

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT - FELONY DIVISION
FOURTH JUDICIAL DISTRICT

State of Minnesota,

Plaintiff,

vs.

Ibssa M Youssuf,

Defendant,

) **DEMAND FOR PRESERVATION**
) **AND DISCLOSURE OF EVIDENCE,**
) **AND MOTION FOR SUPPRESSION**
) **AND OTHER RELIEF**

) **MNCIS No. 27-CR-21-1171**
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Defendant, by and through counsel, hereby demands preservation of, disclosure of, and access to all evidence related to the case; moves the Court for the relief specified below; and demands a hearing on the same.

DEMAND FOR PRESERVATION AND DISCLOSURE OF EVIDENCE

Defendant demands that the State preserve all information and evidence within the reach of the disclosures required under Rule 9.01 of the Minnesota Rules of Criminal Procedure and applicable case law.

Defendant further demands that the State disclose all such information and evidence, and that it make all disclosures required by Rule 9.01 prior to the probable cause pretrial conference in this case.

Defendant demands access to all items subject to disclosure, and this access shall include, as appropriate, the opportunity to inspect, reproduce, photograph, test, interview, or otherwise document the matters disclosed.

These demands apply to:

1. **Investigative reports** prepared by state agents or employees in the investigation or evaluation of the case, together with the original notes of the arresting officers, if any.
2. **Statements**, as fully described in Rule 9.01, subd. 1(2). This request includes any written or recorded statement made by the Defendant or any alleged accomplice, regardless of when made, and the substance of any non-recorded oral statements by the Defendant or accomplices. This request includes recorded statements by any other person and any written record containing the substance of statements by them, whether

or not they are expected to be called at trial. This request includes statements made to any member of prosecution's staff, victim advocates, and any other person of which the government is aware or should be aware. State v. Adams, 555 N.W.2d 310 (Minn. App. 1996). It also includes disclosure of the fact that an interview with a witness took place, regardless of whether it was transcribed or whether written statements or written summaries were prepared. State v. Kaiser, 486 N.W.2d 384, 386-87 (Minn. 1992) This request also encompasses copies of recorded statements made pursuant to State v. Scales, 518 N.W.2d 587 (Minn. 1994) and any attempted recordings that for whatever alleged reason are inaudible or unavailable.

3. **Audio or video records** produced regarding this case, including squad video, 911 calls, radio runs, police radio communications, scout runs, police transport recordings, and record checks.
4. **Reports related to examinations, tests, or expert testimony**, as fully described in Rule 9.01, subd. 1(4). In addition to disclosure, Defendant also demands the in-person testimony of all analysts who performed tests the results of which the state intends to introduce into evidence at any hearing related to this case. Further, defendant hereby provides notice that he retains his right to cross-examine the analysts under State v. Caulfield, 722 N.W.2d 304, Minn. 2006.
5. **Documents and other tangible objects**, as fully described in Rule 9.01, subd. 1(3)
6. **Search warrants** obtained and executed regarding the case, including inventories and items seized.
7. **Identification procedures** including but not limited to lineups, show-up identifications, photo arrays, or the like, and details on the nature and circumstances of any and all identification procedures that become known to the government in the future.
8. **Witnesses and other persons**, as fully described in Rule 9.01, subd. 1(1).
9. **Conviction records** for all witnesses and other persons, as required to be disclosed under Rule 9.01, subd. 1(1).
10. **Prior convictions** of the Defendant or defense witnesses, to be provided as certified copies. In addition to disclosure, defendant also demands notice if the state intends to use a conviction to impeach any defense witness, including Defendant.
11. **Alleged but uncharged misconduct, prior bad acts, or relationship evidence** which the State intends to introduce at trial in this matter, disclosure to include police reports and any other documentation.

12. **Evidence related to an enhanced or aggravated sentence**, as identified in Rule 9.01, subd. 1(7). In addition to disclosure, defendant also demands notice if the state intends to seek an aggravated or enhanced sentence.

These requests encompass all information or evidence known to the prosecutor on this case personally or if known to any other prosecutor or law enforcement agent, as well as information and evidence about which the prosecutor on this case could acquire actual knowledge through the exercise of due diligence in responding to these inquiries.

Lastly, the defense demands disclosure of all audio or video files on CD ROM or DVD ROM disc, and demands that the state provide any and all software or other files necessary to open, view or play such disc(s).

This demand for preservation and disclosure, in its entirety, continues until final disposition of this case. It therefore encompasses any additional information subject to disclosure that becomes known to the State after the State has begun complying with discovery rules, orders or defense requests. Minn. R. Crim. P. 9.03, subd. 2;

**DEMAND FOR PRESERVATION AND DISCLOSURE OF EVIDENCE
TENDING TO NEGATE OR REDUCE THE DEFENDANT'S GUILT**

Defendant demands that the State preserve and disclose all evidence and information known to the State which tends to negate or reduce the guilt of the Defendant, together with all evidence and information which might tend to mitigate or reduce potential punishment, as required under Minn. R. Crim. P. 9.01 subd. 1(6), under Brady v. Maryland, 373 U.S. 83 (1963), and under subsequent cases. This demand includes but is not limited to the following:

1. Evidence of bias of government witnesses or any consideration given a witness in return for cooperation with the government, including any information regarding pre-existing hard feelings, arguments, grudges, and disputes between the complainant and the Defendant.
2. Information that a government witness and/or informant was under the influence of alcohol, narcotics, or any other drug at the time of the observations about which the witness will testify and/or the informant informed.
3. Information tending to show the unreliability of a government witness, or which would tend to discredit the testimony of a government witness, including a request

for any prior inconsistent, non-corroborative, or other witness statements which the witness' trial testimony will not reflect.

4. Information—including docket numbers, dates and jurisdictions—indicating that
 - a. a government witness has had a pending juvenile or criminal case on or since the offense in this case;
 - b. a government witness was arrested, pleaded guilty, had a trial, or was sentenced on or since the date of the offense in the present case;
 - c. a government witness was on juvenile or criminal parole or probation on or since the date of the offense; and
 - d. a government witness now has or has had any other liberty interest that the witness could believe or could have believed might be favorably affected by government action.
5. Information that any government witness is or has been a police informant either at the time of the offense and/or through the day of trial, including the kind of assistance or benefits provided. "Benefit" refers to any monetary compensation, assistance of the prosecutor or the court concerning pending charges against the informant, or any other sort of consideration of value. Here, the demanded disclosure includes but is not limited to:
 - a. the length and extent of the witness' informant status;
 - b. the amounts that have been paid to the informant in connection with this case;
 - c. non-monetary assistance provided or promised to the informant, including, but not limited to, assistance in avoiding or minimizing harm from charges pending against the informant either at the time of the offense and/or any other time through the day of trial;
 - d. all statements made to the informant that promised benefits would not be provided without cooperation in connection with this case;
 - e. the nature of assistance provided to the informant prior to this case, including the number of occasions and form of help.
6. Information which tends to show a government witness' corruption including anything in police officers' personnel files indicative of corruption.
7. Perjury by any government witness at any time, whether or not adjudicated and whether or not in connection with this case.

8. Information that any government witness has made prior false accusations, including but not limited to prior complaints to the police or law enforcement agencies that did not result in a conviction.
9. Information regarding any prior "bad act" of a government witness which may bear upon the veracity of the witness with respect to the issues involved in the trial, including but not limited to the issues of self-defense or defense of others.
10. Any other information tending to show a government witness' bias in favor of the government or against the defendant or which otherwise impeaches a witness' testimony, including civilian-review-board complaints against police officers involving facts similar to those of this case, whether resolved for or against the officer.
11. Names and addresses of all witnesses who do not fully corroborate the government's case or would serve to contradict or impeach the government's evidence.
12. Any indication of threats or acts of aggression toward the defendant by the complainant or decedent, and any information that the complainant had possession of any weapons at the time of the incident. Also, any other information which would indicate that the complainant was the first aggressor and/or that the Defendant acted in self-defense.
13. Names and address of any person who:
 - a. identified some person other than the Defendant as a perpetrator of the alleged offense;
 - b. failed to identify the Defendant as a perpetrator of the alleged offense when asked to do so in any identification procedure;
 - c. gave any description(s) of the perpetrator(s) of the alleged offense which in any material respect differs from my client.
14. Information known to the government which is favorable to the defense, whether or not technically admissible in court, and which is material to the issues of guilt and/or punishment. This includes all information that the Defendant was not involved in the alleged offenses and/or that the requisite elements required to prove any of the charged offenses cannot be met.

Defendant further demands that all officers and investigative agencies concerned abide by their continuing obligation to discover, preserve, and disclose in writing any information or materials that might be viewed as favorable to the Defendant on the issues of suppression, guilt, or punishment,

either substantively, as impeachment, or as tending to discredit the government's witnesses. Kyles v. Whitley, 115 S.Ct. 1555 (1995) (imposing upon law enforcement and the prosecutor a "duty to learn" favorable information relating to the Defendant).

These requests encompass all information or evidence known to the prosecutor on this case personally or if known to any other prosecutor or law enforcement agent, as well as information and evidence about which the prosecutor on this case could acquire actual knowledge through the exercise of due diligence in responding to these inquiries.

Lastly, the defense demands disclosure of all audio or video files on CD ROM or DVD ROM disc, and demands that the state provide any and all software or other files necessary to open, view or play such disc(s).

This demand for preservation and disclosure, in its entirety, continues until final disposition of this case. It therefore encompasses any additional information subject to disclosure that becomes known to the prosecutor, staff, or anyone investigation investigating this case after the State has begun its compliance with discovery rules, orders or defense requests. Minn. R. Crim. P. 9.03, subd. 2;

MOTION TO COMPEL DISCLOSURE AND ACCESS

Defendant moves the Court for an Order requiring the State

- 1 To preserve all evidence and other matters subject to disclosure as herein demanded and as otherwise required by Minnesota Rule of Criminal Procedure 9.01.
- 2 To permit Defendant to have access to, inspect, reproduce, photograph, or otherwise document all disclosed items, as described in Minn. R. Crim. P 9.01, subd. 1 & subd. 1a(2).
- 3 To allow defendant to conduct reasonable tests or to provide notice and an opportunity for defense experts to observe the state's own tests if those tests preclude further tests or experiments, as described in Minn. R. Crim. P 9.01, subd. 1(4)(b).
- 4 To assist Defendant in seeking access to specified matters relating to the case which are within the possession or control of an official or employee of any governmental agency, but which are not within the control of the prosecuting attorney, as described in Minn. R. Crim. P. 9.01, subd 2(1).
- 5 For an Order directing the prosecuting attorney to identify and produce any informants who supplied or contributed information to the prosecution which led to the issuance of a Complaint against the Defendant on the grounds:

- a. The privilege of non-disclosure of any informants must give way and disclosure of the identity of an informer is required where disclosure is essential or relevant and material, and helpful to the defense of an accused, or lessens the risk of false testimony, or is necessary to secure useful testimony, or is necessary to a fair determination of the cause; or
- b. Disclosure is necessary as a means to afford this Defendant an opportunity to establish that if informants did exist, that the information supplied to the prosecutor by them was inaccurate or misrepresentative.

MOTION TO SUPPRESS EVIDENCE

Defendant moves the Court for an Order suppressing, particularly with respect to those items identified in the state's notice under Rule 7.01:

- 1 Any and all evidence obtained as a result of a stop, search, or seizure, on the ground that such evidence was obtained in violation of Defendant's constitutional and statutory protections against unreasonable searches and seizures.
- 2 Any and all confessions, admissions, or statements in the nature of confessions made by Defendant, together with any evidence obtained as a result thereof, on the grounds that any use of such evidence, in any manner, would be in violation of the Defendant's constitutional and statutory rights.
- 3 Any and all identifications of Defendant and evidence of identification procedures used during the investigation, together with any evidence obtained as a result of identification procedures used during the investigation, on the ground that any use of such evidence, in any manner, would be in violation of the Defendant's constitutional and statutory rights.

Defendant further moves this court for an order suppressing other evidence or granting any relief that the court may require to ensure a fair and expeditious trial on this matter.

MOTION TO EXCLUDE EVIDENCE

Defendant moves the Court for an Order restraining the prosecution from attempting to introduce at trial:

- 1 Evidence obtained as a result of stop, search, or seizure, confession or other statement by the Defendant, or identification procedures, as described above, on the grounds that the notices filed by the State are vague, ambiguous, and inspecific, all to the prejudice of the Defendant and contrary to the meaning of Minnesota R. Crim. P. 7.01.
- 2 Evidence that Defendant has been guilty of additional misconduct or crimes on other occasions, on the grounds that the state has not provided notice of its intent to use such evidence or, if it did, that such notice was not specific enough or failed to specify a particular exception to the general rule of exclusion. Defendant also moves for exclusion on the grounds that the evidence is not admissible under any exception to the general rule of exclusion, that such evidence is more prejudicial than probative, or that such evidence has not been proven to be clear and convincing.
- 3 Evidence, argument, or any other reference to prior convictions, if any, of the Defendant.
- 4 Any and all other evidence for which the State has failed to provide notice as required by the Minnesota Rules of Criminal Procedure

Defendant further moves this court for an order excluding other evidence or granting any relief that the court may require to ensure a fair and expeditious trial on this matter.

DEMAND FOR HEARING

Defendant hereby demands a contested hearing on the above motions, to be held as soon as practicable after the serving and filing hereof.

Respectfully submitted,

OFFICE OF THE HENNEPIN COUNTY PUBLIC DEFENDER
Mary F. Moriarty - Chief Public Defender

By /s/
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DATED: this 20th day of January 2021.