

Randall M Adams
CLERK SUPERIOR COURT

IN THE SUPERIOR COURT OF GLYNN COUNTY

STATE OF GEORGIA

STATE OF GEORGIA,)	
)	
)	
v.)	Criminal Action No. 20-CR-00433
)	
WILLIAM RODERICK BRYAN,)	
Defendant.)	

**OMNIBUS MOTION FOR A FAIR TRIAL, DISCOVERY,
SUPPRESSION OF ILLEGALLY OBTAINED EVIDENCE,
COMPLETE RECORDATION AND FOR OTHER RELIEF**

COMES NOW Defendant William Roderick "Roddie" Bryan, by and through undersigned counsel, and files this "Omnibus Motion for a Fair Trial, Discovery, Suppression of Illegally Obtained Evidence, Complete Recordation, and for Other Relief."

Without waiving any of Defendant's Rights, Privileges, or Immunities under the United States Constitution or under the Constitution of the State of Georgia, Defendant hereby elects to have O.C.G.A. §17-16-1 et seq. applied in the above-styled case, and hereby demands all that discovery to which he is entitled thereunder, and to which he is otherwise entitled by law, and as more specifically requested below pursuant to this and other authority.

1.

COPY OF CHARGING DOCUMENT

The Defendant hereby demands, pursuant to due process rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and by Article I, Section I, Paragraph I of the Constitution of the State of Georgia, and pursuant to Article I, Section I, Paragraph XIV of the Constitution of the State of Georgia and O.C.G.A. §17-16-3, a true and accurate copy of the indictment and/or accusation in the above-styled criminal action.

Additionally, and by the same authority referenced above, Defendant demands that the prosecution furnish the requested document(s) sufficiently in advance of arraignment for defense counsel to prepare and file appropriate motions on behalf of the Defendant, including demurrers and other challenges to the charging document, and that, in the alternative, Defendant be granted a minimum of ten days from the date of arraignment to file any motions which should otherwise be filed at or before said proceeding.

2.

LIST OF WITNESSES

The Defendant hereby demands, pursuant to due process rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and by Article I, Section I, Paragraphs I and XIV of the Constitution of the State of Georgia; O.C.G.A. §§17-16-3, 17-16-4, and 17-16-7, and Rule 30.3 of the Uniform Superior Court Rules, at least ten days prior to any evidentiary hearing or trial a list of all witnesses (including the addresses and telephone numbers at home and at work for each listed witness), who will or may be called upon to testify against the Defendant, at any evidentiary hearing or trial, or upon whose testimony the charges against the Defendant are founded, and Defendant expressly demands that said witness list and the information provided therein be corrected and updated, in writing and on a continuing basis, as provided by law.

Additionally, and by the same authority referenced above, Defendant demands that the prosecution furnish the requested witness information sufficiently in advance of arraignment for defense counsel to prepare and file appropriate motions on behalf of the Defendant and that, in the alternative, Defendant be granted a minimum of ten days from the date of arraignment to file any motions which should otherwise be filed at or before said proceeding.

STATEMENT(S) OF DEFENDANT

The Defendant hereby demands, pursuant to due process rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and by Article I, Section I, Paragraph I of the Constitution of the State of Georgia, pursuant to this Court's inherent authority to compel discovery, see Hightower v. State, 259 Ga. 770, 386 S.E.2d 509 (1989) ("[trial court may require the State to provide for more discovery than the minimum required by law]"), and pursuant to O.C.G.A. §17-16-4(a)(1), that any and all statements made by the Defendant while in police custody whether made orally, reduced to writing, or otherwise recorded, be reduced to writing (if same has not been done already) and a copy furnished to the Defendant and defense counsel.

Defendant also demands, pursuant to the same authority referenced above, that any and all statements made by the Defendant either orally or in writing to the police, to any member of the prosecutor's office, to or by any alleged accomplice or co-conspirator, or to any potential witness or other person be reduced to writing and a copy furnished to the Defendant and defense counsel whether or not the statement(s) was made while the Defendant was in police custody.

Defendant further demands, pursuant to the same authority referenced above, that a copy of said statements be delivered to the Defendant and defense counsel at least ten (10) days prior to the date of any pre-trial motion hearings and at least ten (10) days prior to calendar call, jury selection or the trial of the above-styled criminal action.

**REQUEST FOR JACKSON v. DENNO HEARING
AND MOTION TO SUPPRESS STATEMENT(S) OF THE DEFENDANT**

The Defendant hereby requests, pursuant to due process rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and by Article I, Section I, Paragraph I of the Constitution of the State of Georgia; Defendant's right to freedom from unreasonable and/or warrant less searches and seizures as guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution, by Article I, Section I, Paragraph XIII of the Constitution of the State of Georgia and by O.C.G.A. §17-5-21 et seq; Defendant's privilege against self-incrimination guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and by Article I, Section I, Paragraph XVI of the Constitution of the State of Georgia; additionally rights afforded the Defendant by the decisions in Jackson v. Denno, 378 U.S. 368, 84 S. Ct. 1774, 12 L.E.2d 908 (1964) and Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 16 L.E.2d 694 (1966); Defendant's right to counsel and to effective assistance of counsel guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and by Article I, Section I, Paragraph XIV of the Constitution of the State of Georgia; and pursuant to O.C.G.A. §24-3-50, that the Court schedule an evidentiary hearing not less than ten (10) days prior to calendar call, jury selection or trial of the above-styled criminal action (and outside the presence of the jury), at which the Defendant may challenge the admissibility (in whole or part), and move to suppress, any and all statements allegedly made by the Defendant which the prosecution may seek to introduce into evidence in its case in chief or in rebuttal. Defendant further moves, pursuant to the same authority referenced above, that the Court order the prosecutor to furnish the Defendant and defense counsel with a list of witnesses (including

addresses and telephone numbers for each witness at home and at work) containing the name of any and all witnesses to any statement(s) allegedly made by the Defendant at least ten (10) days prior to this evidentiary hearing so that the Defendant may properly compel the attendance of witnesses as provided by law.

Defendant further invokes the right to have all witnesses testify at said evidentiary hearing who were present when the Defendant allegedly made his/her statement(s). See Porter v. State, 143 Ga. App. 640, 642, 239 S.E.2d 694 (1977).

5.

DEMAND FOR SCIENTIFIC REPORTS

The Defendant hereby demands, pursuant to due process rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and by Article I, Section I, Paragraph I of the Constitution of the State of Georgia; this Court's inherent authority to compel discovery, see Hightower v. State, 259 Ga. 770, 386 S.E.2d 509 (1989) ("[trial court may require the State to provide for more discovery than the minimum required by law]"); and O.C.G.A. §17-16-4(a)(4), a copy of any and all scientific reports in the possession of the prosecution or available to same which:

- (1) may be introduced in whole or in part against the Defendant by the prosecution in its case in chief or in rebuttal;
- (2) the prosecution does not intend to introduce in whole or part against the Defendant at trial but which is exculpatory within the meaning of Brady v. Maryland, 373 U.S. 83, 83 S. Ct. 1194, 10 L.E.2d 215 (1963) and Hicks v. State, 232 Ga. 393, 394, 207 S.E.2d 30 (1974) or to which the Defendant is otherwise entitled under due process;

- (3) formed the basis in whole or part of the opinion testimony or other testimony of any potential expert witness or lay witness or which tends to explain the conduct of any potential witness or other person connected in any way with the above-styled criminal action, including but not limited to the results of alco-sensor tests, field tests of contraband, fingerprint or handwriting analyses, speed control devices (e.g. radar guns), polygraph examinations, and physical or psychiatric/psychological examinations of the Defendant, victim(s) or other witnesses;
- (4) was conducted performed, or obtained as part of the arrest procedures and processes or which otherwise constitutes part of the res gestae; and
- (5) is concerned with or connected to the above-styled criminal action, or has some other logical nexus thereto, in any other form or fashion not otherwise addressed above.

Defendant further demands, pursuant to the above-referenced authority, that he be furnished with copies of all such reports at least ten (10) days prior to any pre-trial motion hearing, calendar call, jury selection or trial of the above-styled criminal action.

6.

MOTION TO INSPECT, TEST AND EXAMINE PHYSICAL EVIDENCE

Defendant moves this Court to issue an Order compelling the State of Georgia to produce all items of physical evidence that are pertinent to this case, to include but not be limited to, any and all physical evidence gathered at the scene of the arrest or the scene of the alleged crime, or other location, which are in the State's possession and control for inspection, examination and testing by undersigned counsel, investigator(s) and/or experts to be designated by the Defendant,

whether or not the State intends to introduce, or attempt to introduce, said evidence at trial.

This request for inspection, examination, and testing of specific items set out above is essential to insure the Defendant the right to a fair trial, the right to confrontation, and the right to prepare a defense in his/her own behalf, the right to effective assistance of counsel and the right to due process of law guaranteed by the United States Constitution and the Constitution of the State of Georgia.

7.

DEMAND FOR OPEN FILE

The Defendant hereby requests that the Court issue an order compelling the prosecution to open the State's file in this case for examination by defense counsel during regular business hours from time to time and as often as defense counsel deems necessary. Defendant further requests that the Court's order specify that defense counsel may take notes during any examination of the file and that Defendant may photocopy any document or other item contained therein provided that the prosecutor may charge for the making of such photocopies in the same manner as provided for by the Georgia Open Records Act. This request is made pursuant to Defendant's due process rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and by Article I, Section I, Paragraph I of the Constitution of the State of Georgia, pursuant to this Court's inherent authority to compel discovery, see Hightower v. State, 259 Ga. 770, 386 S.E.2d 509 (1989) ("[trial court may require the State to provide for more discovery than the minimum required by law"), and pursuant to the Georgia Open Records Act.

8.

DEMAND FOR CRIMINAL HISTORY

Defendant hereby demands, pursuant to O.C.G.A. §17-16-4(a)(2), a copy of Defendant's Georgia Crime Information Center criminal history.

9.

MOTION FOR COMPLETE RECORDATION

The Defendant hereby moves this Court to arrange for a court reporter certified in the State of Georgia to take down and record either stenographically or by other suitable means any and all proceedings respecting the above-styled criminal action including but not limited to argument and remarks of counsel for either party, remarks by or rulings of the Court, bench conferences, voir dire, sworn or unsworn testimony of any and all witnesses (including, if applicable, statements in Court by jurors, bailiffs, clerks or other officers of the Court) or any other matter which occurs during any of the proceedings.

This motion is made pursuant to Defendant's due process rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and by Article I, Section I, Paragraph I of the Constitution of the State of Georgia; O.C.G.A. §17-8-5; and the decisions in Wilson v. State, 246 Ga. 672, 273 S.E.2d 9 (1980) and Hatcher v. State, 18 Ga. 460 (1855).

Defendant also requests that defense counsel be permitted to tape record the proceedings. This request is made pursuant the same authorities referenced above and pursuant to the decisions in King v. State, 176 Ga. App. 137, 335 S.E.2d 439 (1985); Davey v. City of Atlanta, 130 Ga. App. 687, 688, 204 S.E.2d 322 (1974).

10.

MOTION TO ADOPT MOTIONS OF CO-DEFENDANTS

Defendant hereby moves to adopt any and all adopt motions filed by other defendants in this case except those that Mr. Bryan elects in writing to “opt out” of within ten days of said motions having been filed or such shorter time as may be directed by the court.

11.

MOTION RESERVING THE RIGHT TO FILE ADDITIONAL MOTIONS

Defendant moves the Court for an order reserving the right to file, for good cause shown, such additional motions as the future progress of this case may merit.

12.

MOTION FOR ADDITIONAL PEREMPTORY CHALLENGES

Defendant moves this Court to grant additional peremptory challenges to defendant. Logically, the "right to an impartial jury carries with it the concomitant right to take reasonable steps designed to insure that the jury is impartial." Ham v. South Carolina, 409 U.S. 524, 532, 93 S.Ct. 848, 35 L.Ed.2d 46 (1973) (Marshall, J., concurring in part and dissenting in part). The oldest, most common, and most important of the tools used to insure jury impartiality are the challenge for cause and the peremptory challenge. Ham v. South Carolina, 409 U.S. at 532; Johnson v. Louisiana, 406 U.S. 356, 379, 92 S.Ct. 1620, 32 L.Ed.2d 152 (1972); Swain v. Alabama, 380 U.S. 202, 2090222, 85 S.Ct. 824, 13 L.Ed.2d 759 (1965). In this case, given the unique circumstances presented as well as the presence of multiple defendants, failure to grant additional peremptory challenges to the defense in this case would result in the denial of Mr. Bryan’s independent state and federal constitutional guarantees to a fair trial and right to present

a defense, and due process of law. Ga. Const. art. I, § I, ¶¶ I, II, IV, V, VII, IX, X, XI, XII, XIII, XIV, XVI, XVII, XVIII, XXIV and XXVIII; U.S. Const. amend. V, VI, VIII and XIV. See Dorsey v. State, 236 Ga. 591 (1976) (approving allotment of additional peremptory strikes is an the preferred way to handle dilution of jury strikes as opposed to severance of multiple defendants).

13.

MOTION FOR RESERVATION OF RIGHT TO FILE MOTION TO SEVER PARTIES

Defendant moves, pursuant to O.C.G.A. § 17-8-4, to reserve the right to file a motion to sever parties until such time as the State of Georgia formally files, in writing, an irrevocable election NOT to seek the death penalty in the above-styled case. Defendant requests an extension of time of no less than ten business days from the filing of such waiver by the State of Georgia. In the event that this motion is denied, Defendant moves that the court grant no less than ten business days from the denial of this motion to file a motion to sever parties.

Alternately, Defendant moves to reserve the right to file a motion to sever parties until no less than ten days after the State of Georgia furnishes complete discovery in this case and/or after the court completes any and all in camera inspections in the above-styled case, whichever event occurs later.

So demanded, moved, noticed, requested and/or otherwise submitted this 16th day of July, 2020.

/s/ Kevin Gough
Kevin Gough
ATTORNEY FOR DEFENDANT
Georgia Bar No. 303210

CERTIFICATE OF SERVICE

COMES NOW Kevin Gough, attorney for the defendant, and hereby certifies that a copy of the foregoing document(s) have been served upon the District Attorney by email delivery this date.

This 16th day of July, 2020.

/s/ Kevin Gough

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