

Kevin O'Connor, #15698
 Deputy District Attorney
 Office of the District Attorney
 Eighteenth Judicial District
 Sedgwick County Courthouse Annex
 535 North Main, 2nd Floor
 Wichita, Kansas 67203
 (316) 383-8119

FILED
 APP DOCKET NO. 8

2005 MAY -6 A 9:53

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

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

THE STATE OF KANSAS,
 Plaintiff,

vs.

DENNIS L. RADER,
 Defendant.

Case No. 05CR498

RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY
 AND STATE'S REQUEST FOR RECIPROCAL DISCOVERY

COMES NOW, the State of Kansas, by and through Kevin O'Connor, Deputy District Attorney, and requests an order that defendant provide discovery pursuant to K.S.A. 22-3212(c).

In support of its motion, the State would show the following:

1. Defendant has requested and received discovery pursuant to K.S.A. 22-3212(a) and (b).

The State of Kansas is fully aware of the law regarding discovery and has provided discovery above and beyond the statutory requirements and long before time requirements. The State has provided defendant with over forty-five (45) compact discs (CDs) and digital video discs (DVDs) containing thousands of documents, reports, photographs, photographs of physical evidence, and interviews. The State has also provided over 2,600 pages of discovery. The State has utilized the use of CDs and DVDs to assist the defense in their preparation of the case and storage of discovery. Although massive amounts of discovery have been provided, the discovery can be stored in a small binder and a small box. The State will continue to provide discovery as it becomes available and will continue to utilize the use of CDs and/or DVDs, when possible, to facilitate ease of use issues and storage issues.

2. The State requests that the Court issue an order prohibiting defendant from reproducing or

copying the CDs or DVDs provided by the State and that the original copies provided to defense remain in the possession and control of counsel at all times.

3. K.S.A. 22-3219(c) provides, “[I]f defendant seeks discovery and inspection under [K.S.A. 22-3212] subsection (a)(2) or subsection (b), the defendant shall permit the attorney for the prosecution to inspect and copy or photograph scientific or medical reports, books, papers, documents, tangible objects, or copies or portions thereof, which the defendant intends to produce at the trial, and which are material to the case and will not place an unreasonable burden on the defense.”

4. Regarding reciprocal discovery, the State requests that the Court order defendant to provide a copy of any expert report, bench notes, correspondence, and other papers, books, articles, and/or treatises relied upon by any expert. The State further requests a complete list of any “expert” experience, including cases in which the “expert” testified; a copy of any neurological, psychological, medical and/or psychiatric tests administered to defendant and the results of such testing; a copy of the expert’s contract and fee; any document or a copy of any document used, prepared, referenced, or relied upon by the analyst or expert in performing neurological, psychiatric, and/or medical tests or in forming and/or expressing an opinion. Document means any printed, typewritten, handwritten, or otherwise recorded matter of whatever character, including, but not limited to, letters, handbooks, data sheets, tests, logs, photographs, films, images, x-rays, inserts, memorandums, computer printouts, telegrams, e-mails, notes, recordings, videotapes, articles, publications, diaries, drafts, and notes of oral communications or telephone conversations.

5. The State requests that the Court set a deadline for compliance and further order that failure to comply with the deadline will preclude defendant from presenting such expert testimony.

WHEREFORE, these premises considered, the State respectfully requests that the Court order defendant to provide discovery pursuant to K.S.A. 22-3212(c). In addition, the State requests the Court to order defendant to “promptly notify [the State] or the Court” if defendant “discovers additional material previously requested or ordered which is subject to discovery or inspection.” K.S.A. 22-3212(g).


Kevin O'Connor, #15698
Deputy District Attorney

NOTICE OF HEARING

Please take notice and be advised that the above motion will be heard in Division No. 5 of the Eighteenth Judicial District on the 13th day of May, 2005 at 9:30 p.m.

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing response and motion was hand delivered to Mr. Charles Osburn, counsel for defendant, on the 6th day of May, 2005.



Kevin O'Connor, #15698
Deputy District Attorney