

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT - FELONY DIVISION
FOURTH JUDICIAL DISTRICT

State of Minnesota,

Plaintiff,

vs.

Crystal Latasha McBounds,

Defendant,

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

) **MNCIS No. 27-CR-22-19036**
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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.
13. **Brady material**. i.e., any information that tends to negate or reduce the guilt of the accused, or which tends to mitigate punishment as to the offense charged. For the purposes of cross-examining State witnesses, this includes impeachment evidence as well as inducements offered to or accepted by a witness to be called by the State, whether the inducement was for the benefit of the witness or for the benefit of another, including but not limited to financial assistance, plea agreements, agreements not to prosecute, or any benefit or assistance of any kind whatsoever. Defendant demands the prosecutor's compliance with the duty to learn about Brady material, even if known only to police or others acting on the government's behalf in the case.

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;

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
KASSIUS O. BENSON – CHIEF PUBLIC DEFENDER

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DATED: This 10th day of October, 2022.