bench notes were also produced as
18 well at their request. But there was a statistical analysis
19 that Elaine Taylor was testifying to when she said that she
20 did a supplement because the numbers from the Quantico lab
21 at FBI had changed. I think Mr. Adams even pointed out that
22 she started reading from the wrong -- the wrong report. And
23 at some point the document that I have in my hand was
24 actually shown to the jury just as a demonstrative aid
25 saying this is what you're reading from. And I know

1 Mr. Adams had received that as well.

2 So in that regard I inquired again last night of
3 Elaine Taylor as to: Is there any DNA information that you
4 obtained from Officer Holtzclaw, specifically pants, that
5 you have not disclosed to me? Is there anything that we
6 don't know about? And she said: No, you have everything
7 that there was. Everything that was tested was provided and
8 documented in the reports that I referenced.

9 MR. ADAMS: That was a long record.

10 MR. GIEGER: It was.

11 MR. ADAMS: In regards to the discovery and in
12 regards to alleged victims who the State determined were not
13 victims, I would agree with the statements that Mr. Gieger
14 made in regards to -- I had notice of Goff, Dunn, Barksdale
15 and Hendrix.

16 The witnesses that he talked about in regards
17 to -- that he learned after the jury was -- was already
18 submitted to the jury, I don't think the Government had the
19 duty or responsibility to provide that to me, nor am I
20 making that part of the motion. And out of courtesy he's
21 offered them, and at that point I don't -- I mean, I'll
22 request them and I'm sure Mr. Gieger will give them to me.
23 So I'm not worried about that. But I don't think they even
24 have that obligation.

25 Again, everything that Mr. Gieger said in regards

1 to the discovery I've received I believe -- I agree with. I
2 have nothing to dispute that with. The only thing that I
3 I don't know about the bench notes. And if there's a
4 receipt showing I received them -- maybe I did. I don't
5 recall. But I'm not claiming that I didn't get them. I
6 just don't have any independent recollection. But if I'm
7 sure that they've been upfront and forward with all the
8 discovery in this case. I haven't found one instance that I
9 can point to where I can say that the State was withholding
10 something I knew was there.

11 However, in regards to Detective McClain is
12 that -- is that appropriate? Is it detective?

13 MR. GIEGER: I believe he's a robbery he's a
14 detective now within the robbery division. I know I called
15 him "Officer." It's my understanding -- I didn't know who
16 he was. When I got the motion I found out that he is
17 assigned to the robbery division.

18 MR. ADAMS: So in any event, in regards to the DNA
19 evidence, the only real issue that I have is what Detective
20 or Officer McClain posted on Facebook wherein he talks about
21 there being multiple DNA found in the car and obviously in
22 the pants. And when he says "in the pants" he capitalizes
23 all the letters on his message, or post or whatever this is
24 called, bringing attention to it. And there was no evidence
25 that there was anyone else's DNA other than Ms. Gardner.

1 And -- and that's the whole purpose of me filing this.

2 And -- but in regards to all the discovery that
3 Mr. Gieger has represented I've received, I have no
4 disagreement whatsoever. And in regard to his recitation of
5 how I received it and how it played out in the courtroom, I
6 believe he's a hundred percent correct.

7 MR. GIEGER: Scott, at this point, for the record,
8 since you asked, on October 23rd of 2015, there's a
9 discovery cover letter indicating the bench notes were
10 provided.

11 MR. ADAMS: Okay. Mr. Gray just reminded we
12 did -- we did get those and we did give them to our experts
13 so we had them.

14 So I have no dispute with any of that. It simply
15 really boils down to at this point in regards to the motion
16 for new trial in regards to Detective McClain, what all this
17 is about. And so other than that I have no other record to
18 make.

19 THE COURT: All right. As I mentioned earlier I'm
20 obviously going to give you a hearing on that. I think
21 we've taken care of part of what your motion is about. And
22 I guess the hearing has already started. But I'll give you
23 the opportunity to question Detective McClain as to what he
24 meant, what he knew, if he knows anything, or if it was
25 boasts or posts in Facebook. And so we'll take care of that