

COMMONWEALTH OF KENTUCKY

CIRCUIT COURT
CASE NO. 08-CR-00001

COMMONWEALTH OF KENTUCKY,

PLAINTIFF

VS.

JOHN DOE,

DEFENDANT

MOTION FOR DISCOVERY AND INSPECTION OF EVIDENCE

The Defendant, by counsel, moves this Court pursuant to Criminal Rules 5.16, 7.24 and 7.26, as well as the Sixth and Fourteenth Amendments to the United States Constitution, to order the Commonwealth to disclose in writing the existence of, and permit defense counsel to inspect and copy or photograph, the following relevant materials;

1. To provide defendant with a copy of recorded grand jury testimony or a transcript of testimony pursuant to RCr 5.16(3).
2. The names and address of all persons known to the Commonwealth or any other law enforcement officers who were present at the time and place of the alleged offense.
3. Any oral incriminating statement made by the defendant to any witness and any written or otherwise recorded statement and waiver of rights made by the defendant, including notes or memoranda made by any law enforcement officer who was present when the defendant made the statement, summarizing the text or content of any such statement.
4. Any result or reports of mental or physical examinations and any results or reports of scientific tests, experiments, or comparisons connected with this case which were made at the request of the Commonwealth or any agency thereof.

5. Any books, papers, or documents in the possession, custody, or control of the Commonwealth, including record of prior arrests and convictions of the defendant.
6. Any tangible objects which were gathered by agents of the Commonwealth in their investigation of this case or are now in the possession, custody, or control of the Commonwealth or any of its agencies.
7. Any photographs and/or video tapes made or used in connection with this case in the possession, custody, or control of the Commonwealth, including but not limited to;
8. Photographs of any physical injuries allegedly suffered by any alleged victim in this case.
9. Any written or recorded statement of any witness whom the Commonwealth intends to call to testify which relates to the subject matter of the witness's testimony and which either (a) has been signed or initialed by the witness or (b) purports to be a substantially verbatim statement made by him or her.
10. Pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963) the defendant's counsel requests this court order the production of any and all evidence which is exculpatory in nature or in any way tends to show the defendant's innocence of the alleged crime.
11. Any and all evidence not previously requested in this motion which the Commonwealth intends to introduce at trial.

Defense counsel further moves this Court for leave to file additional discovery motions and other motions to produce certain items for testing, examination, and inspection after the Commonwealth has fully complied with the discovery requested in this motion. Counsel cannot specifically designate other discoverable items or items that may be in the possession of the Commonwealth for inspection and/or for examination since counsel is not yet aware of all those

items the Commonwealth may have. This is a continuing discovery request and pertains to any evidence discovered or developed any time prior to trial.

In support of this motion, the defendant would show the Court that discovery of this evidence is mandated by CrR 5.16, 7.24, and 7.26, that disclosure of the evidence requested is material to the preparation of the defense, and that disclosure of evidence the Commonwealth intends to introduce at trial is in the interest of the orderly administration of justice and necessary to enable the defendant to challenge the admissibility of the evidence by pretrial motion pursuant to Rule 8.16.

WHEREFORE, the defendant respectfully requests that the Court order the Commonwealth to make prompt and complete disclosure of the foregoing discoverable evidence and to continue to disclose any additional such evidence as it comes to the attention of the Commonwealth Attorney through the exercise of due diligence.

Respectfully so moved this 25th day of May, 2005.

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NOTICE OF HEARING

Please take notice that the foregoing motion will be brought on for hearing before the _____ Circuit Court on July 11, 2008 at 9:00am.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served on the Plaintiff by mailing a true and correct copy of same to the Commonwealth Attorney, Hon. William S. Greenwell, 215 North Main Street, P.O. Box 341, Marion, KY, 42064-0341; and to the Union Circuit Court Clerk, Union County Courthouse, P.O. Box 59, Morganfield, KY, 42437; this 24th day of May, 2005.

Daniel J. Hancock
Attorney for Defendant