

IN THE CIRCUIT COURT OF LONOKE COUNTY, ARKANSAS

STATE OF ARKANSAS

PLAINTIFF

VS.

NO. CR 97-9

HEATH STOCKS

DEFENDANT

MOTION TO COMPEL COMPLIANCE WITH DISCOVERY


Comes the defendant, Heath Stocks, by and through his attorneys, pursuant to the Arkansas Rules of Criminal Procedure, and for his motion states the following:

1. The defendant filed a Motion for Disclosure to Defendant on January 21, 1997. That motion specifically requested discovery and disclosure of, among other things, "Any written or recorded statements and the substance of any oral statements made by the defendant. . . ."
2. On February 10, 1997, defense counsel was informed by Marla Gergely of the Arkansas State Hospital that defendant Stocks had been admitted to that facility for court-ordered evaluation on February 7, 1997. It was later learned by defense counsel that the Arkansas State Hospital had been provided with a thirty-nine (39) page "partial file" on February 4, 1997. Included in that "partial file" was a statement taken by Mark Hollingsworth of the Arkansas State Police from defendant Stocks on January 18, 1997 from 7:08 p.m. until 7:29 p.m., and an affidavit sworn by Mark Hollingsworth supporting the issuance of an arrest warrant for defendant Stocks.
3. As of February 10, 1997, defense counsel still had not been provided with a "file" from the Prosecuting Attorney's office, partial or otherwise. When defense counsel called Mr. Cook to again request discovery, counsel was informed by Cook that he was in the process of compiling and numbering a file to be provided to defense counsel.
4. On February 11, 1997, defense counsel personally retrieved the case file from the

Prosecuting Attorney's office in Lonoke, Arkansas. The twenty-seven (27) page file received from the prosecuting attorney did not contain the statement taken by Hollingsworth on the evening of January 18, 1997 or the affidavit supporting reasonable cause, even though the State Hospital had been provided with both of those items on February 4, 1997.


5. The statement omitted from defense counsel's file is of particular importance, as it is a statement made by the defendant in this case to a State Police investigator. The affidavit supporting reasonable cause to arrest defendant Stocks is also particularly important as it provides the foundation and reasoning of the State's case against defendant. Both of these items are clearly discoverable under Rules 17.1 et. al. of the Arkansas Rules of Criminal Procedure.

WHEREFORE, defendant Stocks respectfully moves that this Court order the Prosecuting Attorney to immediately provide full and complete discovery to the defendant, and that this Court stay all further proceedings until defense counsel has received a complete file of all properly discoverable information in the possession of the Prosecutor or his agents.

Respectfully Submitted,

Mac J. Carder, Jr.
Attorney for Defendant
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CERTIFICATE OF SERVICE

I, Mac J. Carder, Jr., hereby certify that a true and correct copy of the foregoing motion has been delivered to Larry Cook, Prosecuting Attorney, at P.O. Box 423, Lonoke, Arkansas 72086 and by facsimile, on this 12 day of February, 1997.



Mac J. Carder, Jr.