

IN THE SUPERIOR COURT OF YOUR COUNTY

STATE OF GEORGIA

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vs.

JAMES CLARNES, III

Defendant

MOTION FOR DISCOVERY, INSPECTION, PRODUCTION AND
COPYING OF EVIDENCE FAVORABLE TO THE ACCUSED AND
IN CAMERA INSPECTION WITH INCORPORATED AUTHORITY

Defendant respectfully moves this Court, pursuant to the Fifth, Sixth and Fourteenth Amendments to the United States Constitution, and Article I, Sec 1, Par. 1, 11 and 14 of the Georgia Constitution, as construed and applied in the case of *Brady v. Maryland*, 373 U.S.83 (1970) and its progeny including, *Giles v. Maryland*, 386 U.S. 66 (1967); *Giglio v. United States*, 405 U.S. 105 (1972); and *Hicks v. State*, 232 Ga. 393 (1974), to order the District Attorney to permit defense counsel to inspect and copy all evidence in the possession and control of the State which may be favorable to the Defendant and material to the issues of guilt or punishment or could reasonably weaken or affect any evidence proposed to be introduced against the Defendant at trial or at sentencing. The evidence sought is to include, but not be limited to:

1.

All evidence, including statements of individuals, physical evidence or test results indicating or tending to indicate that the Defendant is not guilty of the offense charged or mitigating on the issue of sentence.

2.

All statements of any witness which contradict in any way the statements of other witnesses or which contradict other statements made by that witness.

3.

All reports, memoranda or other information in possession of the State which contain information exculpatory, helpful, favorable or arguably favorable to the Defendant on guilt or innocence or as to sentence.

4.

The criminal records and any lists or summary reflecting criminal records of all persons whom the State intends to call as witnesses in the trial of the Defendant or at sentencing.

5.

Memoranda, documents or reports of any scientific tests or experiments or studies made in connection with the above-styled case, including any polygraph examinations of any witness, which may be arguably favorable to the defense.

6.

All material now known to the State or which may become known which is exculpatory in nature or favorable to the accused or which may lead to exculpatory material. This request includes reports of any investigations conducted by the State, or its agents, of individuals other than the Defendant.

7.

The State is required to reveal to the defense not only information "in its file", but should also be ordered to make inquiry of all law enforcement or other agencies involved in this prosecution and to require those agencies to review their files and to provide to the prosecution any information arguably favorable to the defendant, including information specifically described above. *Pennsylvania v. Ritchie*, 480 U.S. 54, 57-61 (1987) (In child molestation case Brady required disclosure of favorable information in the files of the Pennsylvania Children and Youth Services Agency); *Freeman v. Georgia*, 599 F.2d 64, 69 (5th Cir. 1975)(State held accountable for information known only to investigating police detective). *Brown v. State*, 261 Ga. 66, 401 S.E.2d 492 (1992); *Issacs v. State*, 259 Ga. 717, 386 S.E.2d 316 (1989).

8.

The State may well provide to the defense its complete file, including everything requested herein. If not, the Defendant does not wish to entrust to the prosecution the unilateral power to ascertain, from its perspective as an advocate, which information is exculpatory and which is not. Accordingly, should the State not provide to the defense for inspection its entire file, the Defendant insists on the court conducting an in camera review of the State's file to identify and isolate information to which the Defendant is constitutionally entitled. *Tribble v. State*, 248 Ga. 274, 275 (1981); *Osborn v. State*, 161 Ga. App. 132, 137(5) (1982).

WHEREFORE, the Defendant respectfully prays this motion be granted.

Respectfully Submitted,

Attorney for Defendant

Bar no.