

IN THE CIRCUIT COURT OF LONOKE COUNTY, ARKANSAS

STATE OF ARKANSAS

PLAINTIFF

VS.

No. CR 97-9

HEATH STOCKS

DEFENDANT

SUPPLEMENTAL MOTION FOR DISCOVERY AND DISCLOSURE

Defendant, by and through counsel, respectfully moves this Court pursuant to the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, the Constitution of Arkansas, and A.R.Cr.P., Rules 17.1, 17.2, 17.3, 19.1, 19.2, and 19.6 to require the prosecutor to disclose to counsel for the defendant, and to permit him to inspect, copy, test, and photograph any evidence within the possession or control of the State and its agents that is inculpatory, exculpatory, mitigating, aggravating, or otherwise subject to disclosure and discovery as a matter of law, including, but not limited to:

1. All statements, written or oral, made by this defendant to any person, at any time, before or after defendant's arrest in this case, including the name and address of the person[s] to whom the statement[s] was [were] made, including but not limited to those relevant to:

- (a) the crime;
- (b) the investigation of that crime; and
- (c) any condition of the defendant, including but not limited to Defendant's mental or physical state:
 - (i) at the time of the alleged crime;
 - (ii) at the time of any statements of the defendant described in paragraphs 1(a) through 1(c) above;
 - (iii) at any other time subsequent to the alleged crime.

2. All statements, written or oral, made by any of the co-defendants or co-conspirators to any person, at the time of or subsequent to their arrests in this case, including the name and address of the person[s] to whom the statement[s] was [were] made, including but not limited to those relevant to:

- (a) the alleged crime;
- (b) the investigation of that crime; and
- (c) any conditions of the co-defendants or co-conspirators including but not limited to their mental or physical state:
 - (i) at the time of the alleged crime;
 - (ii) at the time of any of the statements described in paragraphs 1 (a) through 1 (c) above;
 - (iii) at any other time subsequent to the alleged crime.

3. The names and addresses of all persons the prosecution proposes to offer as witnesses at the trial or any hearing of this case, and any persons with knowledge of any facts and circumstances surrounding the crime or the defendant.

4. The names and addresses of all persons who have given recorded statements to the prosecution or any law enforcement officer.

5. The names and addresses of all persons who have given oral statements to the prosecution or any law enforcement officer.

6. Copies of all written and/or oral statements referred to in paragraphs 4 or 5 above, including memoranda, summaries or recordings of such statements, as well as grand jury testimony or statements taken pursuant to the prosecutor's subpoena power.

7. All memoranda, documents, and reports to, from and between law enforcement

officers connected with the subject matter of this case.

8. All memoranda, documents and reports to, from and between the investigative staff of the prosecution, excluding those portions, if any, which contain the opinions, theories, or conclusions of the prosecuting attorney or members of his legal staff.

9. The criminal records and any list or summary reflecting criminal records of all persons whom the prosecution intends to call as a witness at trial.

10. All evidence in the prosecutor's possession or available to the prosecution which is favorable to the defendant on the issue of guilt, including but not limited to:

- (a) Unfavorable evidence with respect to prosecution witnesses;
- (b) Unfavorable evidence respecting any co-defendant or co-conspirator;
- (c) Any and all evidence, letters, memoranda or other material of any nature disclosing bias and/or prejudice or prejudgment by citizens of this County against the defendant and/or his co-defendants or co-conspirator, and the identity of the persons making statements indicating such views;
- (d) Any and all other information respecting any prosecution witness which is favorable to the defendant on the issue of guilt;
- (e) Statements made by any persons which are exculpatory with respect to the defendant, including all statements made by prospective prosecution witnesses.

11. All evidence in the prosecution's possession or available to the prosecution which is favorable to the defendant on the issue of punishment, including but not limited to evidence disclosing:

- (a) the defendant has no significant history of prior criminal activity;
- (b) the offense was committed while the defendant was under the influence of

- extreme emotional or mental disturbance;
- (c) the victim was a participant in the defendant's conduct;
- (d) the defendant was an accomplice and participation was relatively minor;
- (e) the defendant acted under extreme duress or under substantial domination of another person;
- (f) the capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired; and
- (g) partial or total negation of any evidence offered by the State in support of any alleged aggravating circumstance.

12. All physical or documentary evidence, including diagrams, sketches, books, papers, documents, photographs, or tangible objects in the possession of the prosecution that:

- (a) were obtained from or belong to the defendant or any of his co-defendants or co-conspirators;
- (b) the prosecution intends to offer at any trial or hearing of this case;
- (c) the prosecution is retaining for potential use in evidence at any trial or hearing in this case;
- (d) any law enforcement official is retaining for potential use in evidence at any trial or hearing in this case;
- (e) the prosecution or any law enforcement official has submitted to any professional personnel for examination or analysis in connection with this case.

13. All diagrams, sketches and photographs which have been made by or shown to any witnesses or prospective witnesses in this case, as well as the identity of each witness to whom this material was shown.

14. All records and reports of every kind reflecting the conduct or results of any medical, pathological, toxicological, chemical, biochemical, criminalistic, laboratory, forensic or scientific examinations, investigations and analysis undertaken in connection with the investigation or preparation of this case.

15. All records and reports relating to the Defendant, including:

- (a) all juvenile detention, jail, prison, parole, probation and presentence investigation records;
- (b) all arrest, conviction, and adult and juvenile criminal offense records;
- (c) all records of any law enforcement authority;
- (d) all records of any detention or court authority;
- (e) the prosecution or any law enforcement official has submitted to any professional personnel for examination or analysis in connection with this case.

16. All records and reports relating to any witness, including:

- (a) all juvenile detention, jail, prison, parole, probation, and pre-sentence investigation records;
- (b) all arrest, conviction, and adult and juvenile criminal offense records;
- (c) all records of any law enforcement authority;
- (d) all records of any detention or court authority;
- (e) all records of any prosecuting authority;
- (f) all psychiatric, psychological and mental health records;
- (g) all education records;
- (h) all records and reports.

17. A statement as to whether the prosecution will rely on priors acts or convictions of a

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similar nature, for proof of knowledge or intent, including a description of each act or conviction to be relied upon, if any.

18. A list of all expert witnesses the prosecution intends to call at trial, along with each expert's qualifications, the subject and a description of his or her contemplated testimony, and his or her report.

19. A statement as to whether the prosecution will use felony convictions for impeachment of the defendant if he testifies, along with the date of the conviction and a description of each offense, if any.

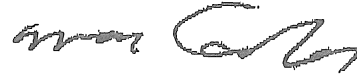
20. Any other evidence of any aspect of the defendant's character and record or the circumstances of the crime that may call for a sentence of less than death.

21. Any other evidence that is probative of a negative answer to one or more of the aggravating circumstances in the sentencing phase. See Ark. Code Ann. § 5-4-604.

22. Any other evidence of the circumstances of the crime or the character and record of another party to the crime that would tend to show that the other party was more culpable, more dominant or more dangerous than the defendant.

WHEREFORE, the defendant respectfully requests that this Court enter an Order requiring the prosecution to produce the aforementioned materials in sufficient time for the defendant to use them in the preparation of his defense, or, in the alternative, to order their production for inspection *in camera* to determine whether disclosure is required by law, and for all other discovery and disclosure to which defendant is entitled as a matter of law or entitled to as proper.


Respectfully Submitted,



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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.