

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_ COUNTY,

\_\_\_\_\_

THE STATE OF \_\_\_\_\_,

Plaintiff/Respondent,

v. Case No. \_\_\_\_\_

\_\_\_\_\_ ,

Defendant/Movant.

\_\_\_\_\_ /

**MOTION FOR DISCLOSURE OF EXCULPATORY EVIDENCE  
(BRADY MOTION)**

Defendant, \_\_\_\_\_, by and through undersigned counsel, hereby moves this Honorable Court for an Order compelling the Plaintiff, The State of \_\_\_\_\_, to disclose all exculpatory evidence, including impeachment evidence, favorable to the Defendant and material to either guilt or punishment, as required by the Fifth and Fourteenth Amendments to the United States Constitution and the principles established in \*Brady v. Maryland\*, 373 U.S. 83 (1963), and its progeny.

**I. PROCEDURAL POSTURE**

1. Defendant \_\_\_\_\_ is currently charged with \_\_\_\_\_ in the above-

captioned case.

2. This Motion is filed in anticipation of trial and to ensure the Defendant receives a fair trial and due process of law.

## **II. GROUNDS FOR RELIEF**

3. The United States Supreme Court, in *\*Brady v. Maryland\**, 373 U.S. 83 (1963), held that "the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution."

4. This obligation extends to evidence that would tend to exculpate the Defendant, reduce the degree of the offense, or impeach the credibility of prosecution witnesses. See *\*Giglio v. United States\**, 405 U.S. 150 (1972).

5. The prosecution's duty to disclose *\*Brady\** material is an affirmative one, arising even without a specific request, and applies to all evidence known to the prosecution or its agents, including law enforcement. See *\*United States v. Agurs\**, 427 U.S. 97 (1976); *\*Kyles v. Whitley\**, 514 U.S. 419 (1995).

6. Evidence is material if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. A "reasonable probability" is a probability sufficient to undermine confidence in the outcome. See *\*United States v. Bagley\**, 473 U.S. 667 (1985).

7. The Defendant is entitled to timely disclosure of all such evidence to adequately prepare a defense and ensure a fair trial. Delay in disclosure can be as prejudicial as non-disclosure.

## **III. EVIDENCE SOUGHT**

8. Defendant specifically requests, but is not limited to, the following categories of exculpatory and impeachment evidence:

a. Any and all evidence that tends to negate the guilt of the Defendant as to any offense charged.

b. Any and all evidence that tends to reduce the degree of the offense charged or reduce the

Defendant's punishment.

c. Any and all evidence that tends to impeach the credibility of any prosecution witness, including but not limited to:

- i. Prior inconsistent statements of witnesses.
- ii. Promises, inducements, or agreements made to witnesses in exchange for testimony.
- iii. Witnesses' criminal histories, pending charges, or any acts of misconduct reflecting on their veracity.
- iv. Evidence of bias, prejudice, or motive to fabricate on the part of any witness.
- v. Mental health issues or substance abuse history of witnesses that may affect their ability to perceive, recall, or relate events accurately.

d. Any and all evidence that tends to show that another person committed the offense(s) charged.

e. Any and all evidence that casts doubt on the accuracy or reliability of any scientific tests, analyses, or expert opinions relied upon by the prosecution.

f. Any and all evidence of law enforcement misconduct, including but not limited to, coercion, fabrication of evidence, or improper interrogation techniques.

g. Any and all evidence that would support an affirmative defense.

#### **IV. PRAYER FOR RELIEF**

**WHEREFORE, Defendant respectfully requests that this Honorable Court enter an**

**Order:** a. Compelling the Plaintiff, The State of \_\_\_\_\_, to immediately disclose all exculpatory and impeachment evidence, as defined by \*Brady v. Maryland\* and its progeny, to the Defendant.

b. Requiring the Plaintiff to make a continuing disclosure of any such evidence that comes into its possession or knowledge.

c. Granting such other and further relief as this Court deems just and proper.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Respectfully submitted,

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**Signature**

**Printed Name:** \_\_\_\_\_

**Bar No.:** \_\_\_\_\_

**Attorney for Defendant Street Address:**

\_\_\_\_\_

**Unit Number (if applicable):** \_\_\_\_\_

**City:** \_\_\_\_\_

**State:** \_\_\_\_\_

**Zip Code:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Motion for Disclosure of Exculpatory Evidence (Brady Motion) was served upon the Plaintiff, The State of \_\_\_\_\_, by and through its counsel, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, via:

- U.S. Mail
- Hand Delivery
- Facsimile
- Email
- Electronic Filing System

**Recipient:**

\_\_\_\_\_

**Prosecuting Attorney Address:**

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Signature