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IN THE SUPERIOR COURT OF WALKER COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,)	
)	
vs.)	CASE #'s
)	03-CR-20884; 03-CR-00885;
TOMMY RAY-BRENT MARSH,)	03-CR-20886; & 03-CR-20887
Defendant)	

DEMAND FOR COPIES OF SCIENTIFIC REPORTS AND MOTION FOR DISCLOSURE
OF OTHER SCIENTIFIC EVIDENCE

COMES NOW the Defendant, through counsel, and respectfully demands the following:

(1) Copies of any written scientific reports in the possession of the prosecution which will be introduced in whole or in part against the defendant by the prosecution in its case-in-chief or in rebuttal. O.C.G.A. § 17-7-211. *Defendant gives notice of intent to invoke the exclusionary provision of O.C.G.A. § 17-7-211 in the event that there is a failure to timely comply with this demand. See, Alexander v. State, 203 GaApp 375, 416 SE2d 762 (1992) (District Attorney served a handwritten statement indicating that a trace of cocaine was found at site, but did not furnish lab report - lab report was available and case was reversed).*

(2) The results of all scientific tests or experiments or studies made in connection with the above-styled case and copies of any reports, whether or not the State intends to introduce said items into evidence upon the trial of this case. In support of the same, Defendant cites O.C.G.A. § 24-9-64, the 5th and 6th Amendments to the Constitution of the United States and Article I, Section I, Paragraphs I, II, VI, XII and XIV of the Constitution of the State of Georgia.

(3) The disclosure of any fingerprint, DNA or other scientific analysis and, if such analysis was performed;

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Alicia Maddams
Clerk

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(a) the results of all tests (including fingerprint and DNA), experiments or comparisons performed on any and all materials, objects, or property seized from the Defendant, or from other persons places or objects searched and/or seized during the course of the investigation. Also, the complete report made by any scientist or expert who either performed or was responsible for performing these tests, comparisons or experiments, including such information as the [1] description of the object tested, [2] exemplars or standards which the item was compared to, [3] tests performed, [4] procedures followed for each test, [5] worksheets, and [6] chain of custody for each item. O.C.G.A. §§ 17-7-211 and 24-9-64, the 6th Amendment to the Constitution of the United States of America, Article I, Section I, Paragraph XIV of the Constitution of the State of Georgia; Eason v. State, 260 Ga. 445, 396 S.E.2d 492 (1990) (a basic principle of scientific testing is that careful records of test procedures and results be scrupulously maintained); Box v. State, 187 Ga. App. 260, 370 S.E.2d 28 (1988) (case reversed where state failed to provide exact numerical quantity of drug tested); Durden v. State, 187 Ga. App. 154, 369 S.E.2d 764 (1988) (*any* evidence of a scientific test offered by the state in its case-in-chief or in rebuttal is subject to discovery).

(b) Any documentation regarding *the attempt* to perform any scientific test (fingerprint, DNA, etc.), or procedure (identification, etc.) that may not have been completed or where the attempt to perform the test or procedure failed for some technical or other reason. O.C.G.A. §§ 17-7-211 and 24-9-64, the 6th Amendment to the Constitution of the United States of America, Article I, Section I, Paragraph XIV of the Constitution of the State of Georgia, Eason v. State, 260 Ga. 445, 396 S.E.2d 492 (1990) (right to subpoena all the

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work product of a chemist); Foster v. California, 394 U.S. 440, 442 (1969) (case reversed where prosecution failed to disclose that witness failed to identify defendant the first time he confronted him and defendant was identified only after a second and third lineup).

(4) The defendant reserves the right to:

a) seek further discovery regarding the nature, extent and procedures utilized in any laboratory testing and the qualifications of any entity or individual performing such tests; and,

b) challenge the procedure or technique utilized in any scientific procedure pursuant to Harper v. State, 249 Ga. 519, 292 S.E.2d 389 (1982) (trial court may make a determination whether a scientific procedure or technique has reached a scientific stage of verifiable certainty from evidence presented to it); Caldwell v. State, 260 Ga. 278, 393 S.E.2d 436 (1990) (allows trial court during a Harper review to also determine whether the scientific procedures were performed in an acceptable manner).

Respectfully submitted, this 23rd day of Sept., 2003.



McCracken Poston
Attorney for Tommy Ray-Brent Marsh
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Ron Cordova

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CERTIFICATE OF SERVICE

Now comes McCracken Poston, counsel for Defendant, and hereby certifies that a true and accurate copy of the foregoing pleading has been served upon the District Attorney ~~(by posting said copy in the U.S. Mail with sufficient postage attached thereto)~~ (by hand delivery to the District Attorney or one of his staff).

This 23 day of Sept., 2003.



McCracken Poston