

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT
CRIMINAL COURT DIVISION

State of Minnesota,

Court File No: 62-CR-15-4175

Plaintiff,

**DEFENDANT'S MOTION FOR
DISCOVERY**

vs.

The Archdiocese of Saint Paul and Minneapolis,
a Minnesota Corporation
226 Summit Avenue
Saint Paul, MN 55102,

Defendant.

Defendant, The Archdiocese of Saint Paul and Minneapolis (the "Archdiocese Corporation"), through its undersigned attorneys, hereby moves the Court for an Order requiring the prosecution to make a complete disclosure coextensive with Minnesota Rules of Criminal Procedure 9.01, 9.02, and 9.03, including, but not limited to, the following:

- a. Disclosure of names and addresses of witnesses who may be called at trial, along with their record of conviction. Minn. R. Crim. P. 9.01, subd. 1(1)(a). Also, disclosure of the names and addresses of persons having information relevant to the case. Minn. R. Crim. P. 9.01, subd. 1(1)(b).
- b. Disclosure, inspection, and reproduction of written or recorded statements, written summaries of oral statements, and the substance of oral statements that relate to the case. Minn. R. Crim. P. 9.01, subd. 1(2).
- c. Disclosure, inspection, and reproduction of books, papers, documents, photographs, law enforcement officer, reports, the location of buildings and places, and tangible objects which relate to the case. Minn. R. Crim. P. 9.01, subd. 1(3).
- d. Disclosure, inspection, and reproduction of any results or reports of physical or mental examinations, scientific tests, experiments, or

comparisons made in connection with or that relate to this case. Minn. R. Crim. P. 9.01, subd. 1(4)(a).

- e. Provide the Archdiocese Corporation with the opportunity to conduct reasonable tests and experiments. Minn. R. Crim. P. 9.01, subd. 1(4)(b).
- f. Disclosure of a written summary of the subject matter of any expert's testimony, along with any findings, opinions, or conclusions the expert will give, the basis for them, the expert's qualifications and any results or reports the expert created in connection with this case. Minn. R. Crim. P. 9.01, subd. 1(4)(c).
- g. Disclosure of the records of prior convictions of the Archdiocese Corporation and of any defense witnesses. Minn. R. Crim. P. 9.01, subd. 1(5). The Archdiocese Corporation hereby requests immediate notice of any intent by the prosecution to impeach the Archdiocese Corporation or any defense witnesses with evidence of prior convictions. *State v. Wenberg*, 289 N.W.2d 503 (Minn. 1980).
- h. Disclosure of any material or information within the prosecuting attorney's possession and control that is favorable to the defense or tends to negate or reduce the Archdiocese Corporation's guilt. Minn. R. Crim. P. 9.01, subd. 1(6); *Brady v. Maryland*, 373 U.S. 83 (1963); *United States v. Agurs*, 427 U.S. 97 (1976); *State v. Zeimet*, 310 N.W.2d 552, 553 (Minn. 1981), *appeal after remand*, 348 N.W.2d 338 (1984). Impeachment evidence can be favorable to an accused; thus, evidence that would be helpful to the defense in cross-examination, as well as exculpatory evidence, falls within the *Brady* rule requiring disclosure. *United States v. Babley*, 473 U.S. 667 (1985); *State v. White*, 300 N.W.2d 176 (Minn. 1980); *State v. Jackson*, 346 N.W.2d 634 (Minn. 1984).
- i. Disclosure of any material or information that the prosecution may rely on in seeking an aggravated sentence. Minn. R. Crim. P. 9.01, subd. 1(7).
- j. Disclosure of interview notes taken by prosecution or police and other law enforcement investigators during interviews of witnesses. *State v. Galvan*, 374 N.W.2d 269 (Minn. 1985).
- k. Disclosure of any additional material, information, or witnesses subject to disclosure made known to the prosecutor, members of the prosecutor's staff, or participants in the investigation subsequent to compliance with any discovery rules, order, or defense request. Minn. R. Crim. P. 9.03, subd. 2; *State v. Dye*, 371 N.W.2d 47 (Minn. Ct. App. 1985) (establishing continuing duty to disclose).

- l. Disclosure of any additional information within the purview of Rule 9 or within the spirit of the discovery rules to provide the most complete discovery possible including, but not limited to, disclosure of the fact that interviews were not transcribed nor written statements or written summaries prepared. *See State v. Schwantes*, 314 N.W.2d 243 (Minn. 1982); *State v. Crawford*, 394 N.W.2d 189 (Minn. Ct. App. 1986). The Archdiocese Corporation hereby requests that the prosecution not purposely avoid discovery by failing to record statements made by witnesses.

- m. For an order requiring the prosecution to comply with its continuing obligation to provide complete discovery, should any new documentation be added to its file. Minn. R. Crim. P. 9.01, subd. 1.

The Archdiocese Corporation's motion for a discovery Order is supported by the procedural rules and case law cited above and by the arguments of counsel to be made at the Omnibus Hearing.

Dated: January 29, 2016

Respectfully submitted,



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