

FILED

IN THE DISTRICT COURT OF THE CHEROKEE NATION

2023 MAY -1 PH 3: 22

CHEROKEE NATION,)
)
 Plaintiff,)
 vs.)
)
 CHAD RAYLEE DANDERSON,)
)
 Defendant.)

CHEROKEE NATION
DISTRICT COURT
KRISTI MONCOOYEA
CLERK
Case No. CF-2022-2538
CM-2022-1445
CM-2022-1443
CM-2022-1251

DEFENDANT'S MOTION FOR DISCOVERY

COMES NOW Chad Raylee Danderson, Defendant, by and through attorney of record, Alan Taylor of Palmer Law PLC, and states that counsel for Defendant has scoured the Cherokee Nation Code Annotated for criminal discovery rules; however, the search only led him to 22 CNCA § 19 which states that the Federal Rules of Evidence shall be used. Therefore, Defendant respectfully moves this Honorable Court to order the Attorney General's Office to disclose and produce each and every item of evidence and/or information referenced in the Federal Rules of Criminal Procedure Rule 16 and the Oklahoma Criminal Discovery Code, 22 O.S. § 2001 et. seq., including, but not limited to, the following:

- 1) Any oral, written or recorded statements made by the Defendant to any person, including signed confessions or admissions. See Okla. Stat. tit. 22, § 2002 (A)(1)(c)(2001); Watts v. State, 47 P.2d 981 (Okla. Cr. 1971).
- 2) Oklahoma State Bureau of Investigation, Federal Bureau of Investigation or NCIC rap sheets/records checks on any witnesses listed by the State or possible witnesses who will testify at trial, and any other records of any other law enforcement agency known by or in the possession of the Cherokee Nation. See Okla. Stat. tit. 22, § 2002(A)(1)(g)(2001).
- 3) Any record of any prior criminal conviction of the Defendant, including OSBI, FBI and NCIC rap sheets/records checks, and any other records of any other law enforcement agency known by or in the possession of the Cherokee Nation. See Okla. Stat. tit. 22, § 2002 (A)(1)(f) (2001).
- 4) Notice of other crimes, charged or uncharged, adjudicated or nonadjudicated, including witnesses and evidence of other crimes intended to be admitted against the Defendant under Okla. Stat. tit. 12, § 2404(B) (2001) and Burks v. State, 594 P.2d 771 (Okla. Cr. 1979).
- 5) All agreements between the Cherokee Nation and any of its witnesses reflecting that said witness has or will obtain special or lenient treatment in pending or potential criminal cases in exchange for testimony in this case and any and all consideration or promises of consideration given to any witness by the Cherokee Nation or its attorney, including but not limited to immunity, witness fees, assistance to the witness's family or associates of the witness, assistance to or favorable treatment

in respect to any criminal action, or anything else which could arguably create an interest or bias in a witness in favor of the Cherokee Nation or against the Defendant. *Napue v. Illinois*, 360 U.S. 264, 79 S.Ct. 1173, 3 L.Ed.2d 1217 (1959); *Giglio v. United States*, 405 U.S. 150, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972); *Binsz v. State*, 675 P.2d 448 (Okla.Cr. 1984); *Dodd v. State*, 993 P.2d 778 (Okla.Cr. 2000).

6) Any and all oral, written or recorded statements of any other persons interviewed by the Cherokee Nation or its agents which are inconsistent with that person's earlier statements or which are inconsistent with any statement made by another person interviewed by the Cherokee Nation or its agents, or that is known by the Cherokee Nation or any of its agents, including law enforcement authorities.

7) Copies of all handwritten or transcribed notes of the investigating officers or any other officers wherein the description of the alleged perpetrator and any other suspects was reduced to writing, including but not limited to, the personal notes of any officer receiving any such description, any investigation regarding the suspects, and any other exculpatory assertion, descriptions or comments which may exist in the notes or files. See *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed. 2d 215 (1963).

8) Any and all medical tests performed on the Defendant, or any other suspect connected with this investigation, the results of those tests, any professional personnel participating in the performance of those tests or who witnessed any part of the tests, any and all reports prepared in connection with those tests, and the reasons such tests were conducted on the defendant or any other suspects connected with this investigation. See Okla. Stat. tit. 22, § 2002 (A)(1)(d)(2001).

9) A list of the names, birth dates and addresses of all people interviewed or contacted relative to this investigation, whether or not the State intends to use such people as witnesses and whether these people gave any statements, and their social security numbers if known by the Cherokee Nation.

10) A list of names, addresses, statements, and any investigative reports of any and all law enforcement agencies of any and all persons questioned, interrogated, investigated or suspected of having any involvement in this crime or related crimes. This includes persons who have been interviewed, suspected, implicated, accused, questioned, investigated, booked, arrested, charged, indicated or who have confessed to the alleged crime herein.

11) Copies of any search warrants and search warrant affidavits obtained or issued in this case, as well as search waivers and law enforcement or other reports of searches, regarding the victim, the Defendant, any other suspects, or any other persons involved in this matter. Also, any evidence obtained from those searches.

12) Copies of any arrest warrants and affidavits for arrest warrants obtained or issued in this case regarding the Defendant, and any other suspects, or any other persons involved in this matter. Also, any evidence or statements obtained from those arrests that the Cherokee Nation intends or potentially intends to use against the Defendant.

13) Copies of any and all reports, including diagrams and any other attachments to the reports,

made regarding this crime, the Defendant, and any other suspects, including any and all police reports made by any police departments, Sheriff's office, OSBI or any other law enforcement agency, technical investigation reports, forensic reports, ballistics reports, crime scene reports and reports from any other agency that investigated or participated in the investigation of this incident.

14) Copies of audiotape reflecting the first report of this incident, who took the report, who made the report, date and time of such report; any other such reports, audio or otherwise, made to any law enforcement officials or agencies by lay persons or witnesses who initiated such contact, the date and time those reports were made, who took the reports, who made the reports, and the law enforcement agency that responded to those reports, as well as any follow up reports made by law enforcement officials or agencies regarding such reports.

15) Any and all books, papers, documents, photographs and tangible objects, whether seized legally or illegally, including, but not limited to, any weapons or objects which may be suspected as a weapon, as well as access to buildings, or places owned or controlled by the Cherokee Nation in either its investigation or preparation for trial that were obtained from or belonged to the Defendant, the victim, other suspects or any other person so that the Defendant may inspect, copy, examine, scientifically test, any such documents or tangible documents items.

16) An opportunity to inspect and obtain copies of all prosecution exhibits that are to be introduced at trial, at both stages, including but not limited to photographs taken at the crime scene or elsewhere, autopsy photographs, confessions, finger prints, sketches, maps, charts, videotapes, audiotapes, weapons and clothing.

17) Any and all physical evidence, whether seized legally or illegally, including but not limited to fingerprints, palm prints, hand prints, footprints, shoe prints, tire tracks, blood, saliva, hair, fibers, clothing, DNA processes or analysis, or any other physical evidence taken from the crime scene or scenes or any other location involved in any way in the investigation of this crime, including any and all property belonging to the Defendant which was or is in the custody of the Cherokee Nation.

18) All experts consulted in this matter, their names, addresses, qualifications and credentials, including but not limited to the experts the Cherokee Nation intends to use at trial and whether they are on Cherokee Nation's payroll or have been privately retained by the Cherokee Nation.

19) Copies of any and all reports or statements made by any experts and/or technical investigators, including copies of results from any scientific tests, experiments, or comparisons of fingerprints, instruments, clothing, bodily fluids, weapons, projectiles, or any other items relating to the charge filed against the Defendant. Including, but not limited to, copies of their notes, material relied upon in coming to their conclusions, motions provided by the Cherokee Nation, other reports relied upon by those experts, and any and all relationship or connection those experts may have with the investigation of this alleged crime. *Lambert v. State*, 471 P.2d 935 (Okl.Cr. 1970); *Stafford v. State*, 595 P.2d 797 (Okl.Cr.1979); *McCarty v. State*, 765 P.2d 1215 (Okl.Cr.1988); *Miller v. State*, 809 P.2d 1317 (Okl.Cr.1991).

20) Copies of any and all photographs or negatives, videotapes, drawings, sketches, blueprints or

other representation of the crime scene or any other location involving the investigation and prosecution of this matter.

21) The identity of all persons, including their names, addresses, and telephone numbers, who have given written, recorded or unrecorded statements to the Attorney General's or any law enforcement agency, including, but not limited to, any names retained by the Attorney General's, OSBI, any police department, county sheriff's office or any other law enforcement agency that investigated or participated in any way in the investigation of this crime. In addition, provide copies of all statements made by these persons and to whom they were made as well as a duplicate of any recording made of their statement(s).

22) The identity of all persons who are known or believed by the Attorney General's Office or any law enforcement official to have been present at, or to have observed, the events surrounding the alleged crime, or any event or fact to be proved by the Cherokee Nation at any trial or hearing of the Defendant, as well as copies of written or oral statements made by these persons, if any.

23) Any previous complaints by the victim against the Defendant or any other persons to any law enforcement agency officials or security officers. Further disclose the alleged victim's reputation for violence, if known to any representative of the Cherokee Nation.

24) Whether the alleged victim was under the influence of alcohol and/or any drug at or near the time of the alleged crime, and if so, what was the amount and type of the alcohol and/or drug.

25) Complete, unedited and unredacted copies of any and all reports, notes, examinations and evaluations done by the medical examiner's office of the victim, including but not limited to any photographs taken or descriptions made of the victim's wound or wounds and the persons who made such reports or photographs, the time and place taken and all persons involved in such examination and evaluation of the victim.

26) Any and all information of any medical treatment, first aid or other medical assistance given to the victim. Disclose the identity of the doctor, medical personnel, support staff and emergency technicians involved in the treatment or assistance given to the victim, the name of the hospital where the victim was taken and any and all reports of all treatment or evaluation of the victim by the hospital, emergency staff or any other medical personnel.

27) Any tests performed or examination conducted on the personal body of the victim and the result of each test, the description of the test, all professional personnel or other person participating in such test or who witnessed any part of the test, any and all writings or reports prepared in connection with the test, and the basis for the administration of those medical tests not covered in paragraph (26) of this motion.

28) Whether any information has been supplied to any law enforcement official or agency or the Attorney General's Office in connection with this case by any informant, and if so, the informant's name and whether he/she had participated in and/or observed the alleged crime, his/her juvenile and adult criminal records, including any matters attending, dates, times, places and the kinds of amounts

involved, of any financial, penal or other compensation paid or made to any informant, including any agreements, as described in paragraph (5) of this motion. *Dodd v. State*, 993 P.2d 778 (Okla.Cr.2000).

29) Any and all evidence that tends to negate the guilt of the Defendant as to the alleged crime, or would tend to reduce punishment therefore, including information that could lead to the discovery of such evidence, which evidence or information is in the possession or control of the prosecuting attorney, or any member of his staff or any representative of any law enforcement official or agency, including any person who has participated in the investigation or evaluation of this case who reports either regularly or in this case particularly; this information should include any evidence that establishes or supports any mitigating evidence or tends to negate or rebut any aggravating circumstances offered by the Cherokee Nation.

30) All exculpatory evidence in the form of inconsistent statements made by the Cherokee Nation, including but not limited to contradictory or inconsistent statements made by witnesses, police officers and the Defendant or other suspects, whether they be contradictory to prior statements by that person or contradictory or inconsistent with statements made by others. *United States v. Bagley*, 473 U.S. 667, 105 S.Ct. 3375, 87 L.Ed.2d 481 (1985).

31) The identity of all person who have given information to the Attorney General's Office or member of his staff or to any other person who has participated in the investigation or evaluation of this case, and who either regularly report or with reference to this particular case have reported to the Attorney General's Office which information tends to negate the guilt of the Defendant or would tend to reduce his punishment, including any information that would be evidence or could lead to any evidence of any mitigating circumstances whether it would tend to rebut or discredit evidence intended by the prosecution to establish one or more of the aggravating circumstances alleged in the bill of particulars.

32) All of the material and information within the Attorney General's possession or control, or within the control of any others who either regularly report or, with reference to this particular case, have reported to the Attorney General's office. Okla Stat. tit. 22, § 2002(A)(3) (2001); *Allen v. District Court of Washington County*, 803 P.2d 1165 (Okla.Cr.1990).

33) The Defendant also requests this Court to order the Attorney General's Office, its agents, law officials or agencies to inform all witnesses or person disclosed within the realm of this request that the defense has a right to inquire into their knowledge of this matter and they may answer defense inquiries if they so choose, and to order the Attorney General's Office to refrain from in any way discouraging or hampering the right of the defense to talk with any witness or any other persons disclosed with evidence request.

34) The defense requests the Court to instruct the Cherokee Nation, including the Attorney General's Office or any law enforcement agency or official involved in the investigation, to forthwith disclose to the defense whether or not they have informed any witness or potential witnesses not to discuss this matter with defense attorney or investigators and whether or not any such witness or person has called the Attorney General's Office or a member of the law enforcement agency to inform them that the defendant has requested to talk with these witnesses or attempted to talk with them,

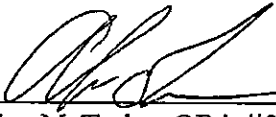
and if so that the Attorney General's Office or law enforcement agency informed the defense what the witness was told by the Cherokee Nation.

35) The Defendant further moves this Court to order the Attorney General's Office to comply with the disclosure and production of the requested information within thirty (30) days from the date of this hearing, to provide copies of requested material, and to honor their continuing duty to promptly disclose any information within the realm of this request or any material exculpatory to the Defendant with due diligence upon learning of same, even during the course of any hearing or trial concerned herein.

36) The Defendant moves this Court to direct the Attorney General's Office, to notify each and every law enforcement officer and any other person involved in the investigation of the crime alleged herein, including, but not limited to any experts, crime lab personnel, or any person involved in the investigation of the crime alleged herein, to file any notes, memorandum, comments, pictures, diagrams, names of persons interviewed and not interviewed, any other suspects or person consulted or otherwise contacted in connection with the investigation of the alleged crime herein with the Attorney General's Office and that such material delivered to the Attorney General's Office will be delivered to the defense if exculpatory or if falling within any request of this discovery motion.

WHEREFORE, Defendant prays for relief as set forth herein, and for such other and further relief that the Court finds fair and equitable.

Respectfully submitted,



Alan M. Taylor, OBA #34351, CNBA #0977
PALMER LAW
101 E 13th
Ada, OK 74820
taylor@callpalmer.com
ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that on the 29th day of March, 2023, I delivered a true and correct copy of the above and foregoing instrument, to the following named person, via and by means of:

- First-Class US Mail, with postage prepaid thereon and affixed thereto
- Certified US mail, return receipt requested and delivery restricted to the addressee
- Private process server
- Electronic mail
- Hand delivery

Office of the Attorney General
17675 S. Muskogee Ave.
Tablequah, OK 74464
alisha-osburn@cherokee.org



Alan M. Taylor, OBA #34351, CNBA #0977