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UNDER SEAL
STATE OF WISCONSIN v. STEVEN AVERY
Case No. 05-CF-381

Defendant's Motion for Disclosure of Exculpatory
Information

MANITOWOC COUNTY
STATE OF WISCONSIN
FILED

JAN 18 2007

CLERK OF CIRCUIT COURT

Unsealed per order
dated 03-23-07

Some of the information that Mr. Avery seeks here he already requested of the prosecution in writing, by letter dated December 15, 2006. The prosecution to date has not responded to that letter. Other information Mr. Avery now requests specifically for the first time. Mr. Avery prays that the Court order the state immediately to disclose:

1. All documents and information about the work schedules and whereabouts of James Lenk, Andrew Colborn, Kenneth Peterson, and Thomas Kocourek on October 31, 2005 and on November 1-4, 2005. This includes any information about their locations and activities during nighttime hours. This information was requested in the December 15 letter from defense counsel. Information already in the possession of the defense, through previous discovery, of course need not be disclosed again.

2. All documents and information about the work schedule and whereabouts of James Lenk on Saturday, November 5, 2005, before 10:41 p.m. Specifically, the state should disclose where Lt. Lenk was when he made a 2:57 p.m. telephone call that day to Inv. Dederling, when he first arrived at the Manitowoc County Sheriff's Department that day or counted himself on duty, and when he first arrived anywhere on the Avery Auto Salvage property that day.

3. The number, location, actual possessors, and nominal custodians, at any time, of all master keys or other keys that opened the Manitowoc County Clerk of Court's office between October 30, 2005 and November 6, 2005. This request includes any information concerning the use or misuse of any such key, or the unexplained disappearance of any such key, during the same time period.

4. All documents and information about the work schedules and whereabouts on November 3, November 4 and November 5, 2005, of every employee of the Manitowoc County Sheriff's Department with actual access, whether proper or otherwise, to any key that opened the Manitowoc County Clerk of Court's office during the same time period.

5. All documents and information explaining, purporting to explain, or relating in any way to the apparent hole in the cap of the vial of liquid blood labeled as Steven Avery's, and contained in the court file of the 1985 case that resulted in Mr. Avery's wrongful conviction.

6. All documents and information bearing on the bias of any current or former member of the Manitowoc County Sheriff's Department or the Calumet County Sheriff's Department against Steven Avery, if that bias reasonably may have existed at any time between October 30, 2005 and the present.

7. All documents and information relating to any internal investigation or discipline by the Manitowoc County Sheriff's Department, the Manitowoc County Board of Supervisors or any of its committees, the Manitowoc Fire and Police Commission, or any other oversight body, of James Lenk, Andrew Colborn, or any other Manitowoc County Sheriff's Department employee involved in the investigation leading to the present charges against Mr. Avery, for any job-related act of dishonesty or alleged dishonesty, dereliction of duty, bias, tampering with (or improper handling of) evidence, or other failure to follow departmental rules at any time. This request includes, but is not limited to, information in personnel or human resources files, or in internal affairs division (or the equivalent internal professional performance investigative arm) files. It also includes the circumstances of Lt. Lenk's departure from the Detroit Police Department in or before 1980, if that was in the wake of allegations about his professional performance, honesty, integrity, or suitability for law enforcement work.

8. All documents and information reflecting any inconsistent statements made by James Lenk, Andrew Colborn, or any other Manitowoc County Sheriff's Department employee involved in the investigation leading to the present charges, to the extent that those inconsistent statements relate to the investigation into Teresa Halbach's disappearance or to the present prosecution of Mr. Avery.

9. All documents and information reflecting any plea offers by Brendan Dassey or any of his lawyers, any hopes of leniency that Brendan Dassey or his lawyers have expressed, any expectations of leniency or favor that Brendan Dassey or his lawyers have expressed, any promises offered or made to Brendan Dassey by prosecutors or law enforcement officials involved in the prosecution of either Steven Avery or Brendan Dassey, and any further statements Brendan Dassey has made to anyone (including on tapes made by the Sheboygan County facility where he is lodged) about the offenses alleged here in the Amended Information. Such statements necessarily will be inconsistent with other statements by Mr. Dassey. This request encompasses all information within the scope of *Giglio v. United States*, 405 U.S. 150 (1972), and both federal and Wisconsin cases applying that decision.

10. All documents and information concerning the non-human nature, or uncertain nature, of a bone fragment with a kerf cut, examined by Dr. Leslie Eisenberg and later submitted to the FBI Laboratory. At this point, the state has not disclosed any results of FBI testing.

Dated at Madison, Wisconsin, January 17, 2007.

Respectfully submitted,

STEVEN A. AVERY, *Defendant*

HURLEY, BURISH & STANTON, S.C.



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