**MOTION TO DIRECT COMPLIANCE WITH ABA MODEL RULE 3.8**

Defendant, by and through the undersigned counsel, hereby moves this Honorable Court for an order directing the Office of State Attorney to comply with ABA Model Rules of Professional Conduct Rule 3.8 - Special Responsibilities of a Prosecutor for the following grounds:

1. The above rule has been promulgated by the American Bar Association and adopted by 49 States in the United States of America.
2. Rule 3.8 requires prosecutors to disclose at pretrial all evidence that “tends to negate the guilt of the accused or mitigates the offense.” Furthermore, it requires prosecutors to make timely disclosure to the defense of all evidence or information known to the prosecutor that mitigates the offense and, in connection with sentencing, to disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor.
3. The above ethical rule should be considered along with Florida Rule of Criminal Procedure 3.220(b)(4) (Discovery) which states “As soon as practical after the filing of the charging document the prosecutor shall disclose to the defendant any material information within the state’s possession or control that tends to negate the guilt of the defendant as to any offense charged, regardless of whether the defendant has incurred reciprocal discovery obligations.”
4. Defendant is further requesting a continuous obligation to provide such information as it becomes available.
5. The areas being requested for review include:
6. Emails (prosecutor to police, police to prosecutor, state witnesses to police or prosecutor and police or prosecutor to witness, lay and expert)
7. Text messages and instant messages
8. Any messages between officers or officer to station
9. Two-way dispatch messages
10. 911 calls
11. Audio and/or videotapes (including those captured via body cameras or cell phone cameras)
12. Any records stored, sent or received via Dropbox or similar cloud computing or FTP (file transfer protocol) websites
13. All electronic devices including but not limited to computers, laptops, iPads, cellular phones and smart phones that may contain discoverable material relative to the above prosecution
14. All social media accounts that may bear upon the above prosecution including but not limited to Facebook, Google, AOL, Yahoo, Twitter, Instagram, Snapchat and any online cloud backups which may contain information related to this prosecution
15. All handwritten notes of law enforcement officers to be reviewed in camera for Bradymaterial
16. All handwritten or memorialized notes of the prosecutor concerning witness interviews of law enforcement officers, experts and lay witnesses involved in the above prosecution (in camera). Such notes are intended to include but are not limited to investigations and trial preparation of witnesses
17. Any and all medical records including psychiatric and clinical reports that may have relevance to the above prosecution or to any valid defense including those covered by HIPAA (in camera)
18. Any and all electronic devices including cell phones and computers belonging to witnesses listed by the government which may contain Brady material
19. The name and address of any witness known to the prosecution that has given a statement to the prosecution or law enforcement that is contrary to the prosecution’s theory of the case including pre and post interviews conducted during polygraph testing
20. Any favorable treatment of any kind given or offered to any government witness in return for cooperation as well as any favorable treatment, money or anything of value requested by a state witness in return for cooperation
21. Any Facebook postings made by the alleged victim relevant to this case including those that were taken down but can be retrieved by the government
22. All contents of investigative and professional files relative to this prosecution to include notes, memorandum and reports. This also applies to the notes of any witness coordinator.
23. In the event that the prosecuting authority believes the turning over any requested information would be privileged or sensitive in nature, an in camera review by this court could be undertaken to determine whether or not the defense is entitled to receive the withheld information.

WHEREFORE, Defendant moves this Honorable Court for an order directing the Office of State Attorney to comply with ABA Model Rule of Professional Conduct Rule 3.8 as requested above.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that copy of the foregoing was furnished by e-service to Office of State Attorney, on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

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