

Filed in District Court
State of Minnesota

APR 22 2022

STATE OF MINNESOTA
COUNTY OF WASHINGTON

DISTRICT COURT
TENTH JUDICIAL DISTRICT

Stephen Carl Allwine,
Petitioner,

Court File No: 82-CR-17-242

vs.

MOTION FOR
RECONSIDERATION

State of Minnesota,
Respondant.

On April 13, 2022, Petitioner received the Order Denying Discovery Motions which was filed in this Court on April 7, 2022. As part of the Conclusions of Law the court quotes State v. Thompson, 170 N.W.2d 101, 104 (Minn. 1969) "Postconviction 'procedures were not devised to permit parties to engage in legal games or to permit a Petitioner to embark upon unlimited and undefined discovery proceeding.'" However, in this case the request was neither unlimited nor undefined.

The prosecutor has a duty to search for the truth (Strickler v. Greene, 527 U.S. 263, 281) and yet the State upon seeing arguments of merit are attempting to obscure the truth. Previously they provided "full discovery" to appellate counsel; however, now that specific Brady violations have been brought to light and specifically requested, the State is refusing to provide discovery that should have been provided pre-trial. In refusing to comply they are continuing to violate the Brady requirements. The Court is suggesting that Brady is not controlling due to District Attorney's Office for Third Judicial District v. Osborne, 557 U.S. 52, 68-69 (2009). The evidence that is being requested is not post-trial evidence, but pre-trial evidence that was improperly withheld by the State (or State actors), so Brady is still controlling. State v. Glidden, 459 N.W.2d 136, 138 holds that the Brady rule

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is embodied in Minn. R. Crim. Proc. 9.01. Since the initial pre-trial discovery was made pursuant to Minn. R. Crim. Proc. 9.01, the State is still bound by Brady.

- Trail cam images from 11/13/16 - These were collected and documented by Det. Raymond prior to the trial (postconviction petition exhibit D, pages 15 and 39). These were never provided to Defense counsel during pre-trial discovery. They are material because they provide date and time stamped evidence of the eyewitness across the street who saw Mrs. Allwine alive over an hour after the claims that she was dead.
- Hard copy of emails between Mrs. Allwine and FBI agents - Mrs. Allwine's laptop was collected prior to trial under the Search Warrant executed on the Allwines' home (postconviction petition exhibit K). These were never provided to Defense counsel during pre-trial discovery. These emails are material as impeachment evidence against the State's computer expert (Mark Lanterman). The FBI had analyzed the anonymous emails sent to Mrs. Allwine in July and determined that they were not sent by GuerrillaMail. Yet Mr. Lanterman claimed that they were and opined to the jury that they were sent by the Petitioner. The FBI analysis demonstrated that the Petitioner did not send these anonymous emails. They also provide evidence directly from Mrs. Allwine that she believed Ms. Elmquist was dogdaygod, directly contradicting the State's theory.
- The SuperAmerica surveillance video from 11/13/16 - The State referenced this video during trial to claim that the Petitioner's alibi was a lie. This video was never provided to Defense counsel prior to trial to give him the opportunity to challenge this claim and explain the disparity to the jury.
- Besa Mafia emails from 4/22/16 to 5/20/16 - All Besa Mafia emails were collected by the FBI (a State actor). The emails provided to Defense

counsel ended on 4/22/16 (Trial exhibit 85); however, additional emails were provided to journalists (i.e. Eileen Ormsby). The State purposely withheld additional emails that provide more evidence that Ms. Elmquist is dogdaygod, and provides additional Bitcoin addresses.

- Photos missing from Postconviction petition exhibit C - During the Grand Jury testimony Ms. Garfield testified that there was no luminol reactions around the kitchen island and kitchen sink (Grand Jury Transcript, pg. 155). Exhibit C is a list of photos that were provided to counsel. The photos referenced during the Grand Jury are missing from this exhibit demonstrating that they were never provided to Defense counsel. Since the State claims the Petitioner cleaned the scene, any photos contradicting that claim are material to show the Petitioner's innocence.
- Subpoena duces tecum for documents from Computer Forensic Services (CFS)- This information was all available prior to trial and was suppressed by the State.
 - The Petitioner's Bitcoin address from his Samsung Galaxy phone in combination with the Bitcoin ledgers requested by the Petitioner would prove that Petitioner did not send funds to Besa Mafia, a key argument by the State.
 - The list of cases where Mr. Lanterman qualified as an expert would impeach his trial testimony. For his trial testimony to be accurate, he would have had to qualify as an expert more than twice per day during 2017. The jury should have had the information that he is prone to lie and inflate his own position, in order to properly judge his credibility.
 - Mrs. Allwine's Outlook calendar and text messages will show Ms. Elmquist reduced contact with Mrs. Allwine when dogdaygod indicated

that she was reducing contact with Mrs. Allwine to minimize suspicion. They will also show that interactions deliberately increased again in the month just prior to Mrs. Allwine's death. This lends credence to the fact that Ms. Elmquist is in fact dogdaygod and not the Petitioner, as suggested by the State.

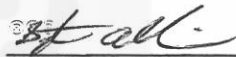
- Subpoena duces tecum for documents from Pets R Inn and 4 Love of Dogs - These documents are records that existed prior to trial. They demonstrate that Mrs. Allwine was fearful of Ms. Elmquist, and provide evidence that Mrs. Allwine believed that Ms. Elmquist was dogdaygod. This directly contradicts the State's theory of the case.
- Subpoena duces tecum for documents from Ramsey County Medical Examiner's Office - Jonathan Banks was the investigator that initially examined Mrs. Allwine. He documented his findings in the notes that Dr. Mills referenced in her time of death determination. The Medical Examiners are State actors and are therefore still controlled by Brady. These notes were never provided to Defense counsel. Since the Defense put forward an alibi defense and documentation related to time of death is material, and may have changed the outcome of the trial.

In Turner v. United States, 137 S. Ct. 1885 and Banks v. Dretke, 540 U.S. 668 discovery was provided to Petitioners post-trial. Discovery was also provided to appellate counsel post-trial. Osborne holds that the Petitioner has a "liberty interest" by way of the State's postconviction process. Denial of discovery to Petitioner, just because he is filing in pro se, is a violation of fundamental fairness and justice and is contrary to the liberty interest of the Petitioner.

Petitioner request that the Court reconsider its order regarding the subpoenas duces tecum and the order allowing the State to withhold needed discovery requested by the Petitioner.

Dated this 17th day of April, 2022

Respectfully Submitted,



Stephen Allwine (in pro se)

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