

IN THE SUPERIOR COURT OF WALKER COUNTY
STATE OF GEORGIA

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

**MOTION FOR THE DISCLOSURE
OF THE CRIMINAL RECORD, PENDING CHARGES OR ANY IMPEACHING
INFORMATION AGAINST ANY WITNESS TESTIFYING FOR THE STATE**

NOW COMES the Defendant, through counsel, pursuant to the provisions of the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the Constitution of the United States and Article I, Section I, Paragraphs I, II, VII, XI, XII, and XIV of the Constitution of the State of Georgia and other applicable state and federal statutory and case law and, in accord with the requirements of Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963) (right to discovery of exculpatory and impeaching material), shows the following:

(1) A witness may be impeached by introduction of a certified copy of a record of conviction of a crime involving moral turpitude. Richards v. State, 157 Ga. App. 601, 278 S.E.2d 63 (1981) (for impeachment purposes, it is necessary to introduce an authenticated copy of the record of the court in which witness was convicted).

(2) First Offender convictions are admissible for this purpose. Favors v. State, 235 Ga. 80, 214 S.E.2d 645 (1975) (exclusion of "first offender record of conviction" of one of state witnesses was error).

(3) The Georgia Crime Information Center collects data on persons convicted of felonies. O.C.G.A. § 35-3-30 et. seq.

(4) The District Attorney, upon information and belief, has access to this information from

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Clerk

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an available computer terminal.

(5) Neither the defendant nor his counsel have such access.

(6) Further, any pending charges against any of the State's witnesses are an essential element in confrontation of witnesses, not only in impeachment, but illustrative of interest, bias, credibility, and other possible reasons for their testimony against the defendant.

Defendant therefore requests the criminal record of all witnesses testifying on behalf of the state and all information relating to any possible prosecution which could be brought against any witness and any probationary, parole, or deferred prosecution situation which the witness may be confronting. Davis v. Alaska, 415 U.S. 308, 94 S.Ct. 1105, 39 L.Ed.2d 347 (1974), Hayes v. State, 168 Ga. App. 94, 308 S.E.2d 227 (1983) (right to exculpatory material includes evidence impeaching the prosecutions witnesses).

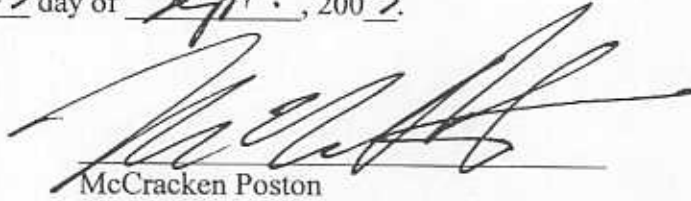
Defendant further requests any and all records and information **known to the State** or any of its law enforcement officers, or any federal law enforcement agent in any way involved in the investigation which resulted in the instant indictment, pertaining to the witnesses having indulged in the use of drugs, opiates, and/or narcotics, the extent and duration of their use, the source of the controlled substances so abused, the amount and source of the funds or other things of value used to purchase same, the names of all witnesses to said indulgence, the extent to which the drug abuse affects the witnesses' perception, memory, and competence, and the nature and extent of any treatment the witnesses have undergone for illegal drug usage, and whether or not the treatment was voluntary and a success or failure. See, O.C.G.A. § 24-9-64 and Hines v. State, 249 Ga. 257, 290 S.E.2d 911 (1982) (Davis v. Alaska, [infra], guarantees the defendant in a criminal case both a *general right to cross-examine witnesses* and the more specific right to cross-examine a key state's witness concerning pending criminal charges).

Finally, the defendant requests that the prosecution divulge any information regarding the mental status of any prosecution witness, if such witness has undergone any treatment for a mental

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illness or infirmity which would have a potential bearing on his or her credibility, motivation, memory, bias or ability to accurately perceive, retain and recount factual information.

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



McCracken Poston
Attorney for Tommy Ray-Brent Marsh
GB 585606

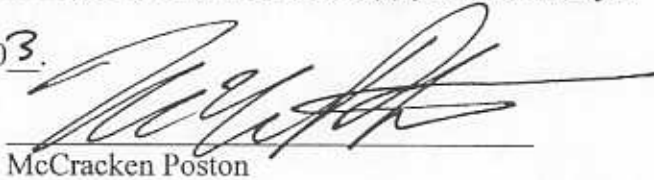
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Ron Cordova

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