

**IN DISCIPLINARY DISTRICT IX
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**

FILED
2016 OCT 28 PM 5:06
BOARD OF PROFESSIONAL
RESPONSIBILITY
Lee
EXEC. SEC'y

**IN RE: AMY P. WEIRICH,
BPR No. 14441, Respondent,
an Attorney Licensed to Practice
Law in Tennessee
(Shelby County)**

DOCKET NO. 2016-2533-9-KH

SUPPLEMENTAL PETITION FOR DISCIPLINE

Comes now the Petitioner, the Board of Professional Responsibility of the Supreme Court of Tennessee, by and through Disciplinary Counsel, pursuant to Tenn. Sup. Ct. R. 9, § 15.2(a), and files this Supplemental Petition for Discipline against Amy P. Weirich.

1. The Respondent, Amy P. Weirich, is an attorney admitted by the Supreme Court of Tennessee to practice law in the State of Tennessee. Ms. Weirich's most recent office address as registered with the Board of Professional Responsibility is 201 Poplar Avenue, Suite 301, Memphis, Tennessee, 38103-1945, being in Disciplinary District IX. Ms. Weirich was licensed to practice law in Tennessee in 1990 and her Board of Professional Responsibility number is 14441.

2. Pursuant to Tenn. Sup. Ct. R. 9, § 8.1, attorneys admitted to practice law in Tennessee are subject to the disciplinary jurisdiction of the Supreme Court, the Board of Professional Responsibility, the Hearing Committee, hereinafter established, and the Circuit and Chancery Courts.

3. Pursuant to Tenn. Sup. Ct. R. 9, § 1, the license to practice law in this state is a privilege and it is the duty of every recipient of that privilege to act at all times, both professionally

and personally, in conformity with the standards imposed upon members of the bar as conditions for the privilege to practice law. Pursuant to Tenn. Sup. Ct. R. 9, § 11.1, acts or omissions by an attorney which violate the Rules of Professional Conduct of the State of Tennessee shall constitute misconduct and be grounds for discipline.

4. The Respondent has failed to conduct herself in conformity with said standards and is guilty of acts and omissions in violation of the authority cited. On August 18, 2016, the Board authorized the filing of this Supplemental Petition for Discipline.

FILE NO. 37419-9-PS – Supplemental allegations of misconduct

5. The alleged ethical misconduct by Ms. Weirich arises from her participation as Assistant District Attorney General for Shelby County in the prosecution of *State of Tennessee v. Noura Jackson*.

6. Noura Jackson was tried and convicted for first degree murder of her mother, Jennifer Jackson, in February, 2009.

7. Ms. Jackson's murder conviction was reversed and remanded by the Tennessee Supreme Court based, in part, on the failure of the prosecution to provide exculpatory evidence to the defense. In particular, the prosecution failed to produce an exculpatory statement written by Andrew Hammack, a witness in the case.

8. During the police investigation of the case in June 2005, Mr. Hammack provided a handwritten statement concerning his whereabouts on the night of the murder.

9. Detective Mark Miller wrote a supplemental report dated June 13, 2005, with reference to information provided by Mr. Hammack in an interview and to a handwritten statement which was collected for the file: "Hammock [sic] had a handwritten note with the things he did that night. Writer collected the note for the file." (Exhibit A)

10. After inquiry by the Board of Professional Responsibility concerning her knowledge of the handwritten statement by Mr. Hammack, Ms. Weirich maintains that she never saw the handwritten statement until after the conclusion of the trial. (Exhibit B – Weirich response to disciplinary inquiry)

11. However, as the following facts will establish, Ms. Weirich had actual notice of Mr. Hammack's handwritten statement and an ongoing duty to familiarize herself with the record, file, and evidence of the case.

12. After being assigned to the Jackson case, Ms. Weirich received the "state report" from the Memphis Police Department, which is a compilation of reports, summaries, and other documentation related to the police investigation of the crime.

13. After receiving the state report, Ms. Weirich read the entire report.

14. The defendant was represented by attorneys Valerie Corder and Arthur Quinn.

15. Throughout the case, defense counsel made continuing requests for discovery and there were several pre-trial hearings on various discovery issues, including issues related to Andrew Hammack.

16. On October 12, 2005, the defense filed a Motion for Discovery. (See Exhibit C)

17. On October 13, 2005, the defense filed a Motion for Exculpatory Evidence. (See Exhibit D)

18. An Order on Motions was entered on October 26, 2006 granting the Motion for Discovery and Motion for Exculpatory Evidence, in part. (Exhibit E)

19. The defense filed a Motion to Compel Discovery on March 9, 2007. The Motion included a list of items that the defense alleged had not been provided or made available, including statements by a potential witness, Andrew Hammack. (See Exhibit F)

20. Ms. Weirich received all of these discovery motions and she was familiar with the state report and record of the case.

21. Ms. Weirich reviewed all documents that were provided by the prosecution to the defense in discovery, including the supplemental report by Detective Miller dated June 13, 2005 which references the handwritten statement of Mr. Hammack.

22. Further, prior to the commencement of the trial in February, 2009, there were several pre-trial hearings on the subject of discovery.

23. Notably, a pre-trial hearing was held on January 20, 2009, regarding various discovery issues. In particular, defense and prosecution again argued about issues related to Andrew Hammack. (Exhibit G, excerpt from January 30, 2009 hearing, pp. 46-61)

24. During that January 20, 2009, pre-trial hearing, Ms. Weirich stated that she had knowledge of a supplemental report written by Detective Mark Miller. (Exhibit G, pp. 47-49)

25. Despite reviewing the June 13, 2005 supplemental report before producing it to the defense, Ms. Weirich never examined the handwritten statement of Mr. Hammack.

26. Ms. Weirich never asked the police to produce the handwritten statement of Mr. Hammack for her review.

27. The handwritten statement of Mr. Hammack was not provided to the defense until after the conclusion of the trial.

28. On appeal, the Tennessee Supreme Court concluded that the prosecution's failure to provide the handwritten statement to defense constituted a *Brady* violation and that the conviction must be vacated and remanded for a new trial.

29. One of the authorities cited by the Tennessee Supreme Court for its decision included the established precedent that prosecutors are obligated to disclose *Brady* material to the

defense even when held in possession by the police. (See *Kyles v. Whitley*, 514 U.S. 419 (1995))

30. Ms. Weirich was the lead prosecutor handling the Jackson case and responsible for reviewing the evidence and record.

31. Ms. Weirich failed to review the handwritten statement and assess whether or not it was subject to disclosure under any applicable theory of discovery or criminal law precedent.

32. Therefore, Ms. Weirich failed to exercise appropriate diligence in this matter.

33. Ms. Weirich failed to make a reasonably diligent effort to comply with a legally proper discovery request.

34. Ms. Weirich's failure to exercise appropriate diligence caused actual injury to the opposing party, to third parties who participated in the trial, to judicial resources, and to the administration of justice.

35. By her acts and omissions, Ms. Weirich has violated Rules of Professional Conduct 1.3, Diligence; 3.4(d), Fairness to Opposing Party and Counsel; and 8.4(a) and (d), Misconduct.

RULE 1.3: DILIGENCE

A lawyer shall act with reasonable diligence and promptness in representing a client.

RULE 3.4: FAIRNESS TO THE OPPOSING PARTY AND COUNSEL

A lawyer shall not:

- (d) in pretrial procedure, make a frivolous discovery request or fail to make a reasonably diligent effort to comply with a legally proper discovery request by an opposing party; or

RULE 8.4: MISCONDUCT

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (d) engage in conduct that is prejudicial to the administration of justice;

AGGRAVATING FACTORS

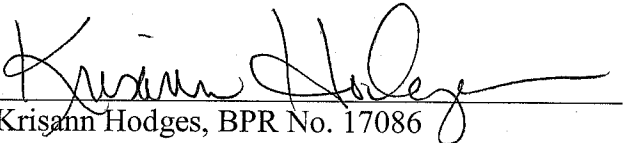
36. After misconduct has been established, aggravating factors may be considered to justify an increase in the degree of discipline.

37. Ms. Weirich has substantial experience in the practice of law which justifies an increase in the degree of discipline.

PRAYER FOR RELIEF

WHEREFORE, the Board of Professional Responsibility respectfully requests that the Hearing Panel hear testimony and receive evidence in this cause and to make such finding of fact and order such disciplinary action as it may deem appropriate.

Respectfully submitted,



Krisann Hodges, BPR No. 17086
Deputy Chief Disciplinary Counsel
10 Cadillac Drive, Suite 220
Brentwood, Tennessee 37027
(615) 361-7500

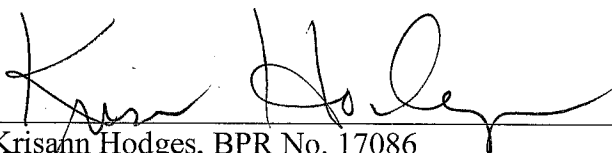
NOTICE TO PLEAD

TO: Amy P. Weirich, Esq.
201 Poplar Avenue, Suite 301
Memphis, Tennessee, 38103-1945

You are hereby notified that you are required to file your Answer with **Rita Webb, Executive Secretary, Board of Professional Responsibility, 10 Cadillac Drive, Suite 220, Brentwood, TN 37027** and serve a copy of your Answer upon Disciplinary Counsel within fifteen (15) days after service of this Supplemental Petition. If you fail to file an Answer, the matters shall be deemed admitted and a default judgment taken

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served upon counsel for the Respondent, Jef Feibelman, Esq., at Burch, Porter, and Johnson, PLLC, 13 North Court Avenue, Memphis, TN 38103, by First Class and by Certified Mail No. 7012 1640 0001 7224 0290, Return Receipt Requested, and by email addressed to jfeibelman@BPJLAW.com on this the 28th day of October, 2016.


Krisann Hodges, BPR No. 17086
Deputy Chief Disciplinary Counsel

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Supplement/Sgt Miller 06-13

Case # 0506002215ME

Monday June 13, 2005

Sgt. M. Miller #5574

0506002215ME

0945hrs

Writer got a phone warrant of the records of Andrew Hammock's Nextel phone. The warrant was signed by Judge Broffatt. Sgt. Helldorfer advised the writer that the latent prints for elimination were delivered to CSI.

1048hrs

Sgt. Helldorfer went to the TBI lab to meet with the DNA analyst and go over the evidence. Sgt. Helldorfer took crime scene and autopsy photos.

1120hrs

Writer picked up Andrew Hammack and Ian Strickland at Danny Thomas and Poplar and brought them to the Homicide Office. Writer placed Hammack in the small interview room. Hammack advised that he was with Ian and met up with Ryan Grisham. He let Ian, Marcus, and J-Ron take his truck and he went to a party with Ryan Grisham and a friend of his. Hammack said that before 1:00 Noura called his cell phone, which was in his truck with Ian. Ian told her that he was with Ryan. Noura then called him on Ryan's phone and asked him to come over to her house. He told her he would as soon as he got his truck. Between 10 and 30 minutes later Noura called back and told him that she was already home and that she would talk to him later. Hammack went back to his house on Watson. He said that he and Noura text messaged each other just saying hello several times and that the messages are stored on his phone. He stated that later he and Ian were out and Noura called and said she was at Eric's and wanted him to meet her at the house. He said he would but he didn't because he was too drunk. He and Ian went home for the night. Hammock had a hand written note with the things he did that night. Writer collected the note for the file. Hammack advised that Eddie and the others were confused about the nights, because he took Bucky home on Friday night.

Writer sent Sgt. Luckett and Ian Strickland to 655 Watson to recover Hammock's cell phone with his permission.

1350hrs

Sgt. Luckett returned to the Homicide Office with Hammack's phone. Writer viewed the last text messages left in the memory. The last three messages were: 4:05am "nothin sittin at erics i wanna c u"

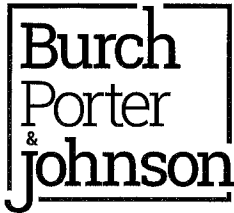
4:29am "what r u doing"

5:00am "answer"

Writer sent Andrew Hammack home with his phone.

*** END OF SUPPLEMENT ***

Exhibit A



Jef Feibelman
Direct: 901.524.5109
jfeibelman@bpjlaw.com

RECEIVED

JUL 05 2016

BOARD OF PROFESSIONAL
RESPONSIBILITY

LAW OFFICES
Burch, Porter & Johnson, PLLC
130 North Court Avenue
Memphis, TN 38103
Phone: 901.524.5000
Fax: 901.524.5024
bpjlaw.com

July 1, 2016

Krisann Hodges
Deputy Chief Disciplinary Counsel-Litigation
Board of Professional Responsibility
10 Cadillac Drive, Suite 220
Brentwood, TN 37027

Re: Board of Professional Responsibility v. Amy P. Weirich
Docket Number: 2015-2533-9-KH

Dear Krisann:

This is in response to your June 20, 2016 letter to me.

First, let me say what I'm sure you already know, namely that your questions come as quite a surprise. No case could have been more thoroughly "litigated" or scrutinized than that of Noura Jackson. Neither aggressive defense counsel nor any of the nine judges who carefully reviewed the record have ever suggested that Ms. Weirich had any involvement whatsoever with regard to the late production of the "third" Hammack statement. Since Ms. Weirich's responses below should resolve any possible concerns, I'll say nothing further. Her responses:

1. When did Ms. Weirich first discover and read the "third" Hammack statement?
(I'm referring to the handwritten statement attached to this letter.)

She did not read it until after the trial. She never "discovered" it. Mr. Jones showed it to her.

2. Did Ms. Weirich know of this third statement at the time Mr. Hammack was examined at trial?

No.

3. Did Ms. Weirich know of this statement on or around June 13, 2005 when it was taken?

No.

4. Did Ms. Weirich know about Detective Miller's summary, dated June 13, 2005?
(See attached June 13, 2005 summary) If so, when did she first learn of it?

Exhibit B

July 1, 2016

Page 2

She was probably aware of the summary but cannot remember when she first learned of it.

5. Did Ms. Weirich ever direct the detectives to interview Mr. Hammack after June 13, 2005? If not, is she aware of any other interviews? Please provide specific dates and times.

No and No.

6. When, if ever, did Ms. Weirich determine that the third statement was not Brady material?

When she read the statement she did not think it was Brady material.

7. If she made a decision, after reviewing the statement, that it was not Brady material, did she maintain a copy for the purpose of providing it after Mr. Hammack testified (pursuant either to Jencks or Tenn. R. Crim. P. 26?)

She did not review the statement until after the trial.

8. Prior to trial, did Ms. Weirich ever take the position that she was not required to turn the third statement over to the defense? If so, for what reason?

See above.

9. Does Ms. Weirich know where the original letter is? Did she ever personally review the original? If so, when?

No and No.

10. At the time of the investigation, did the detectives/police use a system called "Vision"? What is that system and generally, how does it work? Is it only for recording notes or are exhibits/documentary evidence also somehow scanned and saved? Did Ms. Weirich have access to it?

She has only a very limited knowledge of "Vision" and she did not have access to it.

11. While I'm aware there were many physical exhibits, is it correct that there were only 71 pages or entries in "Vision" (or whatever the system is called)? Please see the page numbers on Detective Miller's June 13, 2005 summary which is attached.

See above.

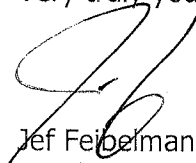
July 1, 2016

Page 3

12. Did Ms. Weirich review or consult with Mr. Jones regarding the "Sealed Motion by the State of Tennessee for In Camera Review of Information in the Possession of the State" filed by Mr. Jones on January 29, 2009? Did she review the documents being submitted under seal?

She is unable to answer this. The trial was many years ago and she simply has no recollection.

Very truly yours,

A handwritten signature in black ink, appearing to be "JF", written over the printed name "Jeff Feibelman".

Jeff Feibelman

JEF/syb

IN THE CRIMINAL COURT OF TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS
DIVISION VII

STATE OF TENNESSEE,

Plaintiff,

v.

NOURA JACKSON,

Defendant.

No. 05-06767

Set: 11-7-05

DEPT 12 PM 3:47

CLERK

[Signature]

MOTION FOR DISCOVERY

Comes now the Defendant, Noura Jackson, by and through her attorney of record, Valerie T. Corder, and respectfully moves this Honorable Court to require the State of Tennessee to disclose and furnish to counsel for the Defendant:

1. Information and material in its possession, custody or control, or the existence of which is known or by the exercise of due diligence, could become known to the State, which touches upon or pertains to any allegations in this matter.
2. All documents and information encompassed by Rule 16 of the Tennessee Rules of Criminal Procedure, including, but not limited to the results of all scientific tests conducted by any law enforcement agency.
3. All documents, information and materials in its possession or in the possession of any law enforcement agency or officer charged with investigating alleged criminal offenses or any other agent of the State of Tennessee.
4. The names, addresses, and phone numbers of all persons with discoverable knowledge of the facts of this case.

Exhibit C

29

29

5. Information and material which should, at any time, come into the possession or knowledge of the State of Tennessee, or any agent thereof, to-wit:

- A. A copy of any written or oral statement, confession or admission against interest made or alleged to have been made by Defendant, together with a list of the names, addresses and telephone numbers of all persons present at the time such statement was made or whom you believe possesses knowledge of statements of Defendant. If a statement, confession or admission was not reduced to writing, then a list of names and addresses of all persons present at the time the statement, confession or admission against interest was made and a complete statement of the contents of any oral admission made by the Defendant. All being pursuant to Rule 16(a)(1)(A) of the Tennessee Rules of Criminal Procedure; Brady v. Maryland, 373 U.S. 83.; Giles v. Maryland, 386 U.S. 66.
- B. Any and all tangible evidence, objects, currency, weapons, books, papers and documents in the possession of the State or its agent(s) and material to the preparation of the defense or intended by the State for use as evidence in chief pursuant to Rule 16 (a)(1)(9) Tennessee Rules of Criminal Procedure.
- C. Any and all physical or mental examinations, and/or tests or experiments, or copies thereof which are in the possession, custody or control of the State, or any agent thereof, and material to the preparation of the defense or intended by the State for use as evidence in chief pursuant to Rule 16(a)(1)(D) of the Tennessee Rules of Criminal Procedure.
- D. For each of the State's witnesses to be called at trial, the names, addresses, phone numbers, pending criminal charges, arrest record summaries, and convictions

prepared by or in the possession of the state or its agent(s), or which is available to the State on request but which is not available to Defendant.

- E. All information and/or evidence, irrespective of form, source, or nature, which tends to exculpate the Defendant by indication of her innocence or which may prove useful for impeachment of a State witness, or by leading to other information which may tend to exculpate the Defendant by indicating her innocence or proving useful for impeachment of a State witness, and all information which may become of benefit to the Defendant in preparing or presenting the merits of her defense at trial. Brady v. Maryland, 373 U.S. 83.
- F. Any and all consideration given to or made on behalf of any State witnesses. By “consideration” Defendant refers to anything of value or use, including but not limited to immunity, grants, witness fees, special witness fees, transportation assistance, assistance to members of witnesses’ family or associates of witness, assistance or favorable treatment with respect to any criminal, civil, or administrative dispute with the State of Tennessee or the United States of America, and anything else which could arguably create an interest or bias in the witness in favor of the State or against the defense or acts as an inducement to testify or to color testimony.
- G. Any and all records and information showing prior misconduct or bad acts committed by each State witness or the Defendant.

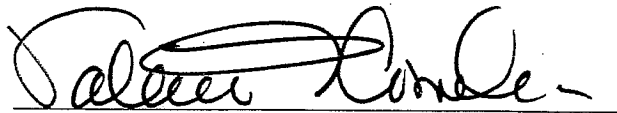
WHEREFORE, PREMISES CONSIDERED, Defendant respectfully prays:

1. That the pre-trial discovery requested in the foregoing motion is essential to insure Defendant’s right to confrontation, to prepare a defense in her behalf, to effective counsel, to a fair and impartial trial, and to due process of law as guaranteed by the

Constitution of the United States of America and the Constitution of the State of Tennessee.

2. That the District Attorney General for the Thirtieth Judicial District be ordered to produce all information described directly herein or included by implication, and allow Defendant the right to examine, inspect, copy and photograph such material and information at a specific time and place to be fixed by the Court.
3. That the time for the inspection and copying of the information requested be set as soon as possible but in no event later than 30 days. That the Court enter an Order requiring the District Attorney General's office to make supplementary and continuing disclosure of all matters requested herein up to and during the trial of the charges against said Defendant.

Respectfully submitted,



VALERIE T. CORDER TBPR #9148

Attorney at Law

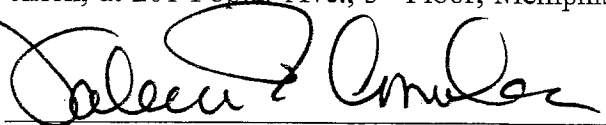
200 Jefferson Ave., Suite 725

Memphis, TN 38103

901-525-8906

CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing has been hand delivered to the Office of the Assistant District Attorney General, Amy Weirich, at 201 Poplar Ave., 3rd Floor, Memphis, TN 38103, on this the 12th day of October, 2005.



VALERIE T. CORDER

IN THE CRIMINAL COURT OF SHELBY COUNTY, TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS
DIVISION VII

STATE OF TENNESSEE,

Plaintiff,

vs.

NO.: 05-06767

SET: 11/7/05

NOURA JACKSON,

Defendant.

MOTION FOR EXCULPATORY EVIDENCE

COMES NOW the Defendant by and through her Attorney of Record and moves this Honorable Court in the following particulars:

1. The Defendant moves this Honorable Court to order the State of Tennessee and/or any law enforcement agencies supportive investigation for the prosecution to advise the Defendant or Defendant's Counsel of the substance of any oral self-serving or exculpatory statements made by the Defendant that are (a) in written form, (b) have been reduced to writing or (c) have been recorded and preserved. The Defendant moves this Court to order the State of Tennessee and/or any law enforcement agency in possession thereof to produce same for inspection to the Defendant or Defendant's Counsel and furnish the Defendant or her Counsel with a copy thereof.
2. The Defendant moves this Court to order the State of Tennessee to reveal to the Defendant the existence of any standing offer to plea bargain, any pending plea bargain negotiations, as well as, concluded plea bargains through which the prosecution has induced, encouraged or is inducing or encouraging any witness, accomplice, co-conspirator, accessory after the fact and/or

principal to testify in exchange for a favorable recommendation.

3. The Defendant moves this Court to order the State of Tennessee to reveal to the Defendant the existence of any promise of help or offer to recommend a reduction in the change of sentence of any witness, accomplice, co-conspirator, accessory before or after the fact and/or during the trial of this cause upon the merits.

4. The Defendant moves this Court to order the State of Tennessee to reveal to the Defendant or Defendant's Counsel the existence of any promise of immunity or promise that the witness will not be prosecuted in exchange for grand jury and/or trial testimony.

5. The Defendant moves this Court to order the State of Tennessee to reveal to the Defendant or Defendant's Counsel the existence of any material variances in the statement of witnesses, accomplices, co-conspirators, accessories before and after the fact, and/or principals, including statements given the investigatory agency, the prosecution, testimony in another trial or testimony before the grand jury.

6. The Defendant moves this Court to order the State of Tennessee to reveal to the Defendant or Defendant's Counsel the names, addresses and telephone numbers of any witnesses known to any investigatory agency and/or prosecution who have misidentified any physical evidence or facts pertaining to the charges pending against the Defendant, or who have in fact misidentified the Defendant, any accomplice, co-conspirator, or accessory before or after the fact or co-principal.

7. The Defendant moves this Court to order the State of Tennessee to reveal to the Defendant or Defendant's Counsel the names, addresses and telephone numbers of any witnesses who have furnished the investigatory agency and/or the prosecution with physical descriptions which do not correspond to the physical description of the Defendant, or who have been unable to identify the Defendant from photographs, lineups or other attempts at identifying the Defendant as being the

etrator of the pending criminal charge.

8. The Defendant moves this Court to order the State of Tennessee to reveal to the Defendant or Defendant's Counsel the names, addresses, and telephone numbers of any witnesses who have not given statements in written form, but who have orally indicated to the investigatory agency and/or prosecution that what they know supports the innocence of the Defendant and/or is exculpatory in nature.

9. The Defendant moves this Court to order the State of Tennessee to furnish the Defendant or Defendant's Counsel with copies of and the right to inspect any written statements submitted to the prosecution and/or any investigatory agency, which in whole or in part support the innocence of the Defendant and/or exculpatory in nature when viewed in light of the guilt or innocence of the Defendant.

10. The Defendant moves this Court to order the State of Tennessee to furnish the Defendant or Defendant's Counsel with the arrest histories and convictions of all potential witnesses known to the prosecution.

11. The Defendant moves this Court to order the State of Tennessee to furnish the Defendant or Defendant's Counsel with any medical and/or scientific evidence or results which are consistent with the innocence of the Defendant and/or are exculpatory in nature.

12. If the prosecution is unable to determine whether a particular object or matter within the Defendant's possession, custody and/or control is exculpatory in nature, the Defendant moves this Court to order the State of Tennessee to submit such matter to this Court for the purpose of an in camera inspection, so this Court can determine if the matter submitted is exculpatory in nature.

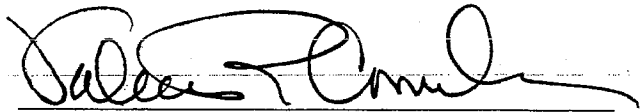
13. The Defendant alleges that the Defendant and Defendant's Counsel are in need of the material requested in this motion in advance of trial and at the earliest opportunity. Common sense

indicates the information furnished to the Defendant may very well lead the Defendant to additional sources of information. Thus, furnishing Defendant with such information in advance of trial will permit the Defendant with the effective assistance of Counsel, to investigate, accumulate, evaluate and prepare the evidence for trial without the unnecessary delay.

14. The Defendant moves this Court to order the State of Tennessee to furnish the Defendant with such facts and information contemplated by the order which is received by the prosecution subsequent to the entering of the order.

WHEREFORE, PREMISES CONSIDERED, the Defendant, respectfully moves this Court to grant the relief sought in the premises of this motion.

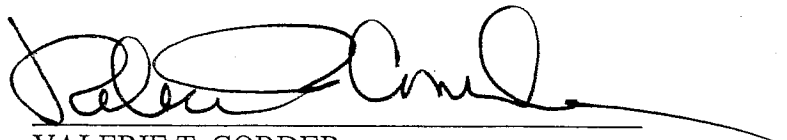
Respectfully submitted,



VALERIE T. CORDER 9148
Attorney for Defendant
200 Jefferson Ave., Ste. 725
Memphis, Tennessee 38103
(901) 525-8906

CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing has been hand delivered to the Office of the Assistant District Attorney General, Amy Weirich, at 201 Poplar Ave., 3rd Floor, Memphis, TN 38103, on this the 13th day of October, 2005.



VALERIE T. CORDER

IN THE CRIMINAL COURT OF SHELBY COUNTY, TENNESSEE
30TH JUDICIAL DISTRICT AT MEMPHIS
DIVISION VIII

STATE OF TENNESSEE

VS.

NOURA JACKSON,
DEFENDANT

)
)
)
)
)

05-06767

FILED 10-26-06
WILLIAM R. KEY, CLERK
BY [Signature] D.C.

ORDER ON MOTIONS

This cause came on to be heard September 19, 2006, on the various motions filed by the
oejpqeuri, statements of counsel, and the record as a whole,

FROM ALL OF WHICH THE COURT FINDS as follows:

The Motion for Discovery is hereby granted as to all material discoverable under Tenn. R.
Crim. P. 16. As several requests for discovery in the motion such as information and material
"which touches upon or pertains to any allegations in this matter," "all documents in the
possession of any law enforcement agency," "names, addresses and phone numbers of all persons
with discoverable knowledge of the facts of this case" and the like exceed the scope of Rule 16,
the motion as to those items not covered by Rule 16 is denied. The State's motion for reciprocal
discovery is also granted.

The Motion for Exculpatory Evidence is hereby granted, but only as to those items
covered by *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963). The
State's duty extends to all "favorable information" irrespective of whether the evidence is
admissible at trial. *Johnson v. State*, 38 S.W.3d 52, 56 (Tenn. 2001). General witness statements
are not included, unless exculpatory. This court specifically finds that those portions of Mr.
Teal's statement or any other witness's statement referring to prior altercations with the victim or
motives to kill the alleged victim by Mr. Teal, Mr. Barfield, or any other person are expressly
deemed exculpatory, and must be given to the defense.

The Motion for Written Responses by State to All Defendant Motions is granted.

The Motion for Disclosure of Witnesses is granted, except for telephone numbers of those

Exhibit E

witnesses.

The Motion to Require State to Reveal Any Agreements Entered into Between State and Prosecution Witnesses is hereby granted.

The Motion for Statements of the Defendant is granted as to all statements discoverable under Rule 16.

The Motion for Disclosure of Impeaching Evidence is granted.

The Motion for Arrest Histories of Witnesses is denied as to requiring the State to furnish any such records.

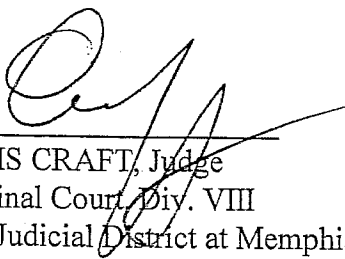
The Motion to Compel the State to Produce the Computer Hard Drive for Purposes of Testing is hereby taken under advisement pending determination of the ownership of the computer tagged as evidence from the crime scene, consent of the defendant or probable cause for the issuance of a warrant to search such hard drive. As the defendant is the daughter of the victim, there is a question of the right of ownership of the computer, given the death of the victim. With consent of all parties, and this court's finding that there is no other claim on the computer or the information contained therein, this court will grant the motion and allow the State and defense each a copy of the hard drive.

The Motion for Bill of Particulars is hereby denied, as the indictment provides the defendant with enough information about the charge against her (1) to allow her to prepare a defense, (2) to avoid prejudicial surprise at trial, and (3) to enable her to preserve a plea of double jeopardy. Further, the Demand for Notice of Alibi Defense filed by the State additionally narrows the time of the offense from midnight to 5 am at 5001 New Haven. This court finds that this time frame is also sufficiently narrowed to require the defense to furnish written notice stating the specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom the defendant intends to rely to establish such alibi, pursuant to Tenn. R. Crim. P. 12.1(a), or the defense will be precluded from calling such alibi witnesses at trial.

The Motion to Set Discovery Cut-off Deadline is hereby taken under advisement until October 25, 2006, to allow further discovery conferences between the State and the defense, given this court's rulings during the hearing on these motions.

The Motion to Extend Time Within Which to File Motions is granted, if good cause is given for the late filing of such motions.

ENTERED this 25th day of October, 2006.



CHRIS CRAFT, Judge
Criminal Court, Div. VIII
30th Judicial District at Memphis

IN THE CRIMINAL COURT OF TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS
DIVISION VIII

STATE OF TENNESSEE,

Plaintiff,

v.

No. 05-06767

Set: 3-9-07

NOURA JACKSON,

FILED 3-9-07
WILLIAM R. KEY, CLERK

Defendant.

BY [Signature] D.C.

MOTION TO COMPEL DISCOVERY

Comes now the Defendant, NOURA JACKSON, by and through her attorney of record, VALERIE T. CORDER, and respectfully moves this Honorable Court to Compel the State of Tennessee to produce the discovery information and materials in its possession and control to which Defendant is entitled by law, and in support thereof would state as follows:

1. In order to insure Defendant's right to confrontation, to prepare a defense in her behalf, to effective counsel, to a fair and impartial trial, and to due process of law as guaranteed by the Constitution of the United States of America and the Constitution of the State of Tennessee, the Defendant is entitled to full, fair, and prompt disclosure of the evidence in the custody and or control of the State, including, but not limited to, all such information and materials, the existence of which is known or by the exercise of due diligence, could become known to the State; or are in the possession and control of any agent of the State.
2. Included therein are all materials, information, and evidence, irrespective of form, source, or nature, encompassed by Rule 16 of the Tennessee Rules of Criminal Procedure; *Brady v. Maryland*, 373 U.S. 83; *Giles v. Maryland*, 386 U.S. 66; the Tennessee and United States

Exhibit F

Constitutions; whether intrinsic to the preparation of the defense; intended by the State for use as evidence in chief; or which tends to exculpate the Defendant by indication of her innocence or which may prove useful for impeachment of a State witness, or by leading to other information which may tend to exculpate the Defendant by indicating her innocence or proving useful for impeachment of a State witness; and all information which may become of benefit to the Defendant in preparing or presenting the merits of her defense at trial. *Brady v. Maryland*, 373 U.S. 83.

3. That defense is not able to speculate what documents, evidence, scientific testing and reporting performed thereon are in the possession of the infinite agents State of Tennessee. The defense can not, therefore, state with particularity or specificity each and every item of evidence that is or may be in the State's hands. The defense has attempted to compile a list of evidence it knows exists, however, production of a comprehensive list by the defense, as instructed by the Court on January 31, 2007, is impossible.
4. The burden of identifying the State's evidence can not permissibly be shifted to the defense.
5. The State can easily produce a comprehensive list of all items of property receipted into its custody simply by printing the computerized list maintained by the property clerk.
6. The State can provide an inventory of the materials and evidence not residing in the property room by printing copies of transmittal slips to agencies and laboratories performing testing on evidence.
7. The State knows what evidence is in its possession and the manner of production by the State indicates that the State is not cooperating in timely and full disclosure of evidence.
 - a. As example: For over sixteen months the defense has been requesting access to autopsy information and records. As of the date of filing of this Motion to Compel,

the defense has still not been provided all existing records and information. Moreover, the defense has been unable to meet with the Medical Examiner. On March 8, 2007, the defense received notice from the Attorney General that photographs requested sixteen months ago were now available to be purchased.

- b. As example: On September 19, 2006, the State notified the defense that the State was now willing to produce digital photographs which had been requested by the defense eleven months earlier. The defense paid \$420.00 for copies of the CDs and received same in late November, 2006. Upon review, several of the CDs and DVDs were corrupted, blank, or unable to be opened. Despite follow up requests, the replacement CDs were similarly defective. As of the date of this Motion, the State has not provided readable copies of three CDs.
- c. As example: On January 13, 2006, the Attorney General notified the defense that the TBI Serology Report dated December 16, 2005, was available to be picked up. The defense arrived the same day to obtain the report. Significantly, page 14 of the report was missing. It was over one week before the missing page 14 was provided, which page described in summary form exculpatory evidence. Despite repeated requests and written notice to the State requesting the complete Serology reports of the TBI, no such reports have been provided as of this date.
- d. As example: On numerous occasions for over sixteen months the defense has requested the written statements of witnesses relied upon by MPD Detective W.D. Merritt to obtain a Search Warrant for the Defendant's person and photographs of same. The State has continuously failed to produce same.
- e. As example: That on numerous occasions for over sixteen months the defense has

requested copies of the Returns and Inventory Lists for all executed Search Warrants in this cause. The State has failed to produce all of same nor are all Returns on file with the Court Clerk or the issuing Judges. At one time, the Attorney General responded to the request by stating, "The search warrant returns were left in your client's car..." That no vehicle is titled to the Defendant; no vehicle was seized from her physical custody; no vehicle was returned directly to her.

- f. That the defense has repeatedly asked for the fingerprint report for the prints lifted from the condom wrapper found near the deceased. It has not been provided.
 - g. That the defense requested access to physical evidence which was not in the property room at the International Harvester Plant on February 13, 2006. Some of which has not been produced as of this date.
8. ~~That there is voluminous discovery due to the defense from the State including, but is not~~
limited to, the materials, documents, evidence and things listed on the Exhibit appended hereto.
9. That the defense is unable to prepare pre-trial motions and continue its investigation of the facts without the documents, information, and evidence in the exclusive possession and control of the State and to which the defense is entitled access by law.
10. That the State should be ordered to immediately produce all information described directly herein or included by implication, and allow Defendant the right to examine, inspect, copy and photograph such material and information at a specific time and place to be fixed by the Court.

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully prays:

- 1. That the District Attorney General for the Thirtieth Judicial District be ordered to immediately produce all information described directly herein or included by

implication, and allow Defendant the right to examine, inspect, copy and photograph such material and information at a specific time and place to be fixed by the Court.

2. That the Court enter an Order requiring the District Attorney General's office to make supplementary and continuing disclosure of all matters requested herein up to and during the trial of the charges.

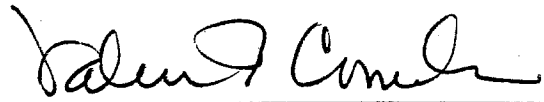
Respectfully submitted this the 9th day of March, 2007.

THE LAW OFFICE OF VALERIE T. CORDER
100 S. Main Street, Suite 500
Memphis, Tennessee 38103
(901) 525-8906


By: Valerie T. Corder #9148

CERTIFICATE OF SERVICE

I do hereby certify that a true and exact copy of the foregoing has been hand delivered to Assistant District Attorney General, Amy Weirich, 201 Poplar Avenue, Third Floor, Memphis, TN 38103, this the _____ day of March, 2007.


Valerie T. Corder

STATE'S PRODUCTION OF EVIDENCE DEFICIENCY LIST
as of March 8, 2007

- I. With regard to any and all prints evidence - fingerprints, hand prints, shoe prints - in the State's possession:
- a. No fingerprint reports or lift prints or other analyses have been produced from condom wrapper recovered from the scene.
 - b. No fingerprint report or lift prints or other analyses from skin shield box have been produced.
 - c. No shoe print reports have been produced.
 - d. No viewing of the lift prints has been permitted.
 - e. No print card of the victim, nor the exemplars and exclusionary cards have been provided.
 - f. No exclusionary shoe prints taken have been provided nor a list of those persons from whom exemplars have been sought or obtained.
 - g. No photograph of the print or lift print has been provided
 - h. No access to the original foot wear examined has been provided
 - i. No access to the original impressions and actual prints from the crime scene have been provided (impression on piece of paper, tile, clothing of victim, etc, where the item has actually been recovered)
 - j. No lifts from any footwear impressions from the scene have been provided.
 - k. No casts of any footwear impressions from the scene have been provided.
 - l. No notes, conclusions, reports, of any laboratory examiner that examined the footwear evidence have been provided.
 - m. No notes, conclusions, reports of the crime scene personnel that recovered the footwear evidence from the crime scene, including any photographic logs describing photographs of footwear impression evidence or impression evidence at the scene have been provided.
 - n. Nor have notes, records or reports describing the prints or any information relating to the measurements of shoe prints.
 - o. No results, notes and/or reports relating to any attempts to search a footwear database, or of any investigative efforts to locate shoes matching the design of the crime scene impression(s) have been provided.

STATE'S PRODUCTION OF EVIDENCE DEFICIENCY LIST
as of March 8, 2007

- p. No test impressions of the footwear have been provided.
- q. No information in the form of notes, reports, consultation requests and answers, and any issues relating to the sizing and manufacture of the footwear, including copies of data or photographs received in connection with the same have been provided.
- r. No original negatives of film photographs have been provided.
- s. No quality photographic prints or negatives of any footwear impressions that have a scale (ruler) within the photograph have been provided.
- t. No access to the bloody bed sheet allegedly containing shoe or foot print has ever been provided.

II. With regard to electronic storage devices seized and electronic data held or obtained, the Defendant has requested copies of the hard drives of each device and any and all information retrieved.

- No data from storage drives has been provided.
- No copies of storage drives have been provided.
- No information regarding same has been produced.

- a. The State seized, at a minimum, the following electronic storage devices-
 - 1. computer hard drive
 - 2. digital camera
 - 3. Blackberry
 - 4. Cellular telephone

The State has had 22 months to review and copy the drives and still no production to the defense.

- b. Audio CDs & DVDs purchased from AG's office at the cost of \$420.00:
 - 1. CD designated as "AL 6891" is defective.

STATE'S PRODUCTION OF EVIDENCE DEFICIENCY LIST
as of March 8, 2007

2. One file on an unlabeled CD is missing any content
 3. Other unmarked CDs are corrupted; one after 8 minutes of play.
 4. Other unmarked CDs simply read as blank or unretrievable.
- c. State has photographs obtained from cellular phone cameras of witnesses it has not identified to defense nor produced when defense discovered this and twice requested them.
- d. State has recorded statements from 3 Witnesses it has not produced:
1. Andrew Hammick
 2. Caroline Giovanatti
 3. R. Robertson (Whom the State has failed to further identify in any manner to the defense.

III. Physical & Forensic Evidence:

- a. Items seized at crime scene- All items sent to the TBI for testing have not been returned to property inventory and thus have not been viewed. Ex. Bedding
- b. No memoranda, notes, correspondence, and transmittal queries regarding any and all forensic examinations and testing, including complete Reports and Litigation Package/Files from TBI, Labs, or MPD have been produced.
- c. Complete records, reports and Litigation Files of ME have not been produced after repeated requests.
- d. All memoranda, notes, correspondence, and transmittal queries regarding any and all forensic examinations and testing, including complete Autopsy Report and Litigation Package/File from Medical Examiner; access to X-Rays and samples; victim's fingerprint card; chain of custody logs; comprehensive drug

STATE'S PRODUCTION OF EVIDENCE DEFICIENCY LIST
as of March 8, 2007

IV. Document Production Incomplete

1. No Supplemental Crime Scene Investigative Reports;
No Crime Scene addenda from MPD, preliminary only produced.
2. No Detective Narratives produced.
3. No original, contemporaneous Crime Scene Log produced.
4. Search Warrant returns are not in Clerk's office; nor did 3 of the Judges issuing same have them. Therefore, it can not be determined what other items seized may be in State's possession.
5. All reports regarding examination, testing and questions whether involving TBI, Labs, or MPD, including all memoranda, notes, correspondence, and transmittal queries regarding any and all forensic examinations and testing, or evidence processing.

V. Witness Statements

1. Full names, addresses or phone numbers of State's witnesses.
2. No list from AG of addresses and phone numbers of witnesses as Court ordered; some provided are last names only; others can not be located by us. Numerous requests have been made and no follow through by AG.
3. The written statements of 2 Witnesses which Det. W.D. Merritt used on June 10, 2004 to procure a Search Warrant have not be produced despite repeated requests.
4. Disappearance of any exculpatory evidence from childhood of Ms. Jackson; Photos, Birthday cards, All childhood memorabilia from her home.
5. No Memorandum from AG on cost of production of CDs and DVDs provided as per Order.

VV2009-01709-CCJ-R3-CD

IN THE CRIMINAL COURT OF SHELBY COUNTY, TENNESSEE
THIRTIETH JUDICIAL DISTRICT AT MEMPHIS
DIVISION VIII

STATE OF TENNESSEE,

VS.

NOURA JACKSON,

Defendant.

CASE NO. 05-06767

ORIGINAL

PRE-TRIAL MOTIONS

January 30, 2009

VOLUMES 19 OF 49 VOLUMES

THE HONORABLE CHRIS CRAFT, PRESIDING JUDGE

APPEARANCES:

FOR THE STATE OF TENNESSEE:

STEVE JONES
AMY WEIRICH
Assistant District Attorney General
Shelby County District Attorney Generals Office
201 Poplar Avenue - 3rd Floor
Memphis, Tennessee 38103

FILED 2-24-10
WILLIAM R. KEE CLERK
BY [Signature] D.C.

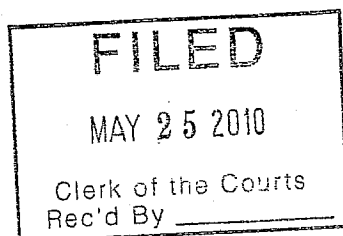
FOR THE DEFENDANT:

VALERIE CORDER
Attorney at Law
119 South Main - Suite 500
Memphis, TN 38103

ARTHUR QUINN
Attorney at Law
1661 International Drive
Memphis, TN 38120

REPORTED BY:

DANA S. ROSS, COURT REPORTER
(731)610-4509



Vol 42

Exhibit G

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EXHIBITS

None

1 information after the discussion with Your Honor the last, the
2 deposition date in court, all the discussion about Brady, we
3 gave all of this out of an abundance of caution. It should not
4 be read as an inference that we agree that it is a violation
5 of any --

6 MS. WEIRICH: I think that had been given
7 before. I just copied again because I had some pages missing
8 out of mine and mine were jumbled.

9 THE COURT: In other words, Mr. Quinn, they
10 are not giving out of guilty, but I think I took care of that
11 problem the last time we were here, but there is nothing about
12 that that you feel is a violation of Brady or Rule 16 unless
13 they were going to use it in trial obviously they would be
14 giving it to you.

15 All right --

16 MR. QUINN: Now on the next page, Your
17 Honor, this one --

18 THE COURT: We are going to letter C now,
19 C at the bottom of page four. A supplement of Sergeant Miller
20 date June 12th, was provided, which contains Brady material of
21 exculpatory evidence in the State's possession including
22 material and information provided by previously undisclosed
23 witnesses -- Okay, number one, Lieutenant Armstrong provided
24 information to Sergeant Miller that Eddy Zahed, Z-A-H-E-D, and
25 four other named individuals wanted to talk to homicides

1 detectives about an individual name Andrew Hamock,
2 H-A-M-O-C-K, who could not explain his activities from 1:30
3 a.m. and 3:00 a.m., on the morning of the homicide.

4 Do you want to discuss that? I don't know any of these
5 individuals.

6 MR. QUINN: All we know is what is in the
7 report. Hamock, we did have the name of Andrew Hamock, but we
8 didn't know anything about his shoes at all. Not only that,
9 they brought his shoes and these guys brought their shoes --
10 We don't know who Lieutenant Armstrong is. These people
11 brought their shoes in and say Andrew Hamock has been
12 suspicious about where he was. Don't know why they are asking
13 and then Ms. Justice took pictures of Andrew Hamock's shoes as
14 part of this case and we just got copies of those. You know,
15 we have been in this court many times about photos for experts
16 to look at and things like that. We just got pictures of
17 these shoes Wednesday afternoon.

18 THE COURT: Is the State intending to use
19 these photos in trial?

20 MS. WEIRICH: No, sir, and --

21 MR. QUINN: But, the -- I'm sorry. I'm
22 sorry.

23 MS. WEIRICH: The name Andrew Hamock has
24 been known to the defense. The information about the shoes
25 was read by us or read by me rather for the first time after

being notified about Mr. Boziak and --

THE COURT: Would you spell Boziak for the record?

MS. WEIRICH: I don't know how to spell it.

MS. CORDER: B-O-Z-I-A-K.

THE COURT: Okay. Is that their expert?

MS. WEIRICH: Yes, Your Honor. After rereading the supplement and seeing that statement I thought it was Lieutenant Miller's supplement, but Mr. Quinn quotes Lieutenant Armstrong.

THE COURT: Well, it says Lieutenant Armstrong provided information to Sergeant Miller, so it may be Sergeant Armstrong.

MS. WEIRICH: We didn't have those pictures in our possession. We didn't have any CD or any copy of a picture that showed any odd pair of shoes. We didn't have any shoes in evidence. Mr. Quinn and Ms. Corder have been over and seen the evidence millions of times. We didn't have any odd pair of shoes that didn't add up, but after seeing that statement I inquired of Lieutenant Miller and he advised that he had these pictures on his desk top and he made a CD for us and for the defense and we have turned those over. They are shoes that Andrew Hamock was wearing when he came down to homicide office, I believe the 10th of June or it was sometime later and these were shoes that he had on and they took

1 pictures of the bottom of them and those are what we turned
2 over.

3 THE COURT: So you got some information
4 from their expert and you then --

5 MS. WEIRICH: I didn't get any information
6 from their expert. I got information that they were going
7 down this road. I mean we don't know what their defense is,
8 but we are concluding that they are going down this road of
9 this shoe print expert because they have notified us about
10 Mr. Boziak and he has been to the conference room and looked
11 at the evidence.

12 THE COURT: So you called this person to
13 get pictures then of the shoes?

14 MS. WEIRICH: Yes, sir.

15 THE COURT: And then turned them over? Did
16 you turn them over to the defense or did you not?

17 MS. WEIRICH: Yes.

18 MR. QUINN: First of all, Your Honor, that
19 is not the test. I mean the police have had them since June
20 12th of 2005, and let's just say for the record, our defense,
21 she didn't do it, somebody else did. All right. So if any
22 evidence points toward anybody else then I would respectfully
23 submit that is exculpatory or potentially favorable or
24 potentially exculpatory. Here we have got a case where for
25 some reason a bunch of people, I don't know who they are, get

1 the impression that they are young people that you don't know
2 go to some kind of -- Lieutenant Armstrong and say this guy is
3 suspicious. He has been wearing these shoes. Armstrong
4 thinks enough of it to call a detective who thinks enough of
5 it to call another detective to take a picture of it and
6 that's the last we ever heard about it or know about it even
7 though we have been in here many, many times trying to get
8 pictures of everything and I don't know what those shoes show.
9 I don't know if they show or they are going to match any
10 footprints around that scene or not. We don't know at this
11 time. We only find out about this Wednesday afternoon.

12 THE COURT: Right. I understand. Now,
13 under Rule 16 it says that your entitled to discovery of
14 evidence that they intend to use in trial. Obviously, they
15 weren't intending to use these shoes. Now, under Brady, the
16 question is whether or not they are exculpatory.

17 MR. QUINN: Well, now, wait a minute, you
18 are not through with Rule 16 are you, Judge? I don't get to
19 ask you questions. I respectfully --

20 THE COURT: It is very long. I am not
21 reading it, but you go ahead.

22 MR. QUINN: Well, or material to the
23 defense.

24 THE COURT: Right.

25 MR. QUINN: It is stuff they intend to use

1 or material to the defense.

2 THE COURT: And they are of the opinion
3 that it is not material to the defense.

4 MS. CORDER: Judge, you gave two different
5 orders ordering the State to produce all shoe print evidence,
6 all shoes, all photographs of shoes and you did this in
7 September of last year.

8 THE COURT: Now, now, nobody came and gave
9 you all my shoes. Obviously, I can't order all shoes. So
10 which shoes are we talking about?

11 MS. CORDER: We are talking about that
12 which you ruled in your in Order in possession of the State -

13 THE COURT: I never heard the name Hamock
14 and I did not order them to give you Mr. Hamock's shoes.
15 Now, so --

16 MS. CORDER: Yes, sir --

17 THE COURT: So at what point do we draw the
18 line? You know, I don't know, Mr. Hamock, you had his name.
19 Are his shoes related to this case?

20 MS. CORDER: Apparently the State thinks so
21 because three years ago they called him to the homicide office
22 and they took --

23 THE COURT: You mean the police thought so,
24 or suspected so?

25 MS. CORDER: Yes, sir. Let me back up.

1 It's easier for me chronologically if you don't mind. Five
2 witnesses came to a Lieutenant Armstrong, four of these
3 witnesses we have never seen the names before Wednesday. We
4 have never seen Lieutenant Armstrong's name associated with
5 this case.

6 THE COURT: Are these people going to be
7 called at trial by the State?

8 MS. WEIRICH: I don't know which names they
9 are referring to.

10 MS. CORDER: Well, Your Honor -

11 THE COURT: They are not going to be
12 witnesses unless the State is going to call them or you are
13 going to call them, so which names are you talking about that
14 are witnesses?

15 MS. CORDER: They are fact witnesses,
16 Garret Perryman, Stephen Davis, Robert Graham, Ian Strickland,
17 Bucky Shultz and Eddy Ziheld, so that is actually six.

18 THE COURT: Okay, are you all calling those
19 people as witnesses? Ms. Weirich is shaking her head no.

20 MS. CORDER: Of course not, sir, the point
21 is is that these six men came to the homicide office, they
22 were interviewed by several homicide detectives about their
23 suspicions about another individual Andrew Hamock. Now Andrew
24 Hamock has been on our radar because the police asked him for
25 a DNA sample immediately after this crime was committed. We

1 knew the name. We have looked for him. Apparently after he
2 was arrested, he left the State of Tennessee. We believe he
3 is living in Louisiana. We have asked the State to help us
4 find him. We don't have a phone number for him. We have not
5 been able to locate him and we find out Wednesday night that
6 the State thought enough of him as a suspect in addition to
7 asking for his DNA, to perform an examination of his shoes and
8 to photograph --

9 THE COURT: They did or the police did?

10 MS. CORDER: The police in their activities
11 as a state agent.

12 THE COURT: No, ma'am. The Memphis Police
13 Department is not a state agent, but listen to me because when
14 you say the State I think you are talking about Mr. Jones and
15 Ms. Weirich over there so let's be clear that it is some law
16 enforcement person but maybe not even graduated from college
17 that has never been to law school decided to take this
18 evidence, but let's not say the State. Let's say the police
19 officer because there are some things the police did in this
20 case and there are some things that the State did, the lawyers
21 did, so I want to make sure we keep them separate.

22 MS. CORDER: Detectives from the police
23 department thought enough of this evidence that they
24 interrogated this man, they brought him to the homicide office
25 and they photographed his shoes three and a half years ago.

1 Now, we have had three hearings about any shoe print evidence
2 and if you review your Orders, Judge, your Orders --

3 THE COURT: I know what the Orders say,
4 Ms. Corder. I don't need to review the Order.

5 MS. CORDER: Your Orders were extremely
6 specific because they didn't intend to introduce them in the
7 case in chief was not the standard by which you ordered them
8 to produce them to us.

9 THE COURT: I disagree. They have to
10 produce anything discoverable under Rule 16 and Brady.

11 MS. CORDER: Yes, sir.

12 THE COURT: Now, if these shoes are not
13 going to be used by them and if in their opinion they are not
14 material and they are not exculpatory then under my order they
15 would not have to divulge that.

16 MS. CORDER: Well, Your Honor, I
17 respectfully --

18 MR. QUINN: Your Honor, would you ask the
19 State if they compared the prints with the shoes of Andrew
20 Hamock?

21 THE COURT: You mean ask them if the police
22 compared them?

23 MR. QUINN: If the police compared them.

24 THE COURT: Do you all know if the police
25 compared these shoes with prints down at the scene?

1 MS. WEIRICH: I don't know if they did. I
2 have know information that they did. The only information I
3 have is that they took pictures of them, Lieutenant Miller, of
4 the bottoms of the shoes and the sides of the shoes.

5 THE COURT: These are shoes this person
6 wore how long after the homicide?

7 MS. WEIRICH: He was wearing them when he
8 came to the homicide office.

9 THE COURT: Which was?

10 MS. WEIRICH: On June 10th.

11 THE COURT: And the homicide?

12 MS. WEIRICH: June 5th, five days later.

13 THE COURT: Okay.

14 MS. WEIRICH: They took pictures of his
15 shoes.

16 THE COURT: Okay.

17 MS. WEIRICH: And we don't have the shoes.
18 Nobody collected the shoes.

19 THE COURT: Right and maybe he is eating
20 etouffee in Louisiana somewhere now?

21 MS. WEIRICH: Yes, sir.

22 THE COURT: Okay. All right, so I think
23 maybe what you all need to do if you want is have your expert
24 look at those because the State didn't think them worthy, or
25 the police didn't think them worthy of comparing. They were

1 just another set of shoes they took pictures of just because
2 they are investigating a homicide, but if you think or are
3 saying this is exculpatory, I don't think it is exculpatory.
4 The question is going to be whether or not you think that you
5 need a reset to investigate these shoes that is one thing. I
6 don't know the police may have taken pictures of the shoes of
7 several other people. Is there something connecting this
8 person with the homicide other than the fact that --

9 MS. CORDER: Apparently the police
10 department thought so. They asked for his DNA and his
11 fingerprints and now we find out they asked for his shoes.

12 THE COURT: That is not what I asked. The
13 question is is there anything connecting him? I mean, the
14 police might have fifty suspects, but they can't all be
15 guilty, so is there anything connecting this person? This is
16 the first time I have heard his name. Is there anything that
17 connects this person with the homicide?

18 MS. CORDER: Your Honor, you are asking the
19 wrong party. Mr. Hamock has not been available to our
20 investigator to take a statement recently. My investigator
21 caught up with a relative of his after we got this disclosure,
22 but that relative has not provided his cell phone number.
23 Now, this is one of the people that on the 21st of January we
24 asked the State for assistance in locating because we believed
25 there was a possibility of potentially exculpatory evidence

1 known by this witness either through his experiences or
2 through other realms. Now, in response to that day is why
3 they turned this document over to us and this document shows
4 us, Your Honor, that five individuals within a week of
5 Ms. Jackson's death came to the homicide office accusing
6 Mr. Hamock and the State, pardon me, police department thought
7 enough of that accusation and maybe other information that
8 they had access to, which we don't have, that they brought him
9 in for an interview. Well, he has now disappeared.

10 THE COURT: All right.

11 MS. CORDER: So we now have disclosure
12 three and a half years later that he had shoe print evidence
13 that whether or not they were going to introduce it in their
14 case in chief certainly was covered by your Court Order and
15 certainly had been specifically requested by me repeatedly,
16 Judge.

17 THE COURT: You asked for this Hamock guys
18 shoe prints?

19 MS. CORDER: I asked for all shoe print
20 evidence and all photographs of shoe print evidence and you
21 ordered it twice.

22 THE COURT: Okay.

23 MS. CORDER: And, Your Honor, everyone of
24 us in this courtroom knows that our State is under a financial
25 crisis right now. We have expended funds to bring in an

1 expert based upon your Order and the State specific assurance
2 in Court that we now had all shoe print evidence. That we now
3 had all photographs of shoe print evidence or the actual shoes
4 themselves. So we fly in an expert and spend money on this
5 and then we find out, what, two months later that that was an
6 inaccurate representation. That we spent these monies --

7 THE COURT: Would you like your expert to
8 investigate these shoe pictures? Obviously there is no shoes.

9 MS. CORDER: Yes, sir.

10 THE COURT: There haven't been shoes for
11 years unless they are on his feet. Okay.

12 MS. CORDER: At the attorney general's
13 expense, Your Honor, because that is an appropriate sanction
14 for concealing this evidence in light of the several court
15 Orders and in light of their participation --

16 THE COURT: It all goes to the State of
17 Tennessee, Ms. Corder.

18 MS. CORDER: Yes, sir.

19 THE COURT: I will be glad to let you have
20 that examined. I have no problem with that.

21 MS. CORDER: We also need addresses and
22 phone numbers of these five people who they disclosed
23 Wednesday the 28th, that were related to or had access to these
24 shoes.

25 THE COURT: Sure.

1 MS. CORDER: And, Your Honor, that's --

2 THE COURT: I don't think the State would
3 have a problem with that if they have that information.

4 MR. JONES: If we have it.

5 THE COURT: Yes.

6 MS. WEIRICH: We have Andrew Hamock's
7 number. I thought I had turned that over.

8 THE COURT: As far as these other people --

9 MS. WEIRICH: I don't have them.

10 THE COURT: -- people that talked to the
11 police and said you need to investigate this guy. You don't
12 have any information on them?

13 MS. WEIRICH: I will double check, but I
14 don't believe we do and if we do, we will turn it over, yes,
15 sir.

16 THE COURT: If you do you need to let the
17 defense have it.

18 MR. JONES: Have we not turned Andrew
19 Hamock's phone number over? Can we ask counsel?

20 MS. CORDER: There is not a phone number.
21 The phone number we have for Mr. Hamock does not reach
22 Mr. Hamock. It is a dead number.

23 MS. WEIRICH: That may be the one, the only
24 number we have. I don't know.

25 THE COURT: Have you given them everything

1 you have as far as Mr. Hamock?

2 MS. WEIRICH: Yes. I will double check.
3 If we have updated information that perhaps was missed the
4 last communication we will give them that.

5 THE COURT: Okay.

6 MS. CORDER: And, Judge, we would like the
7 same information for Lieutenant Armstrong and these other five
8 men that accused Mr. Hamock.

9 THE COURT: The State will give you
10 whatever information they have. They can't give you
11 information they don't have.

12 MS. CORDER: Well, Judge, they were
13 interviewed by Lieutenant Armstrong, Lieutenant Merritt and
14 Lieutenant Miller and Lieutenant, pardon me, Sergeant Justice.
15 Let me start over. If I get their ranks wrong that might not
16 be such a good idea.

17 THE COURTS: That's all right. Just call
18 them officers.

19 MS. CORDER: Officers Armstrong, Merritt,
20 Justice and Miller. They are professional police officers of
21 some esteem and rank I would find it hard to imagine that they
22 interviewed five men accusing their roommate of a murder and
23 didn't take their phone numbers and addresses. We know they
24 don't live at the old address anymore, Judge.

25 MR. JONES: I am going to take offense to

1 the allegation there they they accused him of a murder.

2 THE COURT: I understand. I don't think --
3 Was he arrested for something?

4 MS. WEIRICH: No, Your Honor.

5 THE COURT: Okay, so analyzing this issue
6 looking at it we have the State having receiving pictures of
7 shoes, giving them to the defense when they received them. We
8 have Mr. Hamock as a possible suspect. We have his name
9 having been turned over to the defense as a possible suspect
10 early on. They are now giving information or giving you these
11 photographs of the shoes so your experts can look at them. I
12 cannot find that this information is exculpatory because it
13 may not be. However, if the information is exculpatory and
14 these prints, the shoes that were worn by this man five days
15 after the homicide, if he committed the homicide and was
16 dumb enough to wear the same shoes to the police when he goes
17 down and talks to them. Assuming all of that, even if you
18 were innocent and they fit the footprints, then that would be
19 exculpatory and the defense would have a right to a
20 continuance to try to find Mr. Hamock and do all kinds of
21 things. But right now as I see it, the State was not
22 intending to use this information in their trial and as I see
23 it he was just a suspect the police interviewed and then let
24 go and there is nothing about that that I know now that is
25 exculpatory to the defense. The fact that there were shoe