

DISTRICT COURT LA PLATA COUNTY, COLORADO 1060 EAST SECOND AVENUE DURANGO COLORADO 81301	DATE FILED: September 21, 2018 3:14 PM FILING ID: 4B21A3814EEA7 CASE NUMBER: 2017CR343
THE PEOPLE OF THE STATE OF COLORADO, v. Mark Redwine Defendant	σ COURT USE ONLY σ
Douglas Wilson, Colorado State Public Defender Justin Bogan 33827 John Moran 36019 175 Mercado St. Suite 250 Durango Colorado 81301 John.moran@coloradodefenderes.us	Case No.: 17CR343 Div. 1
[D99] DEMAND FOR DISCOVERY RE: ALL CONFIDENTIAL INFORMANTS INVOLVED IN THE INVESTIGATION OF MR. REDWINE	

Mr. Redwine, pursuant to C.R.Crim.P. Rule 16 and due process under both the U.S. and Colorado constitutions, requests that the prosecution disclose the names and addresses of all confidential informants in the instant case. Mr. Redwine further requests the following information be discovered:

1. Any criminal history of any confidential informants, including but not limited to all police, arrest, and crime or offense reports.
2. Presentence investigation reports prepared in connection with any cases in which the confidential informants has been charged;
3. Any payment receipts or payment records from any law enforcement agency to any confidential informants related to this case;
4. Any promises of immunity, reduced charges, reduced sentences, or any other benefit offered to any confidential informants by any member of law enforcement in exchange for cooperation in this case;

5. Results of any urinalyses while the confidential informants were under the supervision of pretrial services, any probation department, or any other monitoring agency;
6. Copies of all tapes and transcripts of any electronic surveillance or conversations involving any confidential informants in this case;
7. Any and all written policies and procedures of the La Plata County Sherriff's Office pertaining to confidential informants;

The Defendant makes the above requests upon the following grounds:

8. Per page 14675 of the discovery in this case, Tanya Goldbright formerly with the La Plata County Sherriff's Office states

Your Affiant received information from a confidential informant that Mark Redwine has items of interest in the CR England truck he was driving when he was arrested.
9. Neither the real identity of the confidential informant nor any of the conversations between the CI and any law enforcement agency has been disclosed to defense counsel.
10. The fact of probation or parole at any time during the pendency of this case is probative of bias or motive, and is admissible regardless of the type of underlying conviction. *Davis v. Alaska*, 415 U.S. 308 (1974); *People v. Bowman*, 669 P.2d 1369 (Colo. 1983).
11. The existence of cases pending at any time during the investigation or pendency of this case is admissible as to bias or motive. *People v. Butler*, 675 P.2d 9 (Colo. 1984).
12. Records or information revealing prior misconduct or bad acts attributed to any prosecution witness may be admissible under CRE 608(b) even though no conviction resulted, or may lead to the discovery of character evidence admissible under CRE 608(a).
13. The credibility and purported existence of any CI materially effects issues in litigating the constitutional motions in this case including but not limited to D87 re search of CR Trucking.
14. Any promise, benefit, plea bargain, financial consideration or other inducement made to any witness by the prosecution at any time during the investigation or pendency of this case, up to and including the time of trial, is admissible as to motive or bias. *Van Arsdall v. Delaware*, 475 U.S. 673, (1986); *People v. Pate*, 625 P.2d 369 (Colo. 1981).
15. Any and all records or information concerning drug and alcohol use, evaluation, or

treatment of prosecution witnesses is admissible to the extent that it affects a witness' ability to perceive, remember or testify. *People v. Roberts*, 553 P.2d 93 (Colo. App. 1976). Such records may also contain information bearing upon the witness' character for truthfulness or specific instances of untruthfulness. CRE 608.

16. Rule 16 (I)(a) of the Colorado Rules of Criminal Procedure expressly requires that the prosecution provide to the accused all potentially exculpatory information and material in its possession. The Due Process Clauses of the Federal and Colorado Constitutions require as much without the rule. *Brady v. Maryland*, 373 U.S. 83 (1963). This includes such information and material which potentially pertains to impeachment of the state's witnesses and evidence. *People v. Thatcher*, 586 P. 2d 760 (1978). This requested information falls within the scope of these minimum due process requirements.
17. The decision of whether a confidential informant's identity, and thus information bearing on his credibility, should be disclosed is based on a balancing test, weighing the "public interest in protecting the flow of information against the individual's right to prepare his defense." *Roviaro*, at 62; *People v. Garcia*, 752 P.2d 570 (Colo. 1988). Some of the many factors to consider are whether the informant was an eyewitness or earwitness; whether the informant is available or could be made available by the exercise of reasonable diligence; whether other witnesses can testify to the likelihood that the informant's testimony will vary significantly from other witnesses' testimony; whether the defendant knew or could without undue effort discover the informant's identity; and whether the informant was peripherally or deeply involved in the criminal transaction. *People v. Marquez*, 546 P.2d 482, 485 (1976).
18. Applying these factors to the facts of this case finds that disclosure in this situation is required as a likely source of relevant and helpful evidence to Mr. Redwine's defense. *People v. Villanueva*, 767 P.2d 1219 (Colo. 1989); *People v. Bueno*, 646 P.2d 931 (Colo. 1982). As noted in *Roviaro*, the desirability of calling a witness is a matter for the accused rather than for the government, but once some minimal showing of the need for disclosure is made, the burden is on the prosecution to show any special need to withhold it. see *Marquez*, supra.
19. The prosecution is not in a position to make legitimate judgments about what might or might not be material or relevant to the issues in the case or to the defense. *People v. Gallegos*, 644 P. 2d 920 (Colo. 1982). This especially includes information that might be pertinent to potential impeachment of their witnesses, requiring that any doubts be resolved in favor of disclosure.

Therefore, to uphold his rights to due process, speedy trial by a fair and impartial jury, effective assistance of counsel, freedom from unreasonable searches and seizures and warrantless arrests, confrontation, compulsory process, equal protection of the law, and privilege against self-incrimination as guaranteed by the Fourth, Fifth, Sixth, and Fourteenth Amendments of the U.S. Constitution, and Art. II, §§ 3, 6, 7, 16, 18, 23, and 25 of Colorado's Constitution, Mr. Redwine requests that disclosure of all of the information he has requested be provided as soon as practicable.

/s/ John Moran

John Moran #36019

Deputy State Public Defender

Dated: September 21, 2018

Certificate of Service

I hereby certify that on I served the foregoing document by ICCES to all opposing counsel of record.

/s/ JB

/s/ Justin Bogan

Justin Bogan, #33827

Deputy State Public Defender

Dated: September 21, 2018