

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT) Indictment Numbers: 2019GS0700613-0618

IN THE COURT OF GENERAL SESSIONS
FOR THE FOURTEENTH CIRCUIT
Indictment Numbers: 2019GS0700613-0618

THIS MATTER IS BROUGHT BEFORE THE COURT by the Defendant seeking an Order excluding the State’s presentation of any evidence or witnesses about which or for whom *Brady* material has not yet been provided as of the issuance of the trial docket on August 5, 2022. This motion is based upon the due process, fair trial and assistance of counsel rights under the Fifth and Fourteenth Amendments to the US Constitution and Article I, Sections Three and Fourteen of the South Carolina Constitution.

The Defendant has been represented by the same lead attorney since before his surrender to law enforcement. The State was served discovery requests, including a *Brady* request, and a letter of representation on or April 15, 2019. Even though none of the cases have been indicted as of the filing of this motion, on July 22, 2022, the State of South Carolina provided trial notice to the Defendant setting these cases on a docket to be heard on August 22, 2022 and roster conference was held on July 27, 2022.

At that status conference, undersigned informed the Chief Administrative Judge that these cases involved 3 different alleged sales and distributions of drugs during recorded controlled buys involving a confidential informant. Undersigned informed the CAJ that he was in possession of no un-redacted materials and knew nothing about the CI or any bargains or SCRE Rule 609 impeachment materials. The CAJ provided until 5:00 pm on July 28, 2022 for the state to provide un-redacted videos. It appears that this order was complied with.

However, undersigned has still not received any information about the CI, the bargains he may have cut with the state or other motives or evidence of bias or any other impeachment material. Even though the CAJ discussed the issue of informant's privilege, see *State v Diamond*¹, undersigned mentioned that the privilege only applied to the identity of the informant and did not apply to *Brady* material as a whole. No order or edict disagreed with this assessment.

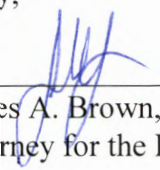
Nonetheless, no materials have yet been provided to satisfy the due process obligations.

The Defendant's due process, fair trial and assistance of counsel rights have been steady and the same since the beginning of the legal process against him. Part of these rights includes the due process obligation of the prosecution to provide material which is either exculpatory or possesses impeachment value. The timely provision of this material is necessary for the Defendant to adequately respond to his charges in a fair trial and for his counsel to render effective assistance.

Therefore, undersign respectfully requests that this Court order that all state evidence and witnesses be excluded if the prosecution has not fully complied with its *Brady* obligations related to these items and witnesses as of the issuance of the docket on August 5, 2022. Respectfully

¹ 312 SE2d 550, at 551-552 (SC 1984) ("Public policy considerations for nondisclosure of an informant's identity are absent where the informant openly participates in the criminal transaction.")

submitted by,



James A. Brown, Jr.
Attorney for the Defendant

August 5, 2022
Beaufort, SC

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this document
was served upon all counsel of record in this proceeding
this 5th day of August, 2022.

