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FILED  
APP DOCKET NO. CA

2011 OCT 26 3:33

CLERK OF DISTRICT COURT  
18TH JUDICIAL DISTRICT  
SEDGWICK COUNTY, KANSAS

BY CA

IN THE EIGHTEENTH JUDICIAL DISTRICT  
DISTRICT COURT, SEDGWICK COUNTY, KANSAS  
CRIMINAL DEPARTMENT

THE STATE OF KANSAS, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 TERRYBLUM, )  
 )  
 Defendant. )

Case No. 10CR3795

**MOTION FOR DISCOVERY AND DISCLOSURE**  
**OF IMPEACHING INFORMATION**

COMES NOW the Defendant, Terry Blum, by and through his attorney of record, John B. Sullivan and respectfully moves this Court, pursuant to K.S.A. 22-3212 and K.S.A. 22-3213 and the principles of *Brady v. Maryland*, 373 U.S. 83 (1963), *Kyles v. Whitley*, 514 U.S. 419 (1995), and *State v. Humphrey*, 217 Kan. 352 (1975), for entry of an order directing the State forthwith to make inquiry and disclose all of the following within the possession, custody or control of the State and/or law enforcement, or the existence of which is known or, by the exercise of due diligence could become known, to the State.

EXPLANATION OF TERMS: "Witness."

As used in this motion, defense counsel intends that the above term apply to witnesses to be called by the State in its case in chief and to witnesses whom it is reasonably foreseeable may be called as rebuttal witnesses. Defendant intends that "witness," as used herein, include, but not be limited to, the witnesses endorsed on the Complaint.

1. Any and all records and information revealing the prior criminal history – including but not limited to records and information regarding crimes of dishonesty, including arrests, accusations, investigations, diversions, deferred adjudications, convictions, guilty verdicts and/or juvenile adjudications – attributed to each witness called by the State including but not limited to relevant "rap sheets."

2. Any and all records and information revealing prior misconduct or bad acts attributed to the witness, including but not limited to the following:

a. Methadone, drug or alcohol use by the witness including, but not limited to:

i. the names of prescription medications the witness was taking at or about the time he/she witnessed any of the events about which he/she may testify;

ii. the names of prescription medications the witness was taking at or about the time of his/her previous testimony or narration about this case;

iii. the names of alcoholic beverages and/or the names of illegal drugs which the witness was taking at or about the time he/she witnessed any of the events about which he/she may testify;

iv. the names of alcoholic beverages and/or the names of illegal drugs which the witness was taking at or about the time of his/her previous testimony or narration about this case.

b. Any mistakes, lies or half-truths made by the witness or any government agent during the investigation of this Defendant or any other investigation.

3. Any and all consideration or promises of consideration given to or on behalf of the witness or expected or hoped for by the witness. By "consideration," Defendant refers to absolutely anything, whether bargained for or not, which arguably could be of value or use to a witness or to persons of concern to the witness, including but not limited to the following, whether formal or informal, direct or indirect: leniency, favorable treatment or recommendations or other assistance with respect to any pending or potential criminal, parole, probation, pardon, clemency, civil, tax court, court of claims, administrative or other dispute with the State or with any other authority or with any other parties; criminal, civil or tax immunity grants; relief from forfeiture; payments of money, rewards or fees, witness fees and special witness fees, provision of food, clothing, shelter, transportation, legal services or other benefits; placement in a "witness protection program"; informer status of the witness; the witness's expectancy of recovery in any arguably related civil suit; and anything else which arguably could reveal an interest, motive or bias in the witness in favor of the State or against the Defendant or act as an inducement to testify or to color testimony.

4. Any and all threats, express or implied, direct or indirect, or other coercion made or directed against the witness, criminal prosecutions, investigations, or potential prosecutions pending or which could be brought against the witness, any probationary, parole, diversionary, deferred prosecution or custodial status of the witness, and any civil, tax court, court of claims, administrative, or other pending or potential legal disputes or transactions with the State or over which the State has real apparent or perceived influence.

5. The existence and identification of each occasion on which the witness has testified before any court, grand jury, or other tribunal or body or otherwise officially narrated in relation to the Defendant, the investigation, or the facts of this case.

6. Any and all personnel files for any witness who is a cooperating individual or informant witness, the existence and identity of all federal, state and local government files for said witness.

7. Any and all other records and/or information which arguably could be helpful or useful to the defense in impeaching or otherwise detracting from the probative force of the State's evidence or which arguably could lead to such records or information. This request includes, but is not limited to:

a. Any and all records reflecting whether K.B. has been counseled or treated by a psychiatrist, psychologist, social worker, or other counselor, and made statements to him/her about the facts of the present case.

b. Any and all medical records, including any and all logs, inventories, documents, memoranda, papers, notes, field notes, files and/or reports and any and all written, video, photographic or audio recordings relating to K.B. including, but not limited to, the following: all intake forms; all billing or insurance forms, data or entries; all notes, including all notations of telephone conversations, all notes of information obtained from K.B., or others; all notes, writings, drawings or documents produced by K.B.; all notes of information obtained from K.B.; any and all notes reflecting all contact with law enforcement authorities and/or the District Attorney's office; any and all correspondence regarding K.B.; any and all test data and test results; any and all patient examinations, as well as any and all data, notes or information received before said examination, all medical charts, nurse's notes, all laboratory test results, progress notes, reports, including reports prepared by other medical professionals; all discharge summaries; and any of such information as may be contained in any magnetic storage devices (*e.g.* computer hard drives, magnetic tape, floppy disks, and any other such storage media).

c. Any and all mental health records, including any and all logs, inventories, documents, memoranda, papers, notes, field notes, files and/or reports and any and all written, video, photographic or audio recordings relating to K.B., including, but not

limited to the following: all intake forms; all billing or insurance forms, data or entries; all notes of sessions, including notes of supervision, all notations of telephone conversations, all notes of information obtained from Wendy Buchanan, or others; all notes, writings, drawings or documents produced by K.B.; all notes of information obtained from K.B.; any and all notes reflecting all contact with law enforcement authorities and/or the District Attorney's office; any and all correspondence to others about K.B.; any and all testing data, including but not limited to raw test data; any and all client or patient evaluations or interviews, as well as any and all data, notes or information received before said evaluation or interview; all laboratory test results, progress notes, reports, including reports prepared by other therapists, mental health professionals or evaluators; all discharge summaries; and any of such information as may be contained in any magnetic storage devices (*e.g.* computer hard drives, magnetic tape, floppy disks, and any other such storage media).

d. Any and all school records or data received from school officials (including any school counselor or school psychologist) relating to K.B., including any and all logs, inventories, documents, memoranda, papers, notes, field notes, files and/or reports and any and all written, video, photographic or audio recordings relating to K.B., including, but not limited to the following: all notes of sessions, all notes of information obtained from Wendy Buchanan, or others; all notes, writings, drawings or documents produced by K.B.; all notes of information obtained from K.B.; any and all notes reflecting all contact with law enforcement authorities and/or the District Attorney's office; any and all correspondence to others about K.B.; any and all testing data, including but not limited to raw test data; any and all evaluations or interviews, as well as any and all data, notes or information received before said evaluation or interview; and any of such information as may be contained in any magnetic storage devices (*e.g.* computer hard drives, magnetic tape, floppy disks, and any other such storage media).

e. Any and all requests for restitution or victim's compensation made by K.B., or any other person on behalf of K.B., including but not limited to claims made to the Kansas Crime Victims Compensation Board.

8. The same records and information requested in items "1" through "7" above with respect to each non-witness declarant whose statements are offered in evidence.

9. Any and all records, documents, memoranda, papers, notes, field notes, files and/or reports, and any and all written, video, photographic or audio recordings of the Wichita Area

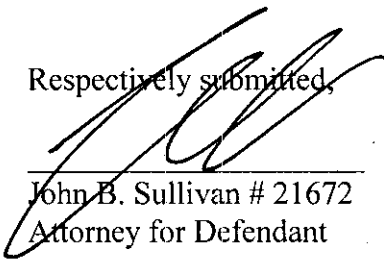
Sexual Assault Center and/or any officer, employee or agent thereof, regarding the above-captioned case, to the extent they contain exculpatory evidence or statements of witnesses.

10. Any information favorable to the Defendant on the issue of guilt.

11. Finally, defense counsel moves for the State to disclose all information, including information concerning other crimes, charged or uncharged, allegedly committed by this Defendant, which information the State may introduce in the trial of this matter, whether in its case in chief, on rebuttal or for impeachment purposes, as relevant to the issues of intent or predisposition of the Defendant to commit the crimes charged in the Complaint or as "res gestae," "discordant relationship," "continuing course of conduct," or for any purpose under K.S.A. 60-455.

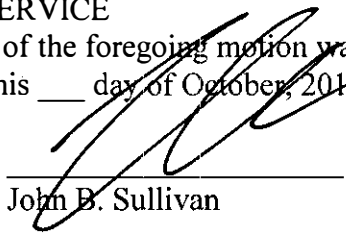
WHEREFORE, for the above and foregoing reasons, as well as any further reasons which may be presented in any further memorandum of law or oral argument on this motion, Defendant Terry Blum prays that the Motion herein be granted.

Respectively submitted,

  
\_\_\_\_\_  
John B. Sullivan # 21672  
Attorney for Defendant

#### CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing motion was hand delivered to the Sedgwick County District Attorney's Office this \_\_\_ day of October, 2011.

  
\_\_\_\_\_  
John B. Sullivan

NOTICE OF HEARING

Please take notice and be advised that Mr. Blum's foregoing Motion will be heard on November 11<sup>th</sup>, 2011 at 9:00 a.m. before the Honorable Judge Wilbert.