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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF DOUGLAS

STATE OF OREGON)	
)	Case no. 17CR74545
Plaintiff,)	
)	
v.)	DEMAND FOR DISCOVERY
)	(Defense discovery demand #1)
KEVIN WAYNE ADAMS,)	
)	
Defendant.)	

COMES NOW Kevin Adams, by and through his attorneys, Katherine O. Berger, Lynne B. Morgan and Laurie Bender, and makes written demand upon the Douglas County District Attorney, pursuant to ORS 135.815, 135, 825 and 135.845, and the Fourteenth Amendment of the United States Constitution, to forthwith disclose the following material information within its possession or control, or which may at any time hereafter come into its possession or control while this cause is pending:

1. The names and addresses of persons intended to be called as witnesses at any stage of the trial, together with all relevant written or recorded statements or memorandum of any oral statements of such persons.

2. Any and all written or recorded statements or memorandum of any oral statements made by Kevin Adams, defendant.

1 3. Any reports or statements of experts made in connection with this particular case,
2 including results of physical or mental examinations and of scientific tests, experiments or
3 comparisons, which the District Attorney intends to offer in evidence at the trial.

4 4. Any books, papers, documents, photographs or tangible objects which the District
5 Attorney intends to offer in evidence at trial, or which were obtained from or belonged to Kevin
6 Adams, defendant.

7 5. If actually known to the District Attorney, any record of prior criminal
8 convictions of persons whom the District Attorney intends to call as witnesses at the trial.

9 6. A written copy of any record of prior criminal convictions of Kevin Adams,
10 defendant.

11 7. All original notes and electronic recordings, not in existence or hereafter made, of
12 police officers and/or investigators on behalf of the State relating to this case.

13 8. The occurrence of search or seizure, the circumstances of that search or seizure,
14 any relevant material or information obtained thereby, and the circumstances surrounding the
15 acquisition of any statements made by Stafford, defendant to any member of your staff, witness
16 or other person.

17 9. Any and all exculpatory evidence that the State may have in its possession or
18 control. More specifically, any evidence, material, or information within the possession, custody
19 or control of the prosecutor, or that by the exercise of reasonable diligence may be obtained by
20 the State, including any information in the possession of any investigative agencies, that is
21 favorable to or exculpates the defendant in any way; that tends to establish a defense in whole or
22 in part to the allegations in the indictment; that impeaches any witness the State intends to call;
23 or that may help the defendant avoid conviction or mitigate punishment.
24

1 The defendant's request for such information includes, but it not limited to, the
2 following:

3 a. Any evidence, material or information that would tend to impeach the
4 credibility of any person whom the government intends to call as a witness or any individual
5 upon whom the prosecution has relied upon in the investigation and prosecution of its case.

6 b. Any record of the witnesses' arrest or conviction maintained and prepared
7 by the Federal Bureau of Investigation, the Drug Enforcement Administration, other federal law
8 enforcement agencies, the Douglas County Sheriff's Department, the Oregon State Police, or
9 other state law enforcement agencies.

10 c. Any facts or allegations concerning criminal or other misconduct of the
11 witness that is not reflected in his/her criminal record including any material information found
12 in his/her probation file or any pending criminal charge or investigation against the witness or
13 any business entity with which s/he is connected.

14 d. Any information relating to the witness' mental or physical history that
15 tends to impair or reflect adversely on the reliability of the witness, including but not limited to
16 any information that would tend to affect the witness' motion to testify or ability to perceive,
17 recall, or understand events.

18 e. Any statements made, written or recorded, by or of the witnesses referred
19 to as relating to any of the above-mentioned matters.

20 f. Any information that tends to contradict the testimony that the prosecutor
21 anticipates will be given by any of its witnesses.

22 g. Any information showing that the testimony was motivated in any degree
23 by a personal animosity for feelings of revenge toward the defendant.
24

10. Any and all statements, testimony, memoranda, interviews, documents or
1 summaries, relating to this case, or any portion thereof, by any person, that contradict, in whole
2 or in part, any statement (by that person or any other person) that the State intends to use or rely
3 on in any manner in connection with the trial in this case.
4

11. All evidence that tends to minimize or negate the probative effect of the State's
5 evidence of defendant's participation in the allegations set forth in the indictment.
6

12. Any evidence, statement, or information in the possession of the State describing
7 or relating to the conduct of the defendant that in any way refutes or is inconsistent with his
8 participation in the alleged offenses, including but not limited to the following:
9

10 a. Any written, recorded, or oral statements or comments made by witnesses
11 or others to any person, including government agents and the Grand Jury, that are favorable to
12 the defendant;
13

14 b. Any written, recorded or oral statements or comments of persons
15 interviewed by the government in this matter who are not expected to be witnesses for the
16 government at the trial;

17 c. Any results, reports, and opinions obtained from examinations, tests and
18 experiments on the physical items and evidence that indicate a lack of criminal involvement or
19 otherwise are favorable to the defendant;

20 d. Any evidence, statement or information that tends to contradict the
21 testimony that the government will be given by any one of its witnesses.
22

23 e. Any evidence relating to searches and seizures, electronic or otherwise,
24 that would give rise to a good faith argument that the search or seizure was illegal.

13. Any promises, agreements, or deals offered by the government concerning
1 rewards, special treatment or immunity to witnesses or others involved in this case.

14. Any evidence that any government witness has received or has sought a financial
2 inducement to testify or a promise of leniency in witness's own criminal dealings.

15. Any written or oral statement and/or confession made by the defendant which is
3 unknown to defense counsel.

16. Any information about any eyewitness for whom the prosecution has a name
4 and/or address but whom the prosecutor does not intend to call.

17. Any statement or testimony by an expert that would tend to corroborate the
5 defendant's theory of defense.

11 DATED this 31st day of January, 2018.

12 /s/ Katherine O. Berger

13 _____
14 Katherine O. Berger, OSB #870729
15 Of Attorneys for Kevin Adams

16 POINTS AND AUTHORITIES

17 United States Constitution, Fourteenth Amendment
18 *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194 (1963)
19 *United States v. Agurs*, 427 U.S. 97 (1976)
20 *United States v. Bagley*, 473 U.S. 667 (1985)
21 *Kyles v. Whitley*, 115 S. Ct. 155, 131 L.Ed 2d 490 (1995)
22 *Hanson v. Cupp*, 5 Or App 312, 484 P. 2d 847 (1971)
23 *United States v. Strifler*, 851 F.2d 945 (9th Cir 1988)
24 *McDowell v. Dixon*, 858 F. 2d 945 (4th Cir 1988)
United States ex rel Smith v. Fairman 769 F. 2d 386 (7th Cir 1985)
United States v. Foster, 874 F. 2d 491 (8th Cir 1988)
Bagley v. Lumpkin, 798 F. 2d 1297 (9th Cir 1986)
Prosecutor of Virgin Islands v. Martinez, 780 F. 2d 302 (3rd Cir 1985)
United States v. Cadet, 727 F. 2d 1453 (9th Cir. 1984)
ORS 135.805 to 135.865

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