

FILED

IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

BRENDA A. HUSTATED
CLERK CIRCUIT COURT
COLE COUNTY, MISSOURI

STATE OF MISSOURI,)
Plaintiff)

v.)

ALYSSA D BUSTAMANTE,)
Defendant)

Cause No. 09AC-CR03516-01F

Division No. 4

**ACCUSED'S MOTION TO COMPEL A FORMAL, WRITTEN
RESPONSE TO REQUESTS FOR DISCOVERY**

COMES NOW the Accused, Alyssa Bustamante, by and through counsel, pursuant to the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and Article I, Sections 10, 18(a), 19, and 21 of the Missouri Constitution and Supreme Court Rule 25, and respectfully requests this Court to enter its Order directing the State to respond to the defendant's Request for Discovery as required by Rule and case law. In support of this motion, counsel states the following:

1. On November 19, 2009, Alyssa's predecessor counsel filed a *Request for Discovery* pursuant to Supreme Court Rule 25.03. On December 17, 2009, Alyssa's present counsel filed a *Supplemental Request for Discovery* pursuant to Missouri Supreme Court Rules and constitutional provisions of both the United States and the State of Missouri.

2. To date, the State has not provided to the defense a formal, written response to either of Alyssa's requests for discovery. Rather, at some point, the State provided

Alyssa's predecessor counsel with a binder containing 781 pages of documents, and provided Alyssa's predecessor counsel with digital media. Thereafter, the State filed with the Court and supplied to Alyssa's counsel a number of *Supplemental Answer(s) to Defendant's Request for Discovery*, along with accompanying documents -- 1214 pages at last count -- and/or digital media. The State has disclosed at least some of the information it is obliged to disclose to Alyssa's counsel. It is, however, far from clear that all the investigative reports have been disclosed. Moreover, the State's responses still fall far short in the following respects:

A. Although there are hundreds of names within the many pages of documents provided to date, the State has not provided the names and last known addresses of persons *whom the State intends to call as witnesses* at hearings or trial (11/19/09 Request, paragraph 1; and 12/17/09 Request, paragraph 1).

B. The State has not provided those portions of any existing transcript of grand jury proceedings which relate to the offense with which Alyssa is charged (11/19/09 Request, paragraph 3; and 12/17/09 Request, paragraph 3).

C. The State has not provided all reports or indicated they have provided all reports of experts made in connection with the case, including results of any type of physical, mental or scientific testing conducted regarding this case or the defendant and all underlying data, notes, correspondence and reports of such experts (11/19/09 Request, paragraph 5; and 12/17/09 Request, paragraph 3).

D. Although hundreds of photos and documents are within the police reports provided, the State has yet to disclose any books, papers, documents, photographs or objects which the State intends to introduce into evidence at any time or which were obtained from or belong to Alyssa (11/19/09 Request, paragraph 6; and 12/17/09 Request, paragraph 6).

E. The State has not provided the record of any prior criminal convictions of persons the State intends to call as witnesses at any hearing or trial (11/19/09 Request, paragraph 7; and 12/17/09 Request, paragraphs 7 and 26).

F. Counsel for the State has not provided a written statement setting forth all facts relating to the time, place and persons conducting any type of photographic or electronic surveillance relating to this charged offense (11/19/09 Request, paragraph 8; and 12/17/09 Request, paragraph 8).

G. Although documents and digital media previously provided by the State includes information and material which tend to negate Alyssa's guilt as charged, mitigates the degree of the offense charged or reduces punishment (11/19/09 Request, paragraph 9; and 12/17/09 Request, paragraphs 9, 27 and 28), the defense reasonably believes that the State and/or its agents, possess additional such information. The defense requests full and complete disclosure.

H. The State has not provided the memoranda, notes or summaries of any oral statements made to agents of the State or to non-agents, by any persons in connection with the subject matter of this cause, whether or not the statement was in writing, was