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Paul Ruben Flores

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 5/31/2022 10:49 AM
By: Renee Inofuentes, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

THE STATE OF CALIFORNIA,

Plaintiff,

vs.

PAUL RUBEN FLORES,

Defendant.

Case No. 22CR003712

CONDITIONALLY UNDER SEAL

NOTICE OF MOTION AND MOTION TO DISMISS FOR OUTRAGEOUS GOVERNMENT CONDUCT; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF COUNSEL

[Subject to application to file under seal]

Date: June 6, 2022
Time: 8:30 a.m.
Dept.: 4

Hon. Jennifer J. O'Keefe

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TO THE CLERK OF THE ABOVE-ENTITLED COURT AND TO THE DISTRICT ATTORNEY OF THE COUNTY OF SAN LUIS OBISPO AND DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE:

PLEASE TAKE NOTICE that on June 6, 2022 at 8:30 a.m., or as soon thereafter as the case may be heard in the above-entitled Court, Defendant Paul Flores will move the Court for an order that the within action be dismissed and, if that is denied, that the prosecution be ordered to provide all discovery forthwith and that the trial be continued on the condition that the defendant be released on his own recognizance, and for such other and further relief as the Court may deem just and proper.

This motion is made on the grounds that the defendant's rights to due process and a fair trial have been violated as a result of the continual unfounded harassment of Mr. Flores and his family for the purpose of interfering with his trial preparation and to intimidate him and his family and that such an order is necessary to protect the defendant's rights to due process, effective assistance of counsel, the right to confront and cross-examine witnesses or present defense evidence, and a fair trial under the Fourth, Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution as well as applicable statutes and case law.

The motion will be based on this Notice of Motion, the attached Memorandum of Points and Authorities and Declaration of Counsel, such supplemental memoranda of points and authorities as hereafter may be filed with the Court, all pleadings and documents heretofore filed with the Court,

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and such evidence and oral argument as may be presented at the hearing of this motion.

Dated: May 31, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 

Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

MEMORANDUM OF POINTS AND AUTHORITIES

ARGUMENT

I. THE PROSECUTION HAS ENGAGED IN OUTRAGEOUS GOVERNMENT CONDUCT

The prosecution has had twenty-five years to investigate the disappearance of Kristin Smart in May of 1996. They decided to arrest Mr. Flores based on information that had been available since the 1990s. The arrest was on April 13, 2021.

Nevertheless, the prosecution has continued to harass Mr. Paul Flores, his father, mother and sister with the unfounded hope that somehow one of them would make a case for them by making admissions of confessions. That has not happened despite extraordinary and, individually and cumulatively, outrageous efforts. The incident occurring this weekend, as the defense is preparing for trial, was not only outrageous but pushed the conduct of the government over the edge.

Over the years, the government has seized numerous cell phones from each of the Flores family members, they have obtained numerous warrants for telephone and cell phone information and they have done traps, traces and an actual period of wiretaps.

While doing this, they deliberately made an effort to provoke family members and Mr. Flores to make statements, including planting false information with the obsessed podcaster, Chris Lambert. From the testimony of Detective Cole at the preliminary hearing:

> Q. And do you remember law enforcement – and I don't know if it was you or somebody else had written in the report that you had specifically given the podcaster false information with the hope that that would stimulate conversations among family members, specifically false information about a truck, as I recall?

A. Yes.

Q. All right. So the whole idea was to try to get Susan Flores or Ruben Flores or Paul Flores or his sister or his aunt or somebody to talk about the case so you could get something out of it; right

A. Yes.

(RT 1305:18-1306:2)

They had Mr. Flores arrested on a DUI probation violation and planted an FBI informant in his cell. They had other agents befriend him and take him to Las Vegas to get him intoxicated. They took him to Oklahoma under the pretense of possibly giving him a job. They met with him in Long Beach and introduced him to Dennis Rodman, giving him rides in Rodman's limousine.

All of this, including dozens of seized cell phone, tape recording and surreptitious activities later, resulted in absolutely ZERO admission, confession or anything else. Instead, Paul Flores and his family always – to each other, to undercover agents and anyone else – maintained the same fact, that is, that neither Paul Flores nor anyone else in the family had anything to do with Kristin Smart's disappearance. Paul Flores left her at her dorm and went on to his.

Yet, outrageously, while Paul flores and his lawyers are preparing for trial, the prosecution obtains a search warrant to seize yet another phone of Paul Flores' mother. We have not been provided with the search warrant affidavit nor any reports or information that were used to obtain the warrant.

However, the seizure of the phone and the continuous pressure that has been brought against this family for twenty-five years is designed to deliberately interfere with trial preparation and is a tactic that was

suggested in a memo confidentially submitted to the prosecution by the FBI. In an FBI memo dated June 5, 2000 confidentially submitted to the prosecution by the FBI and obtained during discovery, the authoring FBI agent stated:

> The prosecution has several formidable obstacles to overcome to successfully prosecute this case including no eyewitnesses to the murder, no body, no physical evidence, and no forensic evidence.

The FBI agent concluded that chances for conviction at trial were not good and that the best strategy was to attempt to coerce a confession for admission from Paul Flores or his family members:

> With the existing circumstantial evidence, the prosecution could present a credible case to the jury although the changes for a successful prosecution are at best 50/50. Nonetheless, the prosecution can use the threat of a trial to place the defense in a position where a plea agreement is less costly than going to trial, even if the chance of a successful prosecution is 50/50. The prosecution can achieve this goal by a careful orchestration of events.
>
> First, a search warrant can be executed for the backyard of 529 East Branch Street, Arroyo Grande, California, to recover Smart's remains and personal property. The search warrant will serve two ends. If Smart's body is recovered, then the prosecution has sufficient evidence to prosecute Flores. If no relevant evidence is recovered at 529 East Branch, then the search can be used to raise the anxiety of Flores, who is currently in jail on an unrelated drunk driving violation. The media coverage will provide the UCO, currently in place, with an opportunity to broach the topic of Smart's disappearance with Flores.
>
> Second, a grand jury can be convened . . .
>
> Third, enter plea negotiations with the defense. If no agreement can be reached, the prosecution must be prepared to go to trial or, at least, proceed up to the point where the

> first witness is sworn. The trial can be continued for sufficient time to allow the defense to rethink their position. The defense will have to make a choice to take 3 to 5 years, a full confession, and recovery of Smart's body, or face a possible life sentence in the hands of a jury. If the case goes to trial, the outcome is unknown and very risky for the defense, which substantially increase the chances of a plea, especially since Flores, his parents, and likely his attorney know Flores' guilt.

We have secondary information suggesting that the warrant was requested by the Arroyo Grande Police Department and is based on a pretext associated with a neighbor of Ruben Flores who alleged that Susan Flores was taking pictures of her residence. This is the same neighbor who took pictures of Ruben Flores' residence and took them to Jim Murphy, the plaintiff's lawyer who has made a career of pursuing the Flores family to the extent of filing multiple lawsuits and putting a billboard about Kristin Smart in his front yard.

However, whatever the allegations, the timing of this seizure is no less than a direct attempt to intimidate Susan Flores and her family. There is no coincidence. Everyone in San Luis Obispo knows about this case and there has been extensive attention to the change of venue and the commencement of trial. The Arroyo Grande Police Department was involved in the preliminary hearing. The same District Attorney, Dan Dow, is the prosecutor who would advise on the application for a search warrant who has been hands-on involved in the arrest and prosecution of this case. There is no way that DA Dow and his office did not know that this search warrant was being sought and, most likely, a district attorney assisted in the preparation of the warrant.

Enough is enough. This is outrageous government conduct. (See, e.g., *Rochin v. California* (1952) 342 U.S. 165; *People v. Guillen* (2014) 227

Cal.App.4th 934.)

I. THIS IS ALSO AN EFFORT TO INVADE THE DEFENSE CAMP

The timing of this search warrant and the seizure of the phone coincide with the discussions of counsel regarding the commencement of trial which occurred by Zoom on May 24, 2022. Conveniently, we are informed that the search warrant called for the search of the contents of the phone from May 20 to 27, the week of these discussions.

The Zoom conference of May 24 preceded a Zoom conference with the Court. Without disclosing any discussions that would be covered by Evidence Code section 1152 making settlement discussions confidential and not admissible, it can be said for these purposes that whatever discussions were had, counsel for Paul Flores adamantly reasserted his innocence and refused to engage in any such discussions other than dismissal. Nevertheless, the prosecutor was likely to want to determine what reaction Susan Flores would have had in response to the fact that settlement was discussed and rejected.

It is not a coincidence that this warrant was for the week surrounding this discussion. If it had been for pictures taken on a certain day, that day could have been specified, not the entire week leading to the date of the application. And it is not a coincidence that this looks like a pretext when the smoke clears.

If this is a pretext and is an effort to determine the reaction of the mother of other family members to the fact that settlement was floated and flatly rejected by Paul Flores, it is an invasion of the defense camp. Under *Barber v. Municipal Court* (1979) 24 Cal.3d 742, *Boulas v. Superior Court* (1986) 188 Cal.App.3d 422 and *Morrow v. Superior Court* (1994) 30 Cal.App.4th 1252. In other words, it is not just harassment and intimidation intended to interfere with trial preparation but is an actual attempt to determine what others such as Ruben Flores, his lawyer and others on the

defense team are thinking. Ruben Flores is a defendant and represented, Paul Flores is in custody represented and all of his phone calls are actively monitored. The surreptitious and dishonest way to get the reaction of the defense team is to seize Susan Flores' phone.

Having said that, the conduct is outrageous and indefensible and that is what requires dismissal or, if denied, some other meaningful sanction. It also requires immediate discovery of the underlying reports giving rise to the seizure as well as the affidavit itself.

I am not worried about the contents of any communications from the standpoint that I know they are not going to incriminate Paul Flores since he did not do this and his family knows that. I am concerned about the extent to which the prosecution in this case continues to reach beyond the bounds of the law to harass and intimidate this family in lieu of having actual evidence to convict.

III. THE DEFENSE IS ENTITLED TO DISCOVERY

The defense is entitled to *Brady* material. (*Brady v. Maryland* (1963) 373 U.S. 83.) The defense served a discovery demand letter on the prosecution on April 14, 2021 specifically alerting the prosecution to its duties under *Brady*. A true and correct copy of said discovery demand letter is attached hereto as Exhibit A. In addition, the defense has made numerous additional and supplemental requests for discovery in writing, by email, on the record and in chambers conferences.

The prosecution has said that Susan Flores was a witness, most recently before the Court in a chambers conference regarding her potential attendance at trial. If the prosecution has information that she possesses relevant information it would have to be disclosed under *Brady*. But, if the claim is that Susan Flores committed some crime, that would also have to be disclosed as possible impeachment. Of course, the reason for the search

warrant was to intimidate and get information about the defense camp response. That would be impeachment of any prosecution team members who were involved and who might be witnesses. Most importantly, it would discoverable as direct evidence of government misconduct.

CONCLUSION

For the foregoing reasons, the defendant respectfully requests that the Court grant this motion.

Dated: May 31, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

DECLARATION OF ROBERT M. SANGER

I, Robert M. Sanger, declare:

1. I am an attorney at law duly licensed to practice in the State of California and I am the attorney of record for the Defendant herein, Paul Flores.
2. The prosecution has had twenty-five years to investigate the disappearance of Kristin Smart in May of 1996. They decided to arrest Mr. Flores based on information that had been available since the 1990s. The arrest was on April 13, 2021.
3. Over the years, the government has seized numerous cell phones from each of the Flores family members, they have obtained numerous warrants for telephone and cell phone information and they have done traps, traces and an actual period of wiretaps.
4. In an FBI memo dated June 5, 2000 confidentially submitted to the prosecution by the FBI and obtained during discovery, the authoring FBI agent stated:

> The prosecution has several formidable obstacles to overcome to successfully prosecute this case including no eyewitnesses to the murder, no body, no physical evidence, and no forensic evidence.

5. The FBI agent concluded that chances for conviction at trial were not good and that the best strategy was to attempt to coerce a confession for admission from Paul Flores or his family members:

> With the existing circumstantial evidence, the prosecution could present a credible case to the jury although the changes for a successful prosecution are at best 50/50. Nonetheless, the prosecution can use the threat of a trial to place the defense in a position where a plea agreement is less costly than going to trial, even if the chance of a successful prosecution is 50/50. The prosecution can achieve this goal by a careful orchestration of events.

> First, a search warrant can be executed for the backyard of 529 East Branch Street, Arroyo Grande, California, to recover Smart's remains and personal property. The search warrant will serve two ends. If Smart's body is recovered, then the prosecution has sufficient evidence to prosecute Flores. If no relevant evidence is recovered at 529 East Branch, then the search can be used to raise the anxiety of Flores, who is currently in jail on an unrelated drunk driving violation. The media coverage will provide the UCO, currently in place, with an opportunity to broach the topic of Smart's disappearance with Flores.
>
> Second, a grand jury can be convened . . .
>
> Third, enter plea negotiations with the defense. If no agreement can be reached, the prosecution must be prepared to go to trial or, at least, proceed up to the point where the first witness is sworn. The trial can be continued for sufficient time to allow the defense to rethink their position. The defense will have to make a choice to take 3 to 5 years, a full confession, and recovery of Smart's body, or face a possible life sentence in the hands of a jury. If the case goes to trial, the outcome is unknown and very risky for the defense, which substantially increase the chances of a plea, especially since Flores, his parents, and likely his attorney know Flores' guilt.

6. Following this plan, while Mr. Flores was in custody on the DUI probation violation initiated by San Luis Obispo Sheriffs, the Sheriffs and the FBI placed an undercover officer (UCO) in his cell. They later had other agents befriend him and take him to Las Vegas to get him intoxicated. They took him to Oklahoma under the pretense of possibly giving him a job. They met with him in Long Beach and introduced him to Dennis Rodman, giving him rides in Rodman's limousine.
7. This part of the plan did nothing other than to confirm that Mr. Flores was adamant in all circumstances, no matter how manipulated, that he had nothing to do with Kristin Smart's disappearance.

8. Failing these attempts, the Sheriffs deliberately made an effort to provoke family members and Mr. Flores to make statements, including by planting false information with the obsessed podcaster, Chris Lambert. (See RT 1305:18-1306:2.)

9. To attempt to reap the benefits of the FBI UCO plan and the Sheriffs' disinformation plan, the prosecution obtained search warrants over the years seizing dozens of cell phones, obtaining tape recordings and engaging in surreptitious activities which resulted in absolutely ZERO admissions, confessions or anything else. Instead, Paul Flores and his family always – to each other, to undercover agents and anyone else – maintained the same fact, that is, that neither Paul Flores nor anyone else in the family had anything to do with Kristin Smart's disappearance. Paul Flores left her at her dorm and went on to his.

10. The latest cell phone seizure has now occurred the week before trial is to start. The prosecution could not have been unaware of how disruptive this tactic was going to be to the defense both from the standpoint of intimidation and intrusion into the defense function.

11. We have secondary information suggesting that the warrant was requested by the Arroyo Grande Police Department and is based on a pretext associated with a neighbor of Ruben Flores who alleged that Susan Flores was taking pictures of her residence. This is the same neighbor who took pictures of Ruben Flores' residence and took them to Jim Murphy, the plaintiff's lawyer who has made a career of pursuing the Flores family to the extent of filing multiple lawsuits and putting a billboard about Kristin Smart in his front yard.

12. Furthermore, the timing of this search warrant and the seizure of the phone coincide with the discussions of counsel regarding the commencement of trial which occurred by Zoom on May 24, 2022.

Conveniently, we are informed that the search warrant called for the search of the contents of the phone from May 20 to 27, the week of these discussions.

13. The Zoom conference of May 24 preceded a Zoom conference with the Court. Without disclosing any discussions that would be covered by Evidence Code section 1152 making settlement discussions confidential and not admissible, it can be said for these purposes that whatever discussions were had, counsel for Paul Flores adamantly reasserted his innocence and refused to engage in any such discussions other than dismissal.

14. Nevertheless, this seizure of Paul Flores' mother's cell phone is consistent with the approach taken over the last 25 years, as represented by the FBI memo and by Detective Cole's admission on the record, to use intimidation, subterfuge and anything else available to attempt to obtain incriminating statements from Paul Flores or his family. The pretext seizure of the phone is a thinly veiled attempt to determine what reaction Susan Flores would have had in response to the fact that settlement was discussed and rejected.

15. The defense is entitled to immediate discovery of all underlying reports, notes and other materials no matter how recorded or preserved relating to the events leading up to the obtaining of this warrant as well as the affidavit for the search warrant itself. This should include any internal emails, memos or other materials relating to the reasons for and desired results of the search warrant tactic, including any and all communications between members of the District Attorney's Office, the San Luis Obispo Sheriff's Office and/or the Arroyo Grande Police Department.

16. The defense served a discovery demand letter on the prosecution

on April 14, 2021 specifically alerting the prosecution to its duties under *Brady*. A true and correct copy of said discovery demand letter is attached hereto as Exhibit A. In addition, the defense has made numerous additional and supplemental requests for discovery in writing, by email, on the record and in chambers conferences.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed the 31st of May, 2022 at Santa Barbara County, California.



Robert M. Sanger

EXHIBIT A

SANGER SWYSEN & DUNKLE

Attorneys at Law

April 14, 2021

Robert M. Sanger
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*Certified by the State Bar of California Board of Legal Specialization

Office of the District Attorney
1035 Palm Street
San Luis Obispo, CA 93408

Via Facsimile at 805-781-4307 and U.S. Mail

Re: *People v. Paul Flores*
San Luis Obispo Superior Court

Dear Office of the District Attorney:

Please accept this informal discovery request pursuant to Penal Code § 1054.5(b) and *Brady v. Maryland* (1963) 373 U.S. 83. Discovery is requested now and at all times during the prosecution of this case including, in advance of the preliminary hearing pursuant to *Brady, supra,* and *Magallan v. Superior Court* (2011) 192 Cal. App. 4th 1444, *People v. Gutierrez* (2013) 214 Cal. App. 4th 343 and *People v. Hull* (2019) 31 Cal.App.5th 1003.

Defendant requests disclosure of the below "information and materials, no matter how preserved," within the "possession, control or obtainable" by "any member of the prosecution team." "Information and materials, no matter how preserved," refers to all information and materials, including without limitation, information and materials preserved on paper, digitally, electronically or in any other fashion. "Possession, control or obtainable" includes, without limitation, all information and materials available by any means in possession of law enforcement, prosecuting agencies, other governmental agencies, experts, consultants, citizen informants, confidential informants, or others involved in any way in the investigation or prosecution of this matter, including information and materials stored or accessible on or through any personal recording devices, computers, information storage systems, remote servers or qubit storage modalities. "Any member of the prosecution team" includes without limitation, all

law enforcement prosecuting agencies, other governmental agencies, experts, consultants, citizen informants, confidential informants or others involved in any way in the investigation or prosecution of this matter.

1. Any and all information and materials, including notes and reports of police officers and investigators, concerning offenses charged and any related investigations. This includes without limitation, all field notes and reports concerning all aspects of the case, e.g. the crime, the defendant's arrest, law enforcement activities and observations, and conversations with witnesses. Penal Code § 1054.1(e)-(f);

2. All statements or utterances by the defendant, oral or written, however recorded or preserved, whether or not signed or acknowledged by the defendant including but not limited to all audio and video recordings. Penal Code § 1054.1(b) and (e); *Joe Z. v. Superior Court of Los Angeles County* (1970) 3 Cal.3d 797; *Brady v. Maryland* (1963) 373 U.S. 83;

3. The content of any statements made in the defendant's presence while being interrogated by law enforcement that were intended or might reasonably be expected to have the effect of encouraging the defendant to give a statement about the offense to the police. *People* v. *Haydel* (1974) 12 Cal.3d 190; *Napue* v. *Illinois* (1959) 360 U.S. 264;

4. Information regarding any expert witnesses who may testify or who has provided information to the prosecution team regarding this case or that may be considered regarding this case. In particular defendant requests the name, qualifications, C.V., documentation of formal or informal training, and names of authorities and publications relied upon and considered by experts including materials supplied by the District Attorney;

5. All physical evidence obtained in the investigation of the case. Penal Code § 1054.1(c);

6. Any exculpatory evidence, information, documents, recordings and other materials in the possession of, or that have come to the attention of, the District Attorney or of any law enforcement agency involved in the investigation of the case against the defendant. Penal Code §§ 1054.1(e), 1054(e). *Giglio* v. *U.S.* (1972) 405 U.S. 150, 92 S. Ct. 763; *Brady* v.

Maryland, supra;

7. The identity and whereabouts of any material informants. Penal Code §§ 1054.1(e), 1054(e). *People* v. *Hobbs* (1994) 7 Cal.4th 978.

8. All written or recorded statements of witnesses who will testify at trial including audio and video recordings. Penal Code § 1054.1 (e)-(f).

9. All written or recorded statements of percipient witnesses, whether or not they will be called to testify audio and video recordings. Penal Code § 1054.1(e)-(f).

10. All oral statements of witnesses reported to counsel, including oral statements relayed to counsel by a third party, such as an investigator or police officer. *People v. Lamb* (2006) 136 Cal.App.4th 575; *Roland v. Superior Court* (2004) 124 Cal.App.4th 154.

11. Any record of criminal arrests or convictions (whether felonies or misdemeanors) of any witness to be called to testify against the defendant. Penal Code §§ 1054.1(e), 1054(e); *People* v. *Lang* (1989) 49 Cal.3d 991; *People* v. *Harris* (1989) 47 Cal.3d 1047. See, *People* v. *Pinholster* (1992) 1 Cal.4th 865, 938, 939; *People* v. *Pensinger* (1991) 52 Cal.3d 1210, 1271.

12. All records concerning arrests and convictions of any alleged victims, complaints filed against any alleged victims, as well as the names, addresses, and phone numbers of witnesses to such acts. Penal Code §1054.1(e); *Engstrom* v. *Superior Court* (1971) 20 Cal.App.3d 240, 245.

13. All notes and reports of police officers and investigators concerning offenses charged. This includes field notes, bench notes and reports concerning all aspects of the case, e.g. the crime, the defendant's arrest, law enforcement activities and observations, and conversations with witnesses. Penal Code § 1054.1(e)-(f).

14. Any evidence to be used in rebuttal of the defense case. *Izazaga v. Superior Court* (1991) 54 Cal.3d 356; *People v. Bunyard* (1988) 45 Cal.3d 1189.

15. As to all witnesses who may be called to testify at the trial, preliminary hearing or other hearing in the case, and any and all persons who were

percipient witnesses to the alleged offenses, whether or not they are to be called to testify at the trial or other hearing in the case: any and all promises, inducements, cooperation agreements, offers of reward or immunity, or affirmative representations made or implied to such persons in an effort to obtain information or testimony as to the investigation and/or prosecution of the alleged offenses as charged in the information, and as to such persons, any and all threats made or implied for a like purpose. *Brady v. Maryland* (1963) 373 U.S. 83.

16. All information concerning pending charges, probationary status, acts of dishonesty, or false reports with regard to any witness to be called to testify against the defendant. *People v. Hayes* (1992) 3 Cal.App. 4th 1238; *People v. Coyer* (1983) 142 Cal.App. 3d 839.

17. All search warrant documents pertaining to any matter pertaining to this case, whether or not said search warrant was issued and whether or not said search warrant was executed, including any affidavits, statements of probable cause, inventories, returns and property logs.

18. All arrest warrant documents related to any arrest, of the defendant or anyone else associated with this case, including any affidavits and statements of probable cause.

19. All laboratory, technicians' and other reports concerning the testing and examination of physical evidence, including, but not limited to the results of forensic tests. Lab notes and bench notes are specifically requested. Penal Code § 1054.1, subdivisions (c) and (f); Vehicle Code § 23158(c); *Walker v. Superior Court of Mendocino County* (1957) 155 Cal.App.2d 134.

Please allow this letter to serve as a reminder that the prosecution has a duty to disclose evidence favorable to the defendant pursuant to the due process clause of the Fourteenth Amendment to the United States Constitution. (*United States v. Bagley* (1985) 473 U.S. 667, 674–78.) The duty to disclose encompasses impeachment evidence as well as exculpatory evidence. (*Strickler v. Greene* (1999) 527 U.S. 263, 278.) The prosecutor's duties of disclosure under the due process clause are wholly independent of any statutory scheme of reciprocal discovery and need no statutory support to be effective. (*Izazaga v. Superior Court* (1991) 54 Cal.3d 356, 378.)

Defendant asks that this be treated as a continuing request through the completion of trial. (Penal Code § 1054.7.) Your cooperation will be appreciated.

We would prefer to receive discovery in this matter electronically whenever possible. We previously submitted a request to be enrolled in the electronic discovery program with the email rmsTeam@sangerswysen.com.

Sincerely,

SANGER SWYSEN & DUNKLE

Robert M. Sanger

* * * Communication Result Report (Apr. 14. 2021 3:06PM) * * *

1)
2)

Date/Time: Apr. 14. 2021 3:04PM

File No.	Mode	Destination	Pg(s)	Result	Page Not Sent
0752	Memory TX	8057814307	P. 6	OK	

Reason for error
E. 1) Hang up or line fail
E. 2) Busy
E. 3) No answer
E. 4) No facsimile connection
E. 5) Exceeded max. E-mail size
E. 6) Destination does not support IP-Fax

SANGER SWYSEN & DUNKLE
Attorneys at Law

FACSIMILE TRANSMISSION

DATE: 4/14/21
TIME: 3:15
NO. OF PAGES FOLLOWING THIS PAGE: 5
ORIGINAL WILL NOT BE SENT TO YOU
ORIGINAL WILL BE SENT TO YOU X

BY: ☐ Regular Mail ☐ Hand Delivery ☐ Overnight

TO: San Luis Obispo District Attorney's Office
COMPANY:
CITY/STATE: San Luis Obispo, CA
FAX NO.: 805-781-4307 PHONE NO.:
FROM: Sanger Swysen & Dunkle
RE: People v. Paul Flores

MESSAGE:

Good afternoon,

Please see attached correspondence.

Thank you.

PLEASE CALL (805) 542-0317 IMMEDIATELY IF THERE ARE ANY PROBLEMS DURING THIS TRANSMISSION.

[redacted]

PROOF OF SERVICE

I, the undersigned declare:

I am over the age of 18 years and not a party to the within action. I am employed in the County of Santa Barbara. My business address is 222 E. Carrillo St., Ste. 300, Santa Barbara, California, 93101.

On May 31, 2022, I served the foregoing document entitled: **NOTICE OF MOTION AND MOTION TO DISMISS FOR OUTRAGEOUS GOVERNMENT CONDUCT; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF COUNSEL** on the interested parties in this action by depositing a true copy thereof as follows:

SEE ATTACHED SERVICE LIST

_X_ **BY ELECTRONIC TRANSMISSION** -I caused the above-referenced document(s) to be transmitted via electronic transmission to the interested parties at the email addresses referenced in the attached service list.

____ **BY U.S. MAIL** - I am readily familiar with the firm's practice for collection of mail and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited daily with the United States Postal Service in a sealed envelope with postage thereon fully prepaid and deposited during the ordinary course of business. Service made pursuant to this paragraph, upon motion of a party, shall be presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit.

____ **BY HAND** - I caused the document to be hand delivered to the interested parties at the address referenced on the attached service list.

_X_ **STATE** - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

____ **FEDERAL** - I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed May 31, 2022, at Santa Barbara, California.

Jake Swanson

Jake Swanson

SERVICE LIST

Christopher Peuvrelle
Deputy District Attorney
1035 Palm St, # 4
San Luis Obispo, CA 93408-1000
cpeuvrelle@co.slo.ca.us
Via Email Only

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