

THIS DOCUMENT IS AN APPLICATION FOR
WRIT OF HABEAS CORPUS FROM PAUL
CRAIG COBB TO THE SUPREME COURT OF 20130409
NORTH DAKOTA. HONORABLE

FILED BY CLERK
SUPREME COURT - DEC 19 2013

1. I AM PAUL CRAIG COBB & I AM IMPRISONED IN
MERCER COUNTY JAIL BY THE ACTIONS OF JUDGE
THOMAS J. SCHNEIDER; GRANT COUNTY ASST.
STATES ATTORNEY TODD SCHWARZ; SHERIFF STEVE
BAY OF GRANT COUNTY; TRANSPORTING DEPUTIES
GARRETT HARDING & JOHN FOSS. THE JAILER IN
MERCER COUNTY JAIL IS SHERIFF DEAN
DANZEISEN. I MAY BE TRANSFERRED FOR THE
SECOND TIME TO: JAMESTOWN STATE HOSPITAL,
2605 CIRCLE DRIVE S.E., JAMESTOWN, N.D. 58401.

2. ASST. STATES ATTORNEY TODD SCHWARZ FALSELY TOLD
JUDGE T.J. SCHNEIDER MY RELIGION, CREATIVITY, HAS "TO DO WITH ALCOHOL".
I BELIEVE JUDGE THOMAS J. SCHNEIDER ILLEGALLY &
KNOWINGLY INCARCERATED ME WITHOUT BOND
AMOUNT BEING SET, KNOWING FULL WELL THAT BY
THE CONSTITUTION OF THE STATE OF N.D., BAIL
AMOUNT MUST BE SET EXCEPT IN CERTAIN
PARTICULARIZED CAPITAL CRIME CASES. MY CASES
ARE NOT CAPITAL CRIMES, THOUGH JUDGE
SCHNEIDER HAS WILLFULLY & MALICIOUSLY ATTEMPTED TO
IMPUTE SAME SEVERITY TO MY CASE(S) &
PERSONAGE, THEREBY PURPOSEFULLY
DAMAGING MY ABILITY TO RECEIVE FAIR TRIAL
& THEREBY — MORE TO THE POINT —
EFFECTIVELY KIDNAPPING ME IN THE NAME OF
THE STATE OF NORTH DAKOTA. I AM BEING HELD
OF 7 COUNTS OF TERRORISM, CLASS C FELONY.

3. YELLOW COPY OF ORDER INCLUDED HEREIN,
YOUR HONORS. OTHER APPERTAINING
DOCUMENTS INCLUDED.

4. THE ILLEGALITY — TO BEST OF MY LIMITED
KNOWLEDGE — IS STATED IN POINT 2 ABOVE.

SIGNED: Paul Craig Cobb DEC. 17, 2013

State of North Dakota,
Plaintiff,

BOND ORDER

vs.

Paul C Cobb

Defendant.

The Court orders:

- 1. Defendant is released on the Defendant's promise to appear.
- 2. Defendant must post a total cash only, surety, cash or surety, 10%, or unsecured bond in the amount of \$ _____ with the Court to ensure future court appearances and compliance with conditions of bond.
- 3. Previously posted bond will be applied to total amended bond.
 is reinstated/continued.
 is revoked/forfeited. A hearing on the forfeiture may be requested within 10 days.
- 4. Defendant will be held without bond.
- 5. Defendant must appear at all court proceedings.
- 6. Defendant must fill out an application for a court-appointed attorney before release.
- 7. Defendant shall stay in regular contact with the defendant's attorney as directed by the attorney.
- 8. Defendant shall notify the Court of the name of the defendant's attorney by _____.
- 9. Defendant shall notify the Clerk of the Court and the defendant's attorney of any change of address or phone number within 24 hours of the time of the change of address or phone number.
- 10. Defendant may not leave State of North Dakota Burleigh and Morton Counties _____ without prior permission from the Court.
- 11. Defendant must have written permission to stay at a local address before release.
- 12. Defendant may not initiate or have contact, either directly or indirectly, with _____.
- 13. Defendant shall not possess or consume alcoholic beverages.
- 14. Defendant shall comply with all conditions of probation and contact probation officer within 24 hrs of release.
- 15. Defendant shall submit to random drug testing as required under N.D.C.C. 19-03.1-46. Defendant shall immediately obtain from the Clerk's Office a copy of the Notice to Defendant which contains information regarding random drug testing requirements.
- 16. Defendant shall participate in and comply with the rules of the following programs provided by the Sheriff's Department and shall contact the Sheriff's Department for all program requirements.
 24/7 Sobriety Program twice per day breath testing (or SCRAM bracelet if approved by the Sheriff)
 Drug patch testing
- 17. _____

Defendant shall have no federal, state, tribal, or local law violations while subject to this order. If the defendant violates any of the conditions of bond, a warrant for the defendant's arrest will be issued and the bond may be revoked or forfeited and the defendant held in custody while the case is pending. Additional criminal charges may also be brought.

Dated: 11-18-2013

BY THE COURT:

Paul C Cobb

Defendant's Signature

Thomas J. [Signature]
CLERK OF DISTRICT COURT

District Judge

NOV 18 2013

State of North Dakota
County of Grant

19-2013-CR-43

APPLICATION FOR DETERMINATION OF PROBABLE CAUSE TO DETAIN

Affiant/arresting Officer: G. Harding, J. Foss
Agency: Grant County SO
Arrestee: Paul Craig Cobb
Date of Birth: ~~12/16/84~~ 10-9-1961
Date of Arrest: ~~10/09/51~~ 11-16-13
Time of Arrest: 1:40PM MT
Offense: Terrorizing
Charge Class: Fel
Bond:

Facts constituting probable cause to arrest:

I (4324) received a call from state radio stating that Paul Cobb and Kynan Dutton were walking by Lee Cook's house in Leith, ND. One had a shotgun, the other a rifle. Lee Cook and Gregory Bruce were both outside putting up a camera when both Cobb and Dutton walked by and both stopped and stood there, staring at both Bruce and Cook. Both with long barrel weapons in hand and one of them had their finger on the trigger. They continued walking around the corner with the weapons. No words were exchanged. I then picked up Deputy John Foss 4325 at his home and went to Leith. We both went and interviewed Mr. Bruce and Mr. Cook, both confirmed the information that Cobb and Dutton had walked by their house, stopping in front of their house with long barrel weapons and stared at them, one with his finger on the trigger. Then they continued down the street. No words were exchanged. I then received a call by state radio 911 call from the Ferrie residents. State Radio stated to us that Cobb and Dutton were following her around with long barrel weapons. When we arrived, we found Mr. Cobb and Mr. Dutton walking the road that connects Ferrie and Cobb's home in Leith. Both of them had long barrel weapons in hand, we stopped them under Terry stop to see if the guns were loaded. They both stated that they were. At that time they stated they were going back to their house, we advised them to stay there. We then continued down the street and Miller Ferrie came out of a house and she was extremely upset and on the verge of tears. She stated she needed to talk to us. We then followed Miller to her home and interviewed her. She stated that she was returning home from Lee Cook's house in Leith, and Dutton and Cobb began to follow her, both with long barrel weapons in hand. She then stated that Mr. Cobb and Mr. Dutton were following her, instigating an argument by yelling obscenities and questioning her religious beliefs. When the obscenities were being yelled at her, her husband Paul Ferrie came out of the house and started asking Cobb and Dutton 'why are you escalating the situation'? Cobb started yelling obscenities at him. Mostly in reference to his religious beliefs. Paul took the situation as Cobb trying to instigate an altercation. He also noticed that one of them lifted their weapon from a vertical towards a horizontal position. Both Miller and Paul also stated that they feared for their lives. Deputy Foss and myself then went to Cobb's house and arrested both Mr. Cobb and Mr. Dutton for Terrorizing.


Affiant's Signature

Subscribed and sworn to before me this 16th day of November, 2013.

FILED - CLERK OF DISTRICT COURT

NOV 18 2013

GRANT COUNTY, ND

RONA SCHUTT
Notary Public
State of North Dakota
My commission expires Mar 28, 2016

Rona Schutt
Notary Public

**DETERMINATION OF PROBABLE CAUSE TO DETAIN
THE COURT DETERMINES THAT:**

Probable cause exists No probable cause exists to detain the above
arrestee for the offense(s).

Date: 11-18-13

Thomas J. Schneider
Judge, District Court/Municipal Judge

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF GRANT

SOUTH CENTRAL JUDICIAL DISTRICT

The State of North Dakota,)
)
 Plaintiff,)
)
 vs.)
)
 Paul Craig Cobb,)
 a/k/a Craig Cobb,)
 Defendant.)

COMPLAINT

Criminal No. 19-2013-CR-00043

¶1. Steven E. Bay, Grant County Sheriff, being first duly sworn, charges that in the City of Leth, County of Grant, State of North Dakota, the above-named defendant committed the following offenses:

¶2. **Count 1: Terrorizing**, a class C felony in violation of §12.1-17-04 of the North Dakota Century Code. On or about November 16, 2013, the above-named Defendant did commit the offense of Terrorizing by threatening to commit a crime of violence or act dangerous to human life with the intent to place another in fear for his safety. Specifically, that Defendant did walk up to property belonging to Leland Cook in a terrorizing manner while carrying a loaded long-barreled weapon. The Defendant continued to watch Cook as he was installing a security system on his property, all the time Defendant stood next to Cook's property, Defendant was holding a loaded weapon with his finger on the trigger. **This count carries a minimum mandatory sentence of at least 2 years confinement without benefit of parole pursuant to NDCC Sec. 12.-32-02.1.**

¶3. **Count 2: Terrorizing**, a class C felony in violation of §12.1-17-04 of the North Dakota Century Code. On or about November 16, 2013, the above-named Defendant did commit the offense of Terrorizing by threatening to commit a crime of violence or act dangerous to human life with the intent to place another in fear for his safety. Specifically, that Defendant did walk up to property belonging to Leland Cook in a terrorizing manner while carrying a loaded long-barreled weapon. The Defendant continued to watch Cook along with Gregory Bruce as they were installing a security system, all the time Defendant stood next to Cook's property, Defendant was holding a loaded weapon with his finger on the trigger. **This count carries a minimum**

mandatory sentence of at least 2 years confinement without benefit of parole pursuant to NDCC Sec. 12.1-32-02.1.

¶4. **Count 3:** Terrorizing, a class C felony in violation of §12.1-17-04 of the North Dakota Century Code. On or about November 16, 2013, the above-named Defendant did commit the offense of Terrorizing by threatening to commit a crime of violence or act dangerous to human life with the intent to place another in fear for her safety. Specifically, that Defendant did follow Miller Ferrie along the road to her home while carrying a loaded long-barreled weapon. The Defendant continued to follow Miller Ferrie until she reached her home. This count carries a minimum mandatory sentence of at least 2 years confinement without benefit of parole pursuant to NDCC Sec. 12.1-32-02.1.

¶5. **Count 4:** Terrorizing, a class C felony in violation of §12.1-17-04 of the North Dakota Century Code. On or about November 16, 2013, the above-named Defendant did commit the offense of Terrorizing by threatening to commit a crime of violence or act dangerous to human life with the intent to place another in fear for his safety. Specifically, that Defendant, did walk up to the home of Paul and Miller Ferrie and stand outside of Ferris' home while holding a loaded long-barreled weapon and at one point, the Defendant did raise the weapon from a vertical position to a horizontal position. The Defendant, accompanied by Paul Cobb, had his long barrel at the 'ready position' as Cobb stated "I'm not shooting you, am I? Fuck you." This count carries a minimum mandatory sentence of at least 2 years confinement without benefit of parole pursuant to NDCC Sec. 12.1-32-02.1.

¶6. **Count 5:** Terrorizing, a class C felony in violation of §12.1-17-04 of the North Dakota Century Code. On or about November 15, 2013, the above-named Defendant did commit the offense of Terrorizing by threatening to commit a crime of violence or act dangerous to human life with the intent to place another in fear for his safety. Specifically, that Defendant, in Leith, did approach Barry Striegel in a terrorizing manner with a gun slung over his shoulder. This count carries a minimum mandatory sentence of at least 2 years confinement without benefit of parole pursuant to NDCC Sec. 12.1-32-02.1.

¶7. **Count 6:** Terrorizing, a class C felony in violation of §12.1-17-04 of the North Dakota Century Code. On or about November 16, 2013, the above-named Defendant did commit the offense of Terrorizing by threatening to commit a crime of violence or act dangerous to human life with the intent to place another in fear for her safety. Specifically, that Defendant did approach Akriti Haberstroh in her vehicle in

Leith, while screaming obscenities at her and wielding a cane at her in a threatening manner.

¶8. Count 7: Terrorizing, a class C felony in violation of §12.1-17-04 of the North Dakota Century Code. On or about November 16, 2013, the above-named Defendant did commit the offense of Terrorizing by threatening to commit a crime of violence or act dangerous to human life with the intent to place another in fear for her safety. Specifically, that Defendant did approach Bethany Haberman, a passenger in a vehicle driven by her daughter, Akari Haberman, and screamed obscenities at the women while wielding a cane at them in a threatening manner.

¶9. All of this is contrary to the statute in such cases made and provided and against the peace and dignity of the State of North Dakota.

¶10. WHEREFORE, Complainant prays that the defendant be dealt with according to the law.

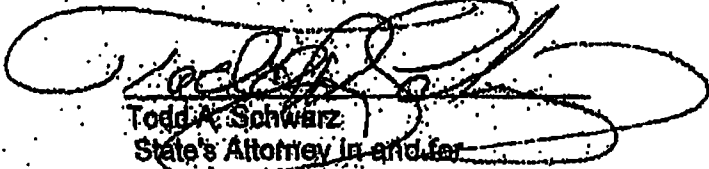

Steven E. Bay
Grant County Sheriff

Subscribed and sworn to before me this 18th day of November, 2013.


Thomas J. Schermer
Judge of the District Court

Penalty: NDEC 12.1-32-01, 12.1-32-02:1 Counts 1-7, Class C Felonies

Complaint Approved By:


Todd A. Schwarz
State's Attorney in and for
Grant County, North Dakota

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF GRANT

SOUTH CENTRAL JUDICIAL DISTRICT

State of North Dakota,)
)
 Plaintiff,)
)
 vs.)
)
 Paul Craig Cobb,)
 a/k/a Craig Paul Cobb)
)
 Defendant.)

**AFFIDAVIT OF STEVEN E. BAY
IN SUPPORT OF COMPLAINT**

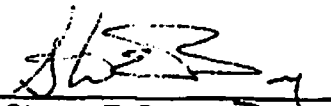
STATE OF NORTH DAKOTA)
) ss
 COUNTY OF GRANT)

Steven E. Bay, being first duly sworn, deposes and states as follows:

1. That he is sheriff with the Grant County Sheriff's Department.
2. That on or about November 18, 2013, he did interview Akriti Haberstroh, and Bethany Haberstroh, 5960 76th Street, Leith ND, regarding an incident that occurred on November 16, 2013.
3. That Akriti Haberstroh and her mother, Bethany, stating they were driving through Leith on November 16, 2013, and came upon the Defendant accompanied by Kynan Dutton and two unleashed pitbulls. When attempting to go past the Defendant and Dutton, one of the dogs ran in front of their vehicle, forcing Akriti Haberstroh to stop. That the Defendant and Dutton approached Haberstrohs' vehicle with canes raised in a threatening manner, accusing Akriti Haberstroh of trying to run over their dog and yelling obscenities at Akriti and Bethany Haberstroh.
4. That Akriti and Bethany Haberstroh wrote statements regarding the November 16, 2013, incident. Akriti is of Indian heritage and also stated that she is very frightened for her safety.

Further, the affiant says not.

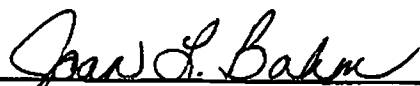
Dated this 18 day of November, 2013.



 Steven E. Bay
 Grant County Sheriff

Subscribed and sworn to before me this 18th day of November, 2013.





 Joan L. Bahm, Notary Public
 Grant County, North Dakota
 FILED - CLERK OF DISTRICT COURT

NOV 18 2013

GRANT COUNTY, ND

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF GRANT

SOUTH CENTRAL JUDICIAL DISTRICT

State of North Dakota,)
)
 Plaintiff,)
)
 vs.)
)
 Paul Craig Cobb,)
 a/k/a Craig Paul Cobb,)
)
 Defendant.)

**AFFIDAVIT OF GARRETT HARDING
IN SUPPORT OF COMPLAINT**

STATE OF NORTH DAKOTA)
) ss
 COUNTY OF GRANT)

Garrett Harding, being first duly sworn, deposes and states as follows:

1. That he is deputy sheriff with the Grant County Sheriff's Department.
2. That on or about November 16, 2013, a call was received from State Radio stating that Paul Cobb and Kynan Dutton were walking by the home of Lee (Leland) Cook, located in Leith, Grant County, North Dakota, while carrying long-barreled weapons.
3. That Deputy Harding and Deputy John Foss drove to Leith and interviewed Lee Cook at his home. Cook stated to Deputies Harding and Foss that he, along with Gregory Bruce of New Leipzig, Grant County, North Dakota, had been installing a security camera on the property of Lee Cook when Paul Craig Cobb and Kynan Dutton approached Cook's property while carrying loaded long-barreled weapons. The information given by Lee Cook was also confirmed by Gregory Bruce.
4. That in the process of concluding interviews with Cook and Bruce, State Radio called again regarding a 911 call from the Ferrie residence, 241 1st Ave NW, Leith. Deputies Harding and Foss then proceeded to the Ferrie residence and interviewed Miller and Paul Ferrie. Both Ferries stated that Miller had been followed home by the Defendant and Kynan Dutton while they yelled obscenities and carried long-barreled weapons. Paul and Miller Ferrie stated that Defendant Cobb and Kynan Dutton had continued to yell obscenities in front of their home while carrying long-barreled weapons. Miller Ferrie was still visibly shaken as the interviewed was being conducted, both Miller and Paul Ferrie stated the incident caused them to fear for their lives.

FILED - CLERK OF DISTRICT COURT

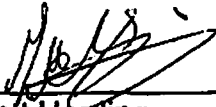
NOV 18 2013

GRANT COUNTY, ND

5. That after concluding interviews with Miller and Paul Ferrie, Deputies Harding and Foss discussed the matters with the Grant County Assistant State's Attorney and then proceeded to arrest Paul Craig Cobb and transport him to Mercer County Jail.

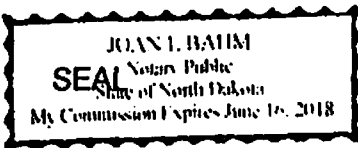
Further, the affiant says not.

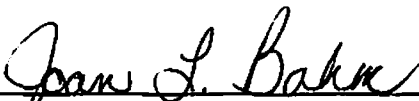
Dated this 18th day of November, 2013.



Garrett Harding
Grant County Sheriff's Office

Subscribed and sworn to before me this 18th day of November, 2013.





Joan L. Bahm, Notary Public
Grant County, North Dakota

STATE OF NORTH DAKOTA
COUNTY OF GRANT

IN DISTRICT COURT
SOUTH CENTRAL JUDICIAL DISTRICT

State of North Dakota,)
)
 Plaintiff,)
 -vs-)
)
Paul Craig Cobb,)
)
 Defendant.)

RULE 16 CONTINUING REQUEST
FOR DISCOVERY

Case No. 19-2013-CR-00043

Pursuant to Rule 16 of the North Dakota Rules of Criminal Procedure, the Defendant, by and through his attorney, Ryan Heintz, hereby makes written request for the inspection, copying, or photographing of the following, if extant:

Defendant's Statements and Record, Documents and Objects, and Expert Witnesses

(A) *Statement of Defendant.* Upon a defendant's written request, the prosecuting attorney must disclose to the defendant and make available for inspection, copying, or photographing all of the following:

(i) any relevant written or recorded statement by the defendant, if:

-- the statement is within the prosecution's possession, custody, or control; and

-- the prosecuting attorney knows -- or through due diligence could know -- that the statement exists;

(ii) the portion of any written record containing the substance of any relevant oral statement made before or after arrest if the defendant made the statement in response to interrogation by a person the defendant knew was a government agent;

(iii) the defendant's recorded testimony before a grand jury relating to the charged offense; and

(iv) the substance of any other oral statement made by the defendant, before or after arrest, in response to interrogation by a person the defendant knew was a government agent.

(B) *Defendant's Previous Record.* Upon a defendant's written request, the prosecution must furnish the defendant with a copy of the defendant's prior criminal record, if any, that is within the prosecution's possession, custody, or control if the prosecuting attorney knows—or through due diligence could know—that the record exists.

(C) *Documents, Objects and Request for Preservation of Evidence.* The defendant specifically requests that all videotapes, dispatch tapes, or any other physical evidence that may be destroyed, lost, or otherwise put out of the possession, custody, or care of the prosecution and which relate to the arrest or the events leading to the arrest in this case be preserved. Further, upon a defendant's written request, the prosecuting attorney must permit the defendant to inspect and to copy or photograph books, papers, documents, data, photographs, tangible objects, buildings, or places, or copies or portions of any of these items, if the item is within the prosecution's possession, custody, or control, and:

- (i) the item is material to preparing the defense;
- (ii) the prosecution intends to use the item in its case-in-chief at trial; or
- (iii) the item was obtained from or belongs to the defendant.

(D) *Reports of Examinations and Tests.* Upon a defendant's written request, the prosecuting attorney must permit a defendant to inspect and to copy or photograph the results or reports of any physical or mental examinations, and of any scientific tests or experiments if:

- (i) the item is within the prosecution's possession, custody, or control;
- (ii) the prosecuting attorney knows—or through due diligence could know—that the item exists; and
- (iii) the item is material to preparing the defense or the prosecution intends to use the item in its case-in-chief at the trial.

(E) *Expert Witnesses.* Upon a defendant's written request, the prosecution must give to the defendant a written summary of any testimony that the prosecution intends to use under N.D.R.Ev. 702, 703, or 705 during its case-in-chief at trial. Expert witness summaries must describe the witness's opinions, the bases and reasons for those opinions, and the witness's qualifications.

Statements of Codefendants and Statements of Other Persons

(1) *Names, Addresses, and Statements of Prosecution Witnesses.* Upon a defendant's written request, the prosecution must furnish the defendant:

- (A) a written list of the names and addresses of all prosecution witnesses whom the prosecution intends to call during its case-in-chief;

(B) any statements made by the listed prosecution witnesses; and

(C) any records of prior criminal convictions of the listed prosecution witnesses that the prosecuting attorney knows--or by the exercise of due diligence could know--to exist.

If a defendant makes a written request for discovery of the names, addresses, and statements of witnesses, the prosecuting attorney must be allowed to perpetuate the testimony of those witnesses under Rule 15.

(2) *Statements of Codefendants*. Upon a defendant's written request the prosecution must permit the defendant to inspect and to copy or photograph any relevant written or recorded confession, admission, or statement of a codefendant, or copies of any of these items if:

(A) the item is within the prosecution's possession, custody, or control; and

(B) the prosecuting attorney knows--or through due diligence could know--that the item exists.

(3) *Statements of Other Persons*. Upon a defendant's written request, the prosecution must permit the defendant to inspect and to copy or photograph any relevant written or recorded statement of any person if:

(A) the statement is within the prosecution's possession, custody, or control;

(B) the prosecuting attorney knows--or through the exercise of due diligence could know--that the statement exists; and

(C) the statement is not available to the defendant under Rule 16(a) or 16(f)(1) and (2).

(4) The term "statement," as used in Rule 16(f) means:

(A) a written statement made by the witness, codefendant, or other person and signed or otherwise adopted by the declarant; or

(B) a stenographic, mechanical, electronic, or other record, or a transcription of a record, which is a substantially verbatim recital of an oral statement made by the witness, codefendant, or other person to an agent of the prosecution and recorded contemporaneously with the making of the oral statement.

Exculpatory Evidence and Brady Materials

(1) *Exculpatory Evidence*. Any exculpatory material in the possession, custody or control of the prosecution, or of which it has knowledge, including names of any witnesses who have made an arguably favorable statement concerning the defendant. Jackson v. Wainwright, 390 F.2d 288 (5th Cir. 1968); Chavis v. North Carolina, 637 F.2d 213, 223

(4th Cir.1980); Jones v. Jago, 575 F.2d 1164, 1168 (6th Cir.1978); Hudson v. Blackburn, 601 F.2d 785 (5th Cir. 1979).

(2) *Brady Material*. The defendant requests all documents, statements, agents' reports, and tangible evidence favorable to the defendant on the issue of guilt and/or which affects the credibility of the prosecution's case. Impeachment as well as exculpatory evidence falls within Brady's definition of evidence favorable to the accused. U.S. v. Bagley, 473 U.S. 667 (1985); U.S. v. Agurs, 427 U.S. 97 (1976).

(A) *Arrest Reports, Notes, and Dispatch Tapes*. The defendant also specifically requests that all arrest reports, notes and dispatch or any other tapes that relate to the circumstances surrounding his or her arrest or any questioning, be turned over. This request includes, but is not limited to, any rough notes, records, reports, transcripts or other documents in which statements of the defendant or any other discoverable material is contained. This is all discoverable under Brady v. Maryland, 373 U.S. 83 (1963). See also Loux v. U.S., 389 F.2d 911(9th Cir. 1968); U.S. v. Johnson, 525 F.2d999 (2dCir. 1975); U.S. v. Lewis, 511 F.2d 798 (D.C. Cir. 1975); (U.S. v. Pilnick, 267 F. Supp. 791 (S.D. N.Y. 1967). Arrest reports, investigator's notes, memos from arresting officers, dispatch tapes, sworn statements, and prosecution reports about the defendant are available under Rule 16 of the ND Rules of Criminal Procedure. Preservation of rough notes is specifically requested, whether or not the prosecution deems them discoverable at this time.

(B) *Information Regarding Informants and Cooperating Witnesses*. The defendant requests that the prosecution provide all relevant information concerning any informants or cooperating witnesses involved in this case. At a minimum, the prosecution is obligated to disclose the identification and location of any informants or cooperating witnesses, as well as the identity and location of any other percipient witnesses unknown to the defendant. Roviaro v. U.S., 353 U.S. 53 (1957).

(C) *Evidence of Bias or Motive to Lie*. The defendant requests any evidence that any prospective prosecution witness is biased or prejudiced against the defendant, or has a motive to falsify or distort his or her testimony. Pennsylvania v. Ritchie, 480 U.S. 39 (1987); U.S. v. Strifler, 851 F.2d 1197 (9th Cir. 1988).

(D) *Impeachment Evidence*. The defendant requests any evidence that any prospective prosecution witness has engaged in any criminal act, whether or not resulting in a conviction, and whether any witness has made a statement favorable to the defendant. See ND Rules of Evidence 608, 609 and 613. Such evidence is discoverable under Brady, 373 U.S. at 83. See U.S. v. Strifler, 851 F.2d 1197 (9th Cir. 1988) (witness' prior record), Thomas v. U.S., 343 F.2d 49 (9th Cir. 1965) (evidence that detracts from a witness' credibility).

(E) *Evidence of Criminal Investigation of Any Prosecution Witness*. The defendant requests any evidence that any prospective witness is under investigation by federal, state or local authorities for any criminal conduct. U.S. v. Chitty, 760 F.2d 425 (2d Cir. 1985).

(F) *Evidence Affecting Perception, Recollection, Ability to Communicate, or Truthfulness.* The defense requests any evidence, including any medical or psychiatric report or evaluation, tending to show that any prospective witness' ability to perceive, remember, communicate, or tell the truth is impaired; and any evidence that a witness has ever used narcotics or other controlled substance, or has ever been an alcoholic. U.S. v. Strifler, 851 F.2d 1197 (9th Cir. 1988); Chavis v. North Carolina, 637 F.2d 213, 224 (4th Cir. 1980).

(G) *Giglio Information.* Pursuant to Giglio v. U.S., 405 U.S. 150 (1972), the defendant requests all statements and/or promises, express or implied, made to any prosecution witnesses, in exchange for their testimony in this case, and all other information that could arguably be used for the impeachment of any prosecution witnesses.

(H) *Prosecution Examination of Law Enforcement Personnel Files.* The defendant requests that the prosecution examine the personnel files and any other files within its custody, care or control, or which could be obtained by the prosecution through the exercise of due diligence, for all testifying witnesses, including testifying officers and agents who may have been controlling or contacting the confidential informant in this case, if extant. The defendant requests that these files be reviewed by the prosecutor for evidence of perjurious conduct or other like dishonesty, or any other material relevant to impeachment, or any information that is exculpatory, pursuant to its duty under U.S. v. Henthorn, 931 F.2d 29 (9th Cir. 1991). See U.S. v. Jennings, 960 F.2d 1488, 1492 (9th Cir. 1992).

Restitution Information

In the event restitution is going to be sought as a result of the alleged actions of the defendant, Defendant hereby requests the amount sought, an itemization of individual claims totaling the amount sought, and whether such amount is based on market value or replacement cost.

Failure to Comply

Failure to comply with this request will result in applicable action being taken pursuant to the provisions of Rule 16 (d) (2) of the North Dakota Rules of Criminal Procedure. Under that section, if a party fails to comply with this rule or with an order issued under this rule, the court may:

- (i) order that party to permit the discovery or inspection: specify its time, place and manner; and prescribe other just terms and conditions;
- (ii) grant a continuance ;
- (iii) prohibit that party from introducing the undisclosed evidence;
- (iv) relieve the requesting party from making a disclosure required by this rule; or

(v) enter any other order that is just under the circumstances.

Dated this 11th day of December, 2013.

/s/ Ryan A. Heintz
Ryan A. Heintz ND ID # 06951
Attorney for Defendant
115 N 4th St. Ste 3
Bismarck, ND 58501
(701) 355-1078
ryan.a.heintz@gmail.com