

IN THE SUPERIOR COURT OF FORSYTH COUNTY

FORSYTH COUNTY GEORGIA
FILED IN THIS OFFICE

STATE OF GEORGIA

MAY 26 2006

Stephan Saville
CLERK SUPERIOR COURT

STATE OF GEORGIA

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Indictment #06CR-0126

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Vs.

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JULIA LYNN WOMACK TURNER

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**STATE'S SUPPLEMENTAL DEMAND
FOR DISCOVERY**

COMES NOW THE STATE OF GEORGIA BY THE DISTRICT ATTORNEY,
and submits it's supplemental demand and argument regarding reciprocal discovery by
the State of Georgia, and shows the Court the following:

1.

The defendant herein has heretofore filed her motion for discovery under
O.C.G.A. 17-16-1 et.seq., and by doing so agrees to reciprocal discovery on behalf of the
State; and the State has filed it's demand for discovery pursuant to the reciprocal
provisions thereof. The State further specifically demands discovery under the provisions
of OCGA 17-16-4(b) which is now extended to the sentencing phase of trial as amended
by Acts 2005.

2.

The State further points out that the statute, as amended, for discovery in the case-
in-chief or rebuttal provides for compliance by the defendant **within ten days of timely
compliance by the (prosecutor), but no later than five (5) days prior to trial, or as
otherwise ordered by the court.** It is therefore requested that the Court order
compliance by defendant within the earlier time period of **within ten days of timely
compliance by the state of Georgia** - those items in defendant's case-in-chief or
rebuttal, as provided by law. OCGA 17-16-4(b)(1) and (2), as amended 2005; OCGA
17-16-7; OCGA 17-16-8. It is further requested that the Court order compliance by
defendant of evidence to be used during the sentence phase of trial. OCGA 17-16-
4(b)(3)(A), (B) and (C).

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STATE OF GEORGIA

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the within document, entitled: STATE'S SUPPLEMENTAL DEMAND FOR DISCOVERY upon MR. JIMMY BERRY, Attorney at Law, 236 Washington Avenue, Marietta, GA 30060, counsel for the defendant, by:

[] personal service; or by

placing a copy in the United States mail in a properly addressed envelope with adequate postage thereon.

This 26 day of May, 2006


JACK E. MALLARD
Special Ass't. District Attorney
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The State has offered disclosure to counsel for defendant of the state's files by letter filed in this Court March 30, 2006, and subsequently by telephone conversation on April 13, 2006. Early disclosure by both sides will enhance the search for the truth. Compare: *United States v. Roman*, 376 F.Supp.2d 108 (2005), wherein the Court in a federal death penalty prosecution observed that "[A]ccelerating disclosure of a particular defense does not violate a defendant's constitutional rights, because a criminal trial is not a poker game in which players enjoy an absolute right always to conceal their cards until played" [13], that "[N]othing in the Fifth Amendment privilege entitles a defendant as a matter of constitutional right to await the end of the State's case before announcing the nature of his defense, any more than it entitles him to await the jury's verdict on the State's case-in-chief before deciding whether or not to take the stand himself" [cit.] [12 and that "[W]hile disclosure of mitigation experts by a capital defendant should be made as early as is reasonably possible, there may be circumstances justifying a deferral, instead calling for a continuance to allow the government time to prepare its rebuttal" [15]. State courts have likewise observed that defendant is not entitled to ambush the State on issues of expert opinion. See *Sears v. State*, 262 Ga. 805, 807 (5)(1993); *Bright v. State*, 265 Ga. 265 (1995)(mental health experts - extended to penalty phase of trial), and *Abernathy v. State*, 265 Ga. 754 (1995), where the court agreed with the State that the ten (10) days notice requirement under USCR 31.1 may not be adequate in some cases and that under O.C.G.A. 17-7-130.1 the defendant must cooperate with the court appointed expert in time for the State to adequately prepare its evidence.

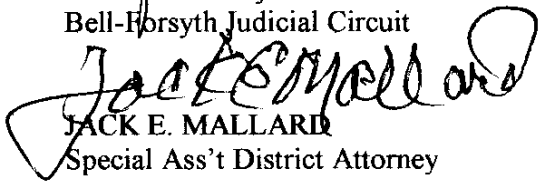
WHEREFORE, the State moves the Court order compliance with the above cited reciprocal discovery statute to require disclosure at the earliest time possible, at and within 10 days after compliance by the State for the case-in-chief and rebuttal, and otherwise at sentencing phase within the time provided by OCGA 17-16-4(b), as amended.

Respectfully submitted,



PENNY A. PENN

District Attorney
Bell-Forsyth Judicial Circuit



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