

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND FOR
ORANGE COUNTY, FLORIDA

STATE OF FLORIDA
Plaintiff,

CASE NO: 48-2020-CF-002603-O

vs.

SARAH BOONE
Defendant.

DIVISION: 20

RESPONSE TO NOTICE OF DISCOVERY

Lydia L. LaBar
435 North Orange Avenue
Suite 400
Orlando, FL 32801

Comes now the State of Florida, through the undersigned Assistant State Attorney, pursuant to Defendant's Notice of Intent to Participate in Discovery and Florida Rule of Criminal Procedure 3.220, and submits the following discovery exhibit:

1. The names and addresses of all persons known to the prosecutor to have information that may be relevant to any offense charged, or any defense, or to any similar fact evidence to be presented at trial pursuant to Florida Statute § 90.404(2), Florida Statutes, are as follows:

SEE ATTACHED WITNESS LIST

This list of witnesses is not necessarily limited to those named but also includes any witnesses mentioned in any material made available for Defendant's discovery pursuant to Fla. R. Crim. P. 3.220.

2. The undersigned Assistant State Attorney has initialed "Yes" below for each subparagraph listing items in the State's possession or control. The same are available for your inspection, copying, testing or photographing at the office of the undersigned or the investigating law enforcement agency or agencies, upon timely and reasonable notice. If you desire to copy and/or photograph same, copies will be provided upon signed receipt for same. The name(s) of confidential informant(s) will not be supplied unless the State intends to use the confidential informant(s) as witness(es) at the trial or unless required by court order after notice and hearing.

Please coordinate with the undersigned Assistant State Attorney to make any necessary appointments to review evidence at either the State Attorney's Office or at any of the law enforcement agencies involved with the case. Documentary evidence will generally be provided without the necessity of an appointment, and digital evidence will be copied for you upon receipt of blank digital media capable of storing the digital evidence.

- a. Statements given by person(s) listed in Paragraph 1 above.
☒ Yes ☐ None
- b. Written, recorded and/or oral statements of Defendant.
☒ Yes ☐ None
- c. Written, recorded and/or oral statements of Co-Defendants.
☐ Yes ☒ None
- d. Recorded Grand Jury Testimony of Defendant.
☐ Yes ☒ None
- e. Tangible papers or objects obtained from or belonging to Defendant.
☒ Yes ☐ None
- f. Material or information provided by any confidential informant(s).
☐ Yes ☒ None
- g. Electronic surveillance of premises of Defendant or of conversations to which Defendant was a party.
☒ Yes ☐ None
- h. Documents pertaining to any search or seizure.
☒ Yes ☐ None
- i. Reports or statements of experts.
☒ Yes ☐ None
- j. Tangible papers or objects not obtained from or belonging to Defendant which the State intends to use at hearing or trial.
☒ Yes ☐ None
- k. Tangible papers, objects or substances in the possession of law enforcement that could be tested for DNA.
☒ Yes ☐ None

1. Material or information that has been provided by an informant witness

_____ Yes x No

If yes, this material or information will be detailed in a separate notice.

3. All tangible documents and objects may be inspected, photographed, copied and tested pursuant to Florida Rule of Criminal Procedure 3.220(b)(1) during regular and ordinary business hours, after coordination with the undersigned Assistant State Attorney at:

1. STATE ATTORNEY'S OFFICE

2. Orange County Sheriff's Office

This document will serve as authorization for the said above addressee, the attorney for the Defendant, or the Defendant's designated representative to conduct discovery of tangible objects in the above-styled cause and after coordination with the undersigned Assistant State Attorney, with reference to the following agency case numbers:

1. # 48-2020-CF-002603-O
 2. # OCSO, 20-017904
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4. The State requests that the Defendant comply with Florida Rule of Criminal Procedure 3.220(d) and provide within 15 days: a witness list, a discovery exhibit which discloses witness statements, reports or statements of experts, and any tangible papers or objects that the defendant intends to use in the hearing(s) or trial, and that the Defendant permit the State to inspect, copy, test, and photograph these items.
 5. Documentary evidence may have already been, may contemporaneously be, or may in the future be scanned and *provided* through electronic mail to you as a *courtesy*. Any information the State obtains that has not previously been disclosed in this response to discovery will be disclosed by a notice of supplemental discovery. As law enforcement sends the State copies of previously disclosed documents and tangible evidence, such as recordings or photographs, these items will be digitally scanned and sent as a *courtesy*, and tangible evidence capable of being reproduced on digital media such as photographs and recordings will be copied and sent to you if blank media are provided. It is Defendant's obligation to exercise due diligence to ensure that he or she inspects, copies, tests, and photographs that information which is disclosed. The State has no duty to obtain and produce evidence that the Defendant can acquire on his or her own. *State v. Wright*, 803 So. 2d 793 (Fla. 4th DCA 2001); *see also State v. Counce*, 392 So. 2d 1029 (Fla. 4th DCA 1981). A Defendant "should not be permitted to employ the pretrial discovery procedures for disclosure of information or documents which by exercise of due diligence are readily available to him by subpoena or deposition." *Wright* at 794 (*quoting Yanetta v. State*, 320 So. 2d 23 (Fla. 3rd DCA 1975)). "[T]he prosecuting attorney should not be required to actively assist defendant's attorney in the investigation

of the case.” *State v. Coney*, 294 So. 2d 82 (Fla. 1974) (quoting *State v. Crawford*, 257 So. 2d 838 (Fla. 1972).

6. Pursuant to *Brady v. Maryland* and Florida Rule of Criminal Procedure 3.220(b)(4), the State will disclose any material information which is exculpatory. 373 U.S. 83 (1963). However, the Defendant is still required to exercise due diligence to obtain information readily available to him or her, such as FCIC criminal histories on witnesses maintained by the Florida Department of Law Enforcement. *State v. Wright*, 803 So. 2d 793, 794 (Fla. 4th DCA 2001). If the State has reason to believe a witness has an out of state criminal history, or if the Defendant specifically requests the State to run an NCIC rap sheet on a witness, the State will provide information such as county, state, case number(s) so that the Defendant may exercise due diligence to obtain the information. *Id.*
7. Please be advised that the Orange and Osceola County Jails record all phone calls and have the capability of recording all video visitations. All recorded conversations that the Defendant has during phone calls and video visitations while incarcerated at the Orange and Osceola County Jails are public records and are available through a public records request through the county jail. Florida Rule of Criminal Procedure 3.220(b)(1)(c).

I CERTIFY that a copy hereof has been furnished to Lydia L. LaBar, llabar@circuit9.org and Division20@circuit9.org, 435 North Orange Avenue, Suite 400, Orlando, FL 32801 by e-mail on this 20th day of March, 2020.



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