

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

| | | |
|--------------------------|---|-------------------|
| UNITED STATES OF AMERICA | § | |
| | § | No. 3:12-CR-413-L |
| v. | § | No. 3:13-CR-030-L |
| | § | |
| BARRETT LANCASTER BROWN | § | |

MOTION FOR RECIPROCAL DISCOVERY

1. The United States, acting by and through the undersigned United States Attorney for the Northern District of Texas, requests this Court for an Order that the defendant in this case be ordered to produce reciprocal discovery.

2. Specifically, the government formally requests reciprocal discovery pursuant to the Fed. R. Crim. P. 16(b)(A) and (B) and witness statements pursuant to Fed. R. Crim. P. 26.2. The government respectfully further requests that this Court enter an Order that the defendant produce the following:

- (a) Any documents which the defendant intends to use in his case in chief (Fed. R. Crim. P. 16(b)(A)) ;
- (b) Any digital evidence which the defendant intends to use in his case in chief (Fed. R. Crim. P. 16(b)(A)); and
- (c) Any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the case (Fed. R. Crim. P. 16(b)(B));

3. To date, the government has provided full discovery pursuant to Fed. R. Crim. P. 16 to the defense, and will continue to provide discovery if and when additional evidence is acquired.

4. The Supreme Court favors a criminal justice system that permits a complete, truthful disclosure of the critical facts. *Taylor v. Illinois*, 484 U.S. 400, 412 (1988). “Discovery, like cross-examination, minimizes the risk that a judgment will be predicated on incomplete, misleading, or even deliberately fabricated testimony.” *Id.* at 411-12. A criminal jury trial is not “a poker game in which players enjoy an absolute right always to conceal their cards until played.” *Williams v. Florida*, 399 U.S. 78, 82 (1970). In *Williams*, the defense challenged Florida’s rule permitting notice of an alibi defense. Finding this form of discovery did not violate due process or fair trial concerns, the Court went on to state that the rule was intended “to enhance the search for truth in the criminal trial by insuring both the defendant and the State ample opportunity to investigate certain facts crucial to the determination of guilt or innocence.” *Id.* at 81-82.

5. Similarly, the federal rules which provide for reciprocal discovery were intended to avoid a “trial by ambush” strategy, which runs contrary to the ends of justice. Accordingly, pursuant to Fed. R. Crim. P. 16(b)(A) and (B) and Fed. R. Crim. P. 26, the government hereby moves formally for reciprocal discovery from the defendant in this case. The government requests the discovery be provided not later than thirty days prior to the trial setting. The government requests witness statements be provided per local custom at least one day before the witness testifies. In the event that reciprocal discovery

is not produced, the Government requests the Court enter an order barring the introduction and use at trial of any evidence not produced by the defendant in response to this motion for reciprocal discovery.

Respectfully submitted,

SARAH R. SALDAÑA
UNITED STATES ATTORNEY

S/ Candina S. Heath
CANDINA S. HEATH
Assistant United States Attorney
State of Texas Bar No. 09347450



CERTIFICATE OF CONFERENCE

I hereby certify that on August 8, 2013, I advised Barrett Brown's lead counsel Ahmed Ghappour of my intent to file this motion, and requested his position. Mr. Ghappour was unable to respond by the time I filed the motion.

S/ Candina S. Heath
CANDINA S. HEATH
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on August 8, 2013, I electronically filed the foregoing document with the clerk for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to Brown's attorney of record Doug Morris who consented in writing to accept this Notice as service of this document by electronic means.

S/ Candina S. Heath
CANDINA S. HEATH
Assistant United States Attorney