

IN THE CIRCUIT COURT FOURTEENTH JUDICIAL CIRCUIT  
OF FLORIDA, IN AND FOR BAY COUNTY

FILED

2007 FEB 22 P 4: 26

HAROLD BAZZEL  
CLERK OF CIRCUIT COURT  
BAY COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

vs.

Case No.: 06-4016G

KRISTIN ANNE SCHMIDT,

Defendant.

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**NOTICE OF DISCOVERY AND BRADY DEMAND**

**COMES NOW** the Defendant, KRISTIN ANNE SCHMIDT, by and through his attorney, and files herewith his Notice of Discovery and Brady Demand requiring the prosecutor to disclose to defense counsel, pursuant to Florida Rules of Criminal Procedure 3.220, the following:

(a) The names and addresses of all persons known to the prosecutor to have information which may be relevant to the offense charged, and to any defense with respect thereto.

1) The names of all persons described under paragraph (a) above who the prosecutor designates as performing ministerial functions with respect to the case.

2) The names of all persons described under paragraph (a) above whom the prosecutor does not intend to call at trial.

3) The names of all persons described under paragraph (a) above whose involvement with the case and knowledge of the case is FULLY SET out in a police report or other statement furnished to the defense.

(b) Copies of statements of any person whose name is furnished in compliance with the preceding paragraph to include any statement of any kind or manner made by such person and written or recorded or summarized in any writing or recording. The term "statement" is specifically intended to include ALL police and investigative reports of ANY kind prepared for or in connection with the case.

(c) Copies or transcripts of any written or recorded statement and the substance of any oral statements made by the accused and known to the prosecutor, together with the name and address of each witness to the statement.

(d) Copies of any written or recorded statements and the substance of any oral statements made by a co-defendant, if there is a co-defendant in the above-styled cause.

(e) Those portions of any recorded grand jury minutes that contain testimony of the accused.

(f) Any copies or list of tangible papers or objects which were obtained from or belonged to the accused, together with the location of said objects.

(g) List of the information or materials or copies of any statements or other documents which have been provided by a confidential informant.

(h) Whether the State has engaged in any electronic surveillance, including wire-tapping, of the premises of the accused or of conversations to which the accused was a party; and, any documents relating thereto.

(i) Whether there has been any search or seizure and any documents relating thereto.

(j) Reports or statements of experts made in connection with this case,

including results of physical or mental examinations and of scientific tests, experiments or comparisons. The term "statement " is specifically intended to include ALL police and investigative reports of ANY kind prepared for or in connection with the case. In the event that blood alcohol, urinalysis or breathalyzer tests should constitute a report or statement furnished herein, in such event, furnish the following:

- 1) A copy of breathalyzer/urinalysis/blood alcohol report.
- 2) A copy of the radio logs of the arrest and incarcerating law enforcement agency for the time periods for the day preceding the date of arrest, the date of arrest, and the day following date of arrest.
- 3) The maintenance logs as required by DHSMV Rule 158-3.05, paragraph 2.
- 4) A copy (front and back) of the permit issued by the Department of Health and Rehabilitative Services under the provisions of Florida Statutes 322.261 and 322.262 to the officer who conducted the test.

(k) Any tangible papers or objects which the prosecuting attorney intends to use in the hearing or trial and which were not obtained from or belonged to the accused.

(l) Any and all material now known to the State of Florida, or which through due diligence may be learned from the investigating officers or the witnesses or persons having knowledge of this case, which is favorable in nature to the accused or which may lead to favorable material or which might serve to mitigate punishment, and including any material impeaching or contradicting testimony of State witnesses or instructions to State witnesses not to speak with or discuss the facts of the case with defense counsel. Brady v. Maryland, 373 U.S. 83 (1963). Included in favorable material but not limited to

are the following specific requests for the following items:

- 1) Any favorable material relating to guilt or punishment of the accused.
  - 2) Any favorable material which impeaches prosecution witnesses.
  - 3) Any favorable material of prior inconsistent statements of a State or Government witness.
  - 4) Any favorable material consisting of promises to witnesses of immunity, leniency, or recommendations of specific sentence.
  - 5) Any favorable material consisting of promises of leniency or reward received in other cases or investigations.
  - 6) Any favorable material consisting of threats to prosecute a State or Government witness or any witness which may be called at trial.
  - 7) Any favorable material consisting of information as to pending indictments, prior indictments, or prior convictions of a State or Government witness.
  - 8) Any favorable material consisting of information regarding a State or Government witness's interest, motives, prejudices, hostilities, means of obtaining knowledge, power of memory, way of life, or associations.
  - 9) Any favorable material consisting of information that an eyewitness identified someone other than the accused as the perpetrator even though that witness shall not or will not be called by the State or Government.
  - 10) Any favorable material consisting of descriptions of the perpetrator which do not match the accused.
- (m) Please furnish copies of all documentary evidence as required above to

the undersigned by United States Mail. The undersigned will pay, upon receipt, reasonable costs of copying and reproduction of the documentary evidence (excluding photographs). All of this documentary evidence should be furnished prior to any depositions of any persons involved in this cause. It shall be presumed that the prosecutor shall perform the foregoing obligations and furnishing of said copies as aforesaid by U.S. Mail and that manner is mutually agreeable to the prosecutor and defense counsel absent of objection from the prosecutor within fifteen (15) days of service of this written demand by the defendant's attorney.


In the event this motion is filed prior to any information or indictment being filed, then, upon the filing of the information or indictment by the assistant state attorney or state attorney, this motion is automatically renewed by such filing and the undersigned attorney is bound by the reciprocal provisions of Rule 3.220, Florida Rules of Criminal Procedure. The purpose of the filing of this motion is to allow the assistant state attorney or state attorney having jurisdiction of this matter to proceed expeditiously, and to place the assistant state attorney or state attorney on notice that such demand will and is being made.

By the execution and filing hereof by either the defendant or his attorney, same shall constitute a certification that the signer has read this notice and that to the best of the signer's knowledge, information or belief, that it complies with the certification required by Rule 3.220(n)(3), Florida Rules of Criminal Procedure.



**ASHLEY STONE BENEDIK**  
FL Bar#980129  
**COTHRAN & BENEDIK, P.A.**  
1004 Jenks Ave  
Panama City, FL 32401  
(850)784-2992 Fax (850)784-4773  
Attorney for Defendant

I **HEREBY CERTIFY** that a copy of the foregoing has been furnished by U.S. Mail to the Michael Sinacore, Assistant State Attorney, 800 East Kennedy Blvd., Tampa, Florida 33602 this 22 day of February, 2007.

  
ASHLEY STONE BENEDIK, ESQ.