

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY,
PENNSYLVANIA – CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA

NO. 6239-15

NO. 8423-15

v.

KATHLEEN G. KANE

COMMONWEALTH'S MOTION FOR PRETRIAL
DISCOVERY AND INSPECTION

The District Attorney of Montgomery County, Kevin R. Steele, by
his Deputy District Attorney, Thomas W. McGoldrick, respectfully
represents:

1. The Commonwealth has provided voluminous mandatory and discretionary discovery in its possession to the defense as of February 5, 2016.
2. The Commonwealth intends to observe a continuing duty to disclose discovery materials as they become available during the course of the litigation pursuant to Pennsylvania Rule of Criminal Procedure 573(D).
3. Pursuant to Pennsylvania Rule of Criminal Procedure 573(C), the Commonwealth respectfully requests that the Court order the Defendant to provide reciprocal discovery as follows:
 - (a) The results or reports of physical or mental examinations, and of scientific tests or experiments made in connection with this case, or copies thereof,

2016 MAR -4 PM 3:28

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within the possession or control of the Defendant, that the Defendant intends to introduce as evidence in chief, or were prepared by a witness whom the Defendant intends to call at the trial, when results or reports relate to the testimony of that witness;

- (b) The names and addresses of eyewitnesses whom the Defendant intends to call in his case in chief at trial;
- (c) If an expert(s) whom the Defendant intends to call in any proceeding in this case has not prepared a report of examination or tests, the Commonwealth respectfully requests that the Court order the expert to prepare a report and order the Defendant to disclose said report stating the subject matter on which the expert is expected to testify, the substance of the facts to which the expert is expected to testify, and a summary of the expert's opinions and the grounds for each opinion.

4. Pursuant to Pennsylvania Rule of Criminal Procedure 567, the Commonwealth respectfully requests that the Court order the Defendant to provide a notice of alibi defense, if the Defendant intends to present such a defense, which contains specific information as to the place or places where the Defendant claims to have been at the time of the alleged

offenses and the names and addresses of witnesses whom the Defendant intends to call in support of such claim.

5. Pursuant to Pennsylvania Rule of Criminal Procedure 568(A)(1), the Commonwealth respectfully requests that the Court order the Defendant to provide a notice of insanity defense or mental infirmity defense, if the Defendant intends to present such a defense, which contains specific available information as to the nature and extent of the alleged insanity or claim of mental infirmity, the period of time that the Defendant allegedly suffered from such insanity or mental infirmity, and the names and addresses of witnesses, expert or otherwise, whom the Defendant intends to call at trial to establish such defense.

6. Pursuant to Pennsylvania Rule of Criminal Procedure 568(A)(2), the Commonwealth respectfully requests that the Court order the Defendant to provide a notice of expert evidence of mental condition, if the Defendant intends to introduce expert evidence relating to a mental disease or defect or any other mental condition of the Defendant bearing (1) on the issue of guilt, or (2) in a capital case, on the issue of punishment. The notice shall contain specific available information as to the nature and extent of the alleged mental disease or defect or any other mental

condition, the period of time that the Defendant allegedly suffered from such mental disease or defect or any other mental condition, and the names and addresses of the expert witness(es) whose evidence the Defendant intends to introduce.

7. The Commonwealth respectfully requests that the Court order the Defendant to provide any information that the defense may have pertaining to any physical evidence involved in this incident; if such physical evidence is in the possession of the Defendant, the Commonwealth requests an opportunity to inspect the evidence.
8. The Commonwealth requests that the Court order the Defendant to observe a continuing duty to disclose pursuant to Pennsylvania Rule of Criminal Procedure 573(D).
9. The Commonwealth believes and therefore avers that the above requests are material to the preparation of the Commonwealth's case and are reasonable.

WHEREFORE, the Commonwealth respectfully requests that the Court enter an order directing the Defendant to provide the above requested information in an expedient fashion.

Respectfully Submitted,



Thomas W. McGoldrick
Deputy District Attorney

VERIFICATION

Subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities, I declare that the statements of fact in the foregoing Commonwealth's Motion for Pretrial Discovery and Inspection are true and correct to the best of my knowledge, information, and belief.

Thomas W. McGoldrick
Thomas W. McGoldrick
Deputy District Attorney

Date: March 4, 2016

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2016 MAR -4 PM 3:28


CERTIFICATE OF SERVICE

I, Thomas W. McGoldrick, do hereby certify that I have caused a copy of the foregoing Commonwealth's Motion for Pretrial Discovery and Inspection to be served via email and via mail on March 4, 2016, upon the following:

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Thomas W. McGoldrick
Deputy District Attorney

Date: March 4, 2016

**IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY,
PENNSYLVANIA – CRIMINAL DIVISION**

COMMONWEALTH OF PENNSYLVANIA	:	NO. 6239-15
	:	NO. 8423-15
v.	:	
	:	
KATHLEEN G. KANE	:	

ORDER

AND NOW, this _____ day of _____, 2016, the Commonwealth's Motion for Pretrial Discovery & Inspection is hereby GRANTED. The Defendant is ORDERED to provide the following discovery to the Commonwealth:

- (a) The results or reports of physical or mental examinations, and of scientific tests or experiments made in connection with this case, or copies thereof, within the possession or control of the Defendant, that the Defendant intends to introduce as evidence in chief, or were prepared by a witness whom the Defendant intends to call at the trial, when results or reports relate to the testimony of that witness;
- (b) The names and addresses of eyewitnesses whom the Defendant intends to call in his case in chief at trial;
- (c) If an expert(s) whom the Defendant intends to call in any proceeding in this case has not prepared a report

of examination or tests, such expert(s) is ordered to prepare a report, and the Defendant is ordered to disclose said report stating the subject matter on which the expert is expected to testify, the substance of the facts to which the expert is expected to testify, and a summary of the expert's opinions and the grounds for each opinion;

- (d) Notice of alibi defense, if the Defendant intends to present such a defense, which contains specific information as to the place or places where the Defendant claims to have been at the time of the alleged offenses and the names and addresses of witnesses whom the Defendant intends to call in support of such claim;
- (e) Notice of insanity defense or mental infirmity defense, if the Defendant intends to present such a defense, which contains specific available information as to the nature and extent of the alleged insanity or claim of mental infirmity, the period of time that the Defendant allegedly suffered from such insanity or mental infirmity, and the names and addresses of witnesses, expert or otherwise, whom the Defendant intends to call at trial to establish such defense;

- (f) Notice of expert evidence of mental condition, if the Defendant intends to introduce expert evidence relating to a mental disease or defect or any other mental condition of the defendant bearing (1) on the issue of guilt, or (2) in a capital case, on the issue of punishment. The notice shall contain specific available information as to the nature and extent of the alleged mental disease or defect or any other mental condition, the period of time that the Defendant allegedly suffered from such mental disease or defect or any other mental condition, and the names and addresses of the expert witness(es) whose evidence the Defendant intends to introduce.
- (g) Any information that the defense may have pertaining to any physical evidence involved in this incident; if such physical evidence is in the possession of the Defendant, the Defendant is ordered to allow the Commonwealth an opportunity to inspect the evidence; and
- (h) The Defendant is ordered to observe a continuing duty to disclose pursuant to Pennsylvania Rule of Criminal Procedure 573(D).

The Defendant is required to comply with this order in an expedient fashion.

BY THE COURT,

Hon. Wendy Demchick-Alloy