

7086

124TH DISTRICT COURT and 188TH DISTRICT COURT
STANDING PRE-TRIAL ORDER
FELONY CRIMINAL CASES

FILED
GREGG COUNTY, TEXAS
MAR 02 2011
BY BARBARA BLITSAN, DISTRICT CLERK
DEPUTY

Pre-Trial Disclosure:

As soon as practicable after arraignment of the defendant on the indictment, the State shall make available to or provide defense counsel with:

1. A copy of all recorded statements made by the Defendant in connection with the offense for which the Defendant is charged, including written, audio and/or videotaped statements.
2. A copy of all affidavits used to obtain any search and/or arrest warrants for the Defendant in this case or probable cause affidavits in the event the arrest was without a warrant.
3. Statements of any co-defendants or parties to the offense.
4. All exculpatory statements made by any party or witness to the alleged offense which is in the possession of or within the knowledge of the prosecuting attorney or any of its agents, including any law enforcement agency, whether such statements were written or oral, which might in any manner be material to the guilt or innocence of the Defendant.
5. All law enforcement offense, investigation, and accident reports.

Pre-trial and Trial Discovery:

Prior to the start of jury selection, the State shall produce the following documents and information or make available for inspection to counsel:

1. All **recorded** statements given by third parties which resulted in the issuance of arrest or search warrants, or which resulted in charges being brought against the Defendant including those used before the Grand Jury to obtain an indictment.
2. All written warnings, admonitions, rights or waivers given by the State to the Defendant before the Defendant gave any oral statements, admissions, confessions or testimony.
3. All statements in the possession of the State or within its the knowledge made by any individual in connection with the alleged offense that may tend to exculpate the Defendant.
4. All physical evidence seized from the Defendant by the State, or seized from or provided by witnesses, accomplices, or parties.

5. The prior criminal record of all civilian witnesses whom the State intends to call as witnesses during the trial of this cause against the Defendant, including all arrests and conviction.
6. All documents, objects and tangible things which are in the custody and control of the State or any of the State's agents as a result of the investigation which resulted in charges being brought and which are material evidence in this case as to the Defendant's guilt or innocence or as to punishment, if any.
7. Photographs, videotapes, and audiotapes of all interviews conducted by the State, any agent of the State or Federal Government in relation to the indicted charge.
8. All photographs, videotapes, and audiotapes of the alleged crime or incidents surrounding the alleged crime(s) that depict or purport to depict the Defendant.
9. All medical records, EMT records, nurse's notes, doctor's orders, or any other documents in the State's possession which reflect medical care given to the alleged victim(s) as a result of the alleged offense.
10. A list of the names and contact information of all witnesses the State intends to call at any stage of the trial.
11. The results and reports of all scientific tests, experiments, comparisons, or procedures the State expects to use at trial.
12. The results of any physical or mental examinations of the Defendant and the prosecution witnesses.
13. The criminal record of and pending charges against the alleged victim and any prosecution civilian witnesses and any agreement between the State and such witnesses.

The State and Defense shall provide to the opposing party the name and address of each expert witness that either side intends to use at trial at least 20 days before the day of trial pursuant to Article 39.14 CCP and Rules 702, 703 and 705 of the Texas Rules of Evidence.

Pre-Trial Motions and Settings:

1. No Pre-Trial Motions covering the above listed orders need be filed by the Defense or the State.
2. Any Pre-Trial Motions not covered by the listed orders such as a Motion to Suppress must be filed on or before the 14th day following the Defendant's arraignment unless special permission from the Court has been given. Without special permission and after such time has elapsed without the filing of the Motion, the Motion will be waived or denied.
3. All hearings on the Pre-Trial Motions not covered by these orders must be heard prior to trial at the convenience of the Court or be carried with trial at the discretion of the Court.

Trial Disclosures:

In the interest of avoiding unnecessary delay, and to avoid the necessity of asking for an extended recess to review witness statements and writings used to refresh recollection, the State shall produce by 3:30 p.m. on the day before a witness is scheduled to testify;

1. Any statement of the witness, as that term is defined by Texas Rules of Criminal Evidence Rule 615, whether in final or rough draft.
2. All law enforcement offense, investigation, and accident reports.
3. Any agreement between the State and a co-defendant, accomplice or informant, whether written or oral.

The Defendant shall be required to submit to a fingerprint procedure that is suitable for comparison by an expert to be completed the day prior to the trial of the case or on the day of the trial whichever is requested by the State.

Nothing herein shall preclude the State or the Defendant from seeking modified or additional discovery or to change the time limited for productions.

Standing In Limine Orders:

The prosecutor and defense attorney shall be bound by the Limine Orders set forth below and each shall instruct all their witnesses to refrain from mentioning or asking questions in the presence of the jury on the matters listed below until the attorney first approaches the bench and makes known to the Court, outside the presence and hearing of the jury, that he/she intends to ask a question designed to elicit an answer in violation of this motion, or offer proof or evidence on the same, until the Court has determined its admissibility:

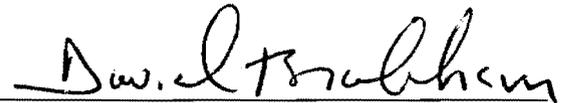
1. A personal opinion as to the guilt of the Defendant or the appropriate punishment upon conviction.
2. That the State has no right to appeal an acquittal in a criminal case.
3. That any person has been offered or taken a polygraph examination.
4. That the defendant has conferred with defense counsel concerning the case.
5. That it is the duty of the prosecutor to seek a conviction of the Defendant (Article 2.01, Texas Code of Criminal Procedure); or that the prosecutor has been trained and skilled in the area seeking convictions; or that the prosecutor's continued employment and/or compensation as an assistant district attorney with the Gregg County District Attorney's Office rests upon obtaining a conviction in this case.
6. Refer to the prosecuting authority or the prosecutor as the "Government" or "Government's attorney." Pursuant to Article 3.02 of the Code of Criminal Procedure, a criminal action is prosecuted in the name of the State of Texas against the accused, and is conducted by some person acting under the authority granted by law. Accordingly, the prosecuting authority should be referred to as the "State of Texas" and the attorney for the State of Texas, as the District Attorney or an "Assistant District Attorney."
7. The Defendant took, or offered to take, a polygraph examination concerning his alleged involvement in the offense charged in the indictment herein.
8. The punishment assessed by jury or court in any co-defendant's case.
9. The terms of any plea agreement in this case, or any co-defendant's case.
10. The Defendant was offered immunity for his testimony.
11. Any of Defendant's co-defendants:
 - a. were found not guilty by a jury;
 - b. had charges against them in this matter dismissed;
 - c. were offered immunity for their testimony;
 - d. are willing to take the polygraph; or
 - e. were given a probated sentence.
12. The general character or reputation of the victim or the Defendant.
13. Any witnesses have any arrests, convictions, or juvenile records.

14. Any act of misconduct on the part of the Defendant or any witness, including the alleged victim in this case, not amounting to a final conviction for a felony or misdemeanor involving moral turpitude.
15. Any evidence concerning the reputation for truth and veracity of a witness.
16. Any evidence concerning the reputation of any witness being peaceable and law abiding.
17. Evidence of previous sexual conduct of the complainant (Rule 412, Texas Rules of Criminal Evidence).
18. There is a pending indictment against one of the State's witnesses. (Article 38.29, C.C.P.).
19. The Defendant has been in jail since the day of the offense; or, conditions of incarceration in county jail prior to trial; or any past, present or future conditions of incarceration in the Institutional Division of the Texas Department of Criminal Justice in the event of conviction and sentence to same, including but not limited to:
 - a. potential sexual abuse of defendant; or,
 - b. potential inmate violence toward defendant.
20. There was prior mistrial in this case.
21. The effect, if any, of any changes in the Penal Code, Code of Criminal Procedure, or any other law, on this particular offense.
22. Any self-serving statements made by the Defendant or co-defendants in writing or orally to any person concerning the allegations in this case.
23. That any person connected with this prosecution:
 - a. signed an affidavit of non-prosecution;
 - b. desired that criminal charges against the Defendant be dismissed; or
 - c. is testifying under threat of being held in contempt of court.
24. That there was a civil matter or is a civil matter and any conclusions resulting from that civil matter or any inferences thereof, arising out of this case.
25. The consequences, if any of a conviction in this case on the Defendant or any member of the Defendant's family regarding citizenship, deportation, the exclusion from admission to this county, or the denial of naturalization under federal law.

Adopted as a Local Rule by the 124th District Court Judge, Alfonso Charles and 188th District Court Judge, David Brabham, on this 25th day of February, 2011.



*Judge Alfonso Charles
124th District Judge*



*Judge David Brabham
188th District Judge*