

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

IN THE COURT OF GENERAL SESSIONS
FIFTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,)
)
v.)
)
Calvin Solomon Barr,)
)

**NOTICE AND MOTION FOR
PRODUCTION OF EVIDENCE,
DISCLOSURE OF WITNESSES, AND
REQUEST FOR A SPEEDY TRIAL**

RECEIVED

JUN 27 2016

SC Court of Appeals

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JUN 27 2016
Horry County

WARRANT(S): 2014A2620601785 (Poss of other sub. in sch. I, II, III, WITD)
,2014A2620601786-7 (MDP, Narcotic drugs in Sch I, LSD & Sched, II 2nd)

TO: David Caraker, Assistant Solicitor for the Horry County Solicitor's Office

YOU WILL PLEASE TAKE NOTICE that unless the prosecution responds to the Defendant's request for disclosure within 30 days, or within such time as may be ordered by the Court, counsel for the defendant will move this court for an Order compelling that the State:

1. Make available any and all statements by the Defendant, whether oral or written; if written, whether signed or unsigned;
2. Make available any and all handwritten or recorded statements made by any person to the Solicitor's Office, Grand Jury or any law enforcement agency in connection with this case;
3. Make available any and all tape recordings, audio and/or video, made by or of any Defendant, witness or any other person in connection with this case. If these tape recordings have been transcribed, then a copy of the transcribed conversation is also requested.
4. Make available any and all investigation reports, information or material which tends to establish the Defendant's innocence, to mitigate punishment, or to impeach, discredit, or contradict the testimony of any witness whom the State will or may call to trial. *S.Ct. 793 (1967); Napue v. Illinois, 360d U.S. 264, 79 S.Ct 1173 (1959); Giglio v. U.S., supra.*
5. Provide the names and addresses of all witnesses interviewed by the Solicitor's Office or any other law enforcement agency who might establish the Defendant's innocence, mitigate punishment, or impeach, discredit, or contradict the testimony of any witness of the State whether or not the witness may testify at trial.
6. Make available any and all handwritten notes made by police or other investigating officers of their interview(s) or conversation(s) with any Defendant or any other witness;
7. Make available any and any and all photographs either taken by or within the care, custody, and/or control of the prosecution, law enforcement, and/or any agents thereof

- including, but not limited to photographs taken of the Defendant on any portion of his/her body, photographs taken at the scene of the alleged crime; photographs taken of the alleged victim or any prosecuting witness, photographs that have been exhibited to any person for the purpose of establishing the identity of the perpetrator of the crime charged and the name and current address of the person or persons to whom the photographs were shown.
8. Make available any and all scientific or medical reports which tend to establish the Defendant's innocence, to mitigate punishment, or to impeach, discredit, or contradict the testimony of any witness whom the State will or may call at trial. *Ashley v. Texas*, 319 F.2d 80 (5th Cir.), cert. Denied, 375 U.S. 931, 84 S.Ct. 331 (1963). This request shall include any reports by the State Law Enforcement Division (SLED) criminalistics laboratory, Federal Bureau of Investigation laboratories, Court Sheriff's Department laboratory or any other law enforcement laboratory concerning an examination made by said laboratories and/or personnel thereof, of any physical, photographic, oral or written evidence concerning the investigation of this case.
 9. Make available any and all reports from the State Law Enforcement Division (SLED), Sheriff's Department, or any other law enforcement agency, including the Federal Bureau of Investigation, concerning fingerprints checked in connection with this case.
 10. Make available any and all records of arrests or criminal convictions of the Defendant or any other co-Defendant and all state's witnesses in relation to this case. *Giglio v. U.S.*, *supra*.
 11. Make available any and all "inconsistent" statements made by a particular witness or between the witnesses, whether written or oral, that is known to the Solicitor's Office or any other law enforcement agency.
 12. Make available any and all statement(s) or admission(s) by any witness for or on behalf of the State with respect to the witness' memory or loss thereof.
 13. Indicate whether or not any witness called before the Grand Jury who has or will give testimony to any investigative agency or at trial has ever been psychiatrically hospitalized or undergone psychiatric treatment, examination, mental status examination or care, and if so, a list of names and addresses of the psychiatrists, hospitals and copies of any and all relevant records and reports.
 14. Make available any and all notes or memoranda by psychiatrists or other mental health examiners regarding any conversation(s) and/or contact(s) with the Defendant.
 15. Make available any and all plea offers, promises, rewards, reductions, dismissals, or agreements not to bring criminal charges or any other inducements made to any witness

- herein, whether or not they have testified before any State or Federal Grand Jury, or other investigative agency, and regardless of whether or not they will testify at trial.
16. Make available any and all offers or grants of immunity to any witness from loss of property, fine, forfeiture, prosecution or punishment in this case or any other case, related or otherwise.
 17. Make available any and all memoranda, reports and correspondence to and/or from the various law enforcement agencies regarding or in any way connected to the investigation herein.
 18. Make available any and all physical or tangible items in the possession, custody or control of which could reasonably be brought within the possession, custody or control of the Solicitor's Office, State, Federal or local law enforcement agency.
 19. Make any chemist, analyst, and all person(s) within the chain of custody appear in Court for the purposes of personally testifying. Attorney for the Defendant thus objects to the introduction of any chemist's or analyst's report pursuant to Rule 6, SCRCrimP.

Further, Defendant contends that this Court should specifically direct the Prosecution, in the spirit of fairness and equity, to seek and produce for the Defendant the documents, letters, records, and other items sought, irrespective of the State's determination of whether a witness' statement or a particular letter or exhibit can "help" the Defendant. The Defendant and his attorney, not the Solicitor, should be the judge of this defense and the documents relevant thereto and necessary in support of same. To the extent the Defendant is specifically required to demonstrate the materiality of the requested information, the Defendant submits that this requirement is satisfied in this motion. *United States v. Agurs*, 427 U.S. 97 (1976).

Recognizing that *Brady v. Maryland*, *supra*, and other authorities cited require that information favorable to the Defendant be made available, and further recognizing that a genuine disagreement may arise as to whether or not a particular item of evidence is favorable, it will be requested that the Court provide for an in camera inspection of the items sought to be discovered should you feel such items are not favorable to the Defendant. By permitting the Court to examine the items requested, the legitimate interests of the State will be protected in that no disclosure in excess of *Brady, et al* will occur. Further will be requested of the Court that said Order will be a continuing one, and if, prior to or during trial, the prosecution discovers additional evidence or material requested, the prosecution is hereby requested promptly to notify counsel for the Defendant of the existence of the additional evidence or material.

This information is requested pursuant to Rule 5 of the South Carolina Rules of Criminal Procedure. This information is further requested pursuant to *Brady vs. Maryland* 373 U.S. 383,

10 L. Ed. 2d 215, 83 S. Ct. 1194 (1963), U.S. vs. Agurs, 427 U.S. 97, 49 L Ed 2nd 342, 96 S. Ct. 2392 1976, State vs. Mixon 274 S.E. 2nd 406 (1981). Further this information is requested on the grounds that it is essential to insure the Defendant's right to a fair trial, the right to confrontation of witnesses, the right to effective Counsel and due process of law guaranteed by the South Carolina Constitution, and the United States Constitution.

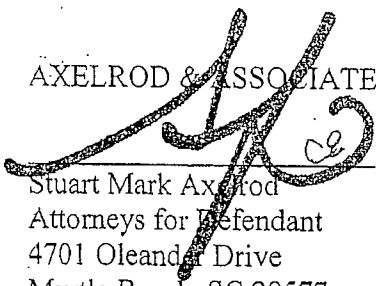
ADDITIONALLY DEFENDANT REQUESTS A SPEEDY TRIAL:

Defendant hereby demands that he be indicted and tried during the next term of General Sessions Court in this County pursuant to his right to a speedy trial under the United States and the South Carolina Constitutions and Under S.C. Code Ann. 17-23-90 (1976, as amended). Pursuant to 17-23-90 the Defendant requests that if the defendant "shall not be indicted and tried the second term after his commitment...he shall be discharged from his imprisonment."

WHEREFORE, Defendant prays:

1. That the Prosecuting Authority be Ordered to produce all information described herein and allow the Defendant the right to examine, inspect, copy and photograph, such materials and information at a specific time and place to be fixed by the Court.
2. That the information be provided no later than 30 days from the date of this request.
3. That the Court enter an Order requiring the Prosecuting Authority to make continuing disclosure of all matters presently within their possession and knowledge concerning the matter set forth in this Motion and to make such Order requiring a continuing disclosure of all matters requested herein up to the trial of the charges against the Defendant(s).
4. That he be afforded his right to a speedy trial as requested.

AXELROD & ASSOCIATES, P.A.


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Attorneys for Defendant
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Fax: (843) 848-6723

Myrtle Beach, South Carolina
October 8, 2014

AXELROD & ASSOCIATES, P.A.

Attorneys and Counselors at Law

"Success is all that matters"

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SC Court of Appeals

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*Currently on Active Military Leave

October 8, 2014

Honorable Melanie Huggins-Ward
Clerk of Court for Horry County
PO Box 677
Conway, SC 29528

Re: The State of South Carolina v. Calvin Solomon Barr
Warrant(s) 2014A2620601785 (Poss of other sub. in sch. I, II, III, WITD)
,2014A2620601786-7 (MDP, Narcotic drugs in Sch I, LSD & Sched, II 2nd)

Dear Madame Clerk:

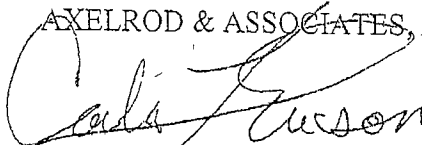
Please be advised that this office has been retained to represent Calvin Solomon Barr on the above listed charge(s) presently pending in General Sessions court.

I have enclosed for filing the original and one (1) copy of a *Notice of Appearance and Defendant's Notice and Motion for Production of Evidence, Disclosure of Witnesses, and Request for Speedy Trial* along with a *Certificate of Service* evidencing this Motion has been properly served upon the Prosecution. Kindly file the originals and return a clocked copy of each in the enclosed self-addressed, stamped envelope.

With kind regards, I am

Truly yours,

AXELROD & ASSOCIATES, P.A.



Carla L. Ericson, Legal Assistant
Criminal Defense Division

Enc

cc: David Caraker, Horry County Solicitor's Office

CLERK OF COURT
HORRY COUNTY
OCT 9 2 05 PM
Clerk