

IN THE SUPERIOR COURT OF WALKER COUNTY

STATE OF GEORGIA

THE STATE OF GEORGIA,

\*

VS.

CASE NOS. 03-CR-20884, 03-CR-20885,

**FILED IN OFFICE** 03-CR-20886, 03-CR-20887

TOMMY RAY-BRENT MARSH,

SEP 23 2003

Defendant.

\*

*Bice Marshall*  
Clerk

NOTICE OF COMPLIANCE WITH DISCOVERY AND  
STATE'S DEMAND FOR TIMELY AND COMPLETE DISCOVERY

NOW COMES THE STATE OF GEORGIA, by and through the District Attorney, and, based upon the Defendant's election to proceed under the discovery provisions of O.C.G.A. §§ 17-16-1, et. seq., the State would show that it has complied with said discovery requests and the requirements of Brady v. Maryland, 383 U. S. 83 (1963) and its progeny, by filing this Notice with the Court and by serving contemporaneously herewith the following documents upon Defendant or counsel for the Defendant:

1. A copy of the indictments and Special Presentments were served prior to arraignment upon Defendant or counsel for the Defendant.

Any and all reports, documents, writings and tangible or physical evidence in the possession of the District Attorney or the law enforcement agencies which investigated this case, with the exception of work product may be examined upon request by making arrangements through the undersigned. The State shall permit the Defendant at a time agreed to by the parties or as may be ordered by the Court to inspect and copy or photograph books, papers, documents, photographs, tangible objects, audio and visual tapes, films and recordings, or copies or portions thereof and to inspect and photograph buildings or places which are within the possession, custody, or control of the state or prosecution and are intended for use by the prosecuting attorney as evidence in the prosecution's case-in-chief or rebuttal at the trial or were obtained from or belong to the Defendant. Evidence that is within the possession, custody, or control of the Forensic Sciences Division of the Georgia Bureau of Investigation or other laboratory for the purpose of testing and analysis may be examined, tested, and analyzed at the facility where the evidence is being held pursuant to reasonable rules and regulations adopted by the Forensic Sciences Division of the Georgia Bureau of Investigation or the laboratory where the evidence is being held.

WHEREFORE, having fully complied with the Defendant's requests for discovery, now comes the State of Georgia, by and through the District Attorney, and demands of the Defendant

discovery as follows:

A. Tangible Evidence. Pursuant to O.C.G.A. Section 17-16-4 (b) (1) and ten days of timely compliance by the prosecuting attorney but no later than five days prior to trial, or as otherwise ordered by the court, the State demands that the Defendant permit the State to inspect and copy or photograph books, papers, documents, photographs, tangible objects, audio and visual tapes, films and recordings, or copies or portions thereof and to inspect and photograph buildings or places, which are within the possession, custody, or control of the Defendant and which the Defendant intends to introduce as evidence in the Defendant's case-in-chief or rebuttal at trial.

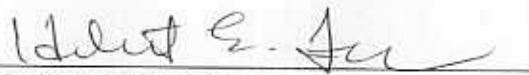
B. Examinations, tests and Experiments. Pursuant to O.C.G.A. Section 17-16-4 (b) (2) and within ten days of timely compliance by the prosecuting attorney but no later than five days prior to trial, or as otherwise ordered by the court, the State demands that the prosecution be permitted to inspect and copy or photograph any results or reports of physical or mental examinations and of scientific tests or experiments, including a summary of the basis for the expert opinion rendered in the report, or copies thereof, within the possession or control of the Defendant which the Defendant intends to introduce as evidence in the defense's case-in-chief or rebuttal.

C. Alibi Witnesses. Pursuant to O.C.G.A. Section 17-16-5, the State would show that the crime is alleged to have been committed on the date and at the place as shown in the above-styled indictment/accusation and the documents served on the Defendant pursuant to O.C.G.A. Section 17-16-1 et seq. and the State hereby demands that the Defendant serve written notice of any intention to offer a defense of alibi, if such is claimed as a defense to the crime described. The notice of the Defendant shall include the specific place or places at which the Defendant claims to have been at the time of the offense and the names, addresses, dates of birth, social security numbers and telephone numbers of the witnesses upon whom the Defendant intends to rely to establish such alibi.

D. Statements of Witnesses. Pursuant to O.C.G.A. Section 17-16-7, the State demands that the Defendant, no later than ten days prior to trial or at such time as the court permits, or at the time of any post-indictment pretrial evidentiary hearing other than a bond hearing, produce all statements of any witness that is in the possession, custody or control of the Defendant or the Defendant's attorney that relates to the subject matter concerning the testimony of a witness that the Defendant intends to call as a witness at trial or at any post-indictment pretrial evidentiary hearing.

E. Witness Information. Pursuant to O.C.G.A. Section 17-16-8, within ten days after compliance by the prosecuting attorney but no later than five days prior to trial, or as otherwise ordered by the court, the State demands that the Defendant furnish to the State's counsel as an officer of the court, in confidence, the names, current locations, dates of birth, and telephone numbers of the Defendant's witnesses, unless for good cause the judge allows an exception to this requirement, in which event State's counsel demands an opportunity to interview such witnesses prior to the witnesses being called to testify.

Wherefore the State of Georgia demands compliance by the Defendant with the above requests for discovery. If at any time during the course of the proceedings it is brought to the attention of the Court that the Defendant has failed to comply with the State's demands for discovery pursuant to O.C.G.A. Section 17-16-6, that the Court order the Defendant to permit the discovery or inspection, grant the State time to interview the witness, grant a continuance, or, upon a showing of prejudice and bad faith, prohibit the Defendant from introducing the evidence not disclosed or presenting the witness not disclosed, or enter such other order as the Court deems just under the circumstances.


  
Herbert E. Franklin  
District Attorney  
State Bar No. 273325  
Lookout Mountain Judicial Circuit

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Notice of Compliance with Discovery and State's Demand for Timely and Complete Discovery upon counsel for the Defendant by facsimile transmission to (706) 965-5413 and by mailing a true and correct copy of same with sufficient postage thereon to ensure delivery of same to its destination:

McCracken Poston  
Attorney At Law  
P.O. Box 1130  
Ringgold, GA 30736

This 23rd day of September, 2003.

  
District Attorney  
Lookout Mountain Judicial Circuit

P. O. Box 1025  
LaFayette, GA 30728  
(706) 638-2121