

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR SNOHOMISH COUNTY

STATE OF WASHINGTON
Plaintiff,
v.

Defendant.

No. _____

OMNIBUS ORDER AND CrR 4.5 MEMORANDUM

- Order Fully Completed and Signed by
 State Defense
 Order Not Fully Completed and Signed
 Order has disputed discovery extensions
 Clerk's Action Required - Hearing Set to
address _____:
Date: _____ Time: _____
Courtroom: _____

This matter came before the court for omnibus, the parties made the discovery requests as set forth below in omnibus applications/requests for discovery or separate motions, and each certified discovery compliance as follows:

Omnibus Form Instructions:

Both sides shall complete their portions on one form, confer, and attempt to submit an agreed order.

NOTE: Parties may complete the form electronically, including striking through portions that do not apply. DO NOT delete any item or section and DO NOT make a change to the form that results in the renumbering of any section or item.

The form should be completed jointly even if the parties do not agree, with disagreements identified on the form. If one side does not fill out the form or confer, or for any reason a joint form cannot be submitted, each side is still required to fill out their portions of the form and submit it 48 hours before omnibus.

Consistent with SCLCrR 4.5, if a *fully completed order signed by both counsel* is submitted 48 hours before the omnibus hearing or a subsequent omnibus is set, counsel need not appear, unless there is a dispute regarding a request for a discovery extension or the parties are instructed by the court to appear.

Add discovery requests you want to make not listed herein in an omnibus application or in the blank provided. Discovery items may be crossed off only if the requesting/nonobligated party agrees.

If a discovery request is not objected to, the discovery shall be provided. If a discovery request is objected to, an objection must be listed with a good faith reason given in the certifications section. If any discovery exists or likely exists but has not yet been provided, the party providing the discovery must indicate there is discovery outstanding and the nature of that discovery if known and make a request for a specific discovery deadline extension for that item in the certifications section.

Counsel shall comply with every discovery request unless there is an objection or request for extension listed as to a specific listed item. N/A means the requested information does not exist in this case, not that an attorney believes it is irrelevant. If there is no discovery of the kind requested, nothing is required to be done for compliance. However, certifying the discovery is complete is a certification that the item of discovery either does not exist and therefore has not been turned over or all discovery of the nature requested in an identified request has been turned over.

7. Any evidence that a witness's ability to perceive, remember, communicate, or tell the truth is or has been impaired by the use of narcotics, other controlled substances, alcohol, or a mental disorder in connection with this case.

- Provided N/A Discovery extension requested to _____
 Objection raised. State will file motion Discovery extension is: Agreed Disagreed
Discovery is ordered unless State files motion and obtains order to contrary. See CrR 4.7(a)(3).

8. The results of any polygraph performed on a witness and any information concerning a witness's failure to submit to a polygraph.

- Provided N/A Discovery extension requested to _____
 Objection raised. Discovery extension is: Agreed Disagreed
 Defense acknowledges objection and will file Motion to Compel

9. Disclose any known, close personal relationship(s) between all potential prosecution witnesses and the prosecuting authority.

- Provided N/A Discovery extension requested to _____
 Objection raised. State will file motion Discovery extension is: Agreed Disagreed
Discovery is ordered unless State files motion and obtains order to contrary. See CrR 4.7(c)(3).

10. Expert Witnesses: The names and contact information of any expert witnesses the prosecution intends to call at a hearing or trial, the subject and a summary of their testimony, the witnesses' qualifications (including background, education, and training), any reports submitted to the prosecutor, and any studies, reports, treatises, or literature the expert will rely on.

- Provided N/A Discovery extension requested to _____
 Objection raised. State will file motion Discovery extension is: Agreed Disagreed
Discovery is ordered unless State files motion and obtains order to contrary. See CrR 4.7(a)(2)(ii).

11. Expert Witnesses: Any reports, statements, photographs, drafts, bench notes, test results from all experts made in connection with the case, including the results of physical or mental examinations, scientific tests, experiments, or comparisons, and copies of all communications between the requesting party and the agency and/or individual(s) performing the analysis.

- Provided N/A Discovery extension requested to _____
 Objection raised. State will file motion Discovery extension is: Agreed Disagreed
Discovery is ordered unless State files motion and obtains order to contrary. See CrR 4.7(a)(1)(iv).

12. Copies of all repair and/or maintenance logs, policies, protocols, or procedures relating to the instruments used to conduct forensic analysis in this case.

- Provided N/A Discovery extension requested to _____
 Objection raised. Discovery extension is: Agreed Disagreed
 Defense acknowledges objection and will file Motion to Compel

13. Any written, recorded, and oral statements made by defendant and co-defendant if a joint trial in connection with this case. Note, the defense demands a CrR 3.5 hearing if the prosecution intends to offer any such statements at trial.

- Provided N/A Discovery extension requested to _____
 Objection raised. State will file motion Discovery extension is: Agreed Disagreed
Discovery is ordered unless State files motion and obtains order to contrary. See CrR 4.7(a)(1)(ii).

14. Any books, papers, documents, diagrams, photographs, video and/or audio recordings, or tangible objects which the prosecuting attorney intends to use in any hearing or trial, including items obtained from or belonging to the defendant.

- Provided N/A Discovery extension requested to _____
 Objection raised. State will file motion Discovery extension is: Agreed Disagreed
Discovery is ordered unless State files motion and obtains order to contrary. See CrR 4.7(a)(1)(v).

15. A record of all prior criminal convictions of defendant and co-defendant if a joint trial, whether federal, or in this state or others, including charge, jurisdiction, cause number, and statutory citation (if available).

- Provided N/A Discovery extension requested to _____
 Objection raised. State will file motion Discovery extension is: Agreed Disagreed
Discovery is ordered unless State files motion and obtains order to contrary. See CrR 4.7(a)(1)(vi).

16. To disclose any known prior bad acts or convictions of the defendant pursuant to ER 404(b) and also whether the prosecuting attorney will seek to admit that evidence at any hearing or trial.

- Provided N/A Discovery extension requested to _____
 Objection raised. Discovery extension is: Agreed Disagreed
 Defense acknowledges objection and will file Motion to Compel

17. Any electronic surveillance, including wiretapping, of defendant's premises or conversations to which the defendant or any witness was a party and any record thereof in connection with this case.

- Provided N/A Discovery extension requested to _____
 Objection raised. State will file motion Discovery extension is: Agreed Disagreed
Discovery is ordered unless State files motion and obtains order to contrary. See CrR 4.7(a)(2)(i).

18. The results of any searches of electronic files belonging to, or relating to, the defendant including those contained in computer hard drives, cell phones, thumb drives and other storage devices as well as any other electronic records such as credit card records, billing records and phone records in connection with this case.

- Provided N/A Discovery extension requested to _____
 Objection raised. State will file motion Discovery extension is: Agreed Disagreed
Discovery is ordered unless State files motion and obtains order to contrary. See CrR 4.7(c)(1).

19. A copy of recorded jail phone calls the prosecutor's office or investigating law enforcement agency has in its possession or otherwise intends to admit at any hearing or trial. (Note: #13 and #14 may also apply.)

- Provided N/A Discovery extension requested to _____
 Objection raised. Discovery extension is: Agreed Disagreed
 Defense acknowledges objection and will file Motion to Compel

20. Searches & Seizures: Information and material pertaining to any search and/or seizure related to this case, including the time, date, location, the name of individuals or places searched and materials sought or seized, together with the name(s) and contact information of any known potential witness to the search or seizure. If the search was conducted pursuant to a warrant, supply the affidavit, the warrant, and the return.

- Provided N/A Discovery extension requested to _____
 Objection raised. State will file motion Discovery extension is: Agreed Disagreed
Discovery is ordered unless State files motion and obtains order to contrary. See CrR 4.7(c)(1).

21. Copies of all police reports of investigation related to this case, including but not limited to arrest reports, "use of force" statements, and follow-up reports. Note, other requests may also apply to police reports.

- Provided N/A Discovery extension requested to _____
 Objection raised. Discovery extension is: Agreed Disagreed
 Defense acknowledges objection and will file Motion to Compel

22. If recordings are not available, copies of interview notes or a summary generated by the investigating agency and the prosecutorial agents, including victim advocates, of communications with potential witnesses pertaining to the facts of the case(s) against the defendant.

- Provided N/A Discovery extension requested to _____
 Objection raised. Discovery extension is: Agreed Disagreed
 Defense acknowledges objection and will file Motion to Compel

23. Circumstances of Arrest: The time, date, and location of the defendant's arrest along with the names and contact information of all known potential witnesses along with their statement(s) and report(s).

- Provided N/A Discovery extension requested to _____
 Objection raised. State will file motion Discovery extension is: Agreed Disagreed
Discovery is ordered unless State files motion and obtains order to contrary. See CrR 4.7(c)(1)(seizure).

24. Pretrial Identification: Disclose all information regarding pretrial identification procedures employed in this case, including but not limited to: (1) the date, time, location and type of procedure employed; (2) the names and contact information of all persons present at the identification and any statements made by or to them in regard to the offense or identification (3) if an identification was made, the name and contact information of person identified; the name and contact information of the person making the identification together with any and all statements made pertinent to the identification or the offense.

- Provided N/A Discovery extension requested to _____
 Objection raised. State will file motion Discovery extension is: Agreed Disagreed
Discovery is ordered unless State files motion and obtains order to contrary. See CrR 4.7(a)(2)(iv).

25. Any and all photographic, or computer-generated depictions of any montage, line-up, show-up, or other identification procedure employed.

- Provided N/A Discovery extension requested to _____
 Objection raised. State will file motion Discovery extension is: Agreed Disagreed
Discovery is ordered unless State files motion and obtains order to contrary. See CrR 4.7(a)(2)(iv).

26. Copies of all available radio logs, 911 tapes, CAD reports, dispatch recordings, police vehicle and body camera recordings, and any other audio or visual recordings relating to the investigation, arrest, detention, transportation, and questioning of the defendant in connection with this case.

- Provided N/A Discovery extension requested to _____
 Objection raised. Discovery extension is: Agreed Disagreed
 Defense acknowledges objection and will file Motion to Compel

27. Exculpatory Evidence: All information or material which may tend to exculpate the defendant or which tends to negate defendant's guilt, including any information that may impeach prosecution witnesses, as required by *Brady v. Maryland*, 373 US 93 (1963) and *US v. Bagley*, 43 US 667 (1985) and their progeny.

- Provided N/A Discovery extension requested to _____
 Objection raised. State will file motion Discovery extension is: Agreed Disagreed
Discovery is ordered unless State files motion and obtains order to contrary. See CrR 4.7(a)(3).

28. That the prosecuting agency be required to undertake every effort to discover the existence of all evidence favorable to the defendant that may be known to any law enforcement agency involved in the case per *Kyles v. Whitley*, 514 US 419 (1995) and its progeny.

- Provided N/A Discovery extension requested to _____
- Objection raised. Discovery extension is: Agreed Disagreed
- Defense acknowledges objection and will file Motion to Compel

29. Any information which the prosecuting attorney has indicating entrapment of the defendant.

- Provided N/A Discovery extension requested to _____
- Objection raised. State will file motion Discovery extension is: Agreed Disagreed
- Discovery is ordered unless State files motion and obtains order to contrary. See CrR 4.7(a)(2)(iii).

30. Aggravating Factors: All alleged aggravating circumstances justifying departure from the sentencing guidelines and supporting evidence thereof that the State intends to present per RCW 9.9A.535.

- Provided N/A Discovery extension requested to _____
- Objection raised. Discovery extension is: Agreed Disagreed
- Defense acknowledges objection and will file Motion to Compel

31. If discovery is provided in electronic format, provide the names of and/or any programs and software needed for access and operation of the discovery.

- Provided N/A Discovery extension requested to _____
- Objection raised. Discovery extension is: Agreed Disagreed
- Defense acknowledges objection and will file Motion to Compel

32. The following additional information requested in a filed defense discovery request, incorporated herein by reference (identify request by description or paragraph number in request): _____

- Provided N/A Discovery extension requested to _____
- Objection raised. Discovery extension is: Agreed Disagreed
- Defense acknowledges objection and will file Motion to Compel

33. The following additional defense requests: _____

- Provided N/A Discovery extension requested to _____
- Objection raised. Discovery extension is: Agreed Disagreed
- Defense acknowledges objection and will file Motion to Compel

Additional Explanations or Information for the Court: _____

Objections Raised: The prosecution objects to the following specifically identified defense discovery requests for the following reasons (identified by their number, from above): _____

The defense **agrees** to withdraw the following discovery request(s) objected to: _____
_____ and does not agree to withdrawing any other requests objected to.

B. DEFENSE’S CrR 4.7(b) & (g) DISCOVERY OBLIGATIONS AND OBLIGATIONS ON MOTION

The prosecution requested/moves for the following, and defense has indicated its compliance below:

1. Names contact information of persons whom the defendant intends to call as witnesses at any hearing or trial and any written or recorded statements and the substance of any oral statements of witnesses.
 Provided N/A Discovery extension requested to _____
 Objection raised. Defense will file motion Discovery extension is: Agreed Disagreed
Discovery is ordered unless defense files motion and obtains order to contrary. See CrR 4.7(b)(1).

2. Defense Experts: The names and contact information of any expert(s) defense intends to call at a hearing or trial along with their qualifications, copies of their reports, and any studies, reports, and/or literature they will rely on, as well as the subject of their testimony or a summary of their proposed testimony if no report is available.
 Provided N/A Discovery extension requested to _____
 Objection raised. Defense will file motion Discovery extension is: Agreed Disagreed
Discovery is ordered unless defense files motion and obtains order to contrary. See CrR 4.7(b)(1).

3. The defense be required to state whether there is any claim of incompetency to stand trial.
 Provided N/A Discovery extension requested to _____
 Objection raised. Discovery extension is: Agreed Disagreed
 State acknowledges objection and will file Motion to Compel

4. That if the defendant asserts the defense of intoxication, insanity, or diminished capacity in Section III(B) below, that the defendant supply the names contact information of all witnesses who will testify as to such defense, both lay and professional, provide the prosecution with all relevant medical, psychological, and psychiatric records forming the basis of this defense, and stipulate to the defendant submitting to examination by a doctor selected by the prosecution.
 Provided N/A Discovery extension requested to _____
 Objection raised. Discovery extension is: Agreed Disagreed
 State acknowledges objection and will file Motion to Compel

5. The defense be required to state whether it will rely on an alibi and furnish a list of alibi witnesses, their contact information, and a summary of their expected testimony.
 Provided N/A Discovery extension requested to _____
 Objection raised. Discovery extension is: Agreed Disagreed
 State acknowledges objection and will file Motion to Compel

6. To inspect any physical or documentary evidence in defendant’s or defense attorney’s possession in connection with this case.
 Provided N/A Discovery extension requested to _____
 Objection raised. Discovery extension is: Agreed Disagreed
 State acknowledges objection and will file Motion to Compel

7. Defense state whether it will ____ **object** to out of state records being submitted per RCW 10.96.020 or will ____ **not object**. (Defense marks applicable box.)
 Provided N/A Discovery extension requested to _____
 Objection raised. Discovery extension is: Agreed Disagreed

State acknowledges objection and will file Motion to Compel

8. That the defense state whether it **will stipulate** to the continuous chain of custody of the following evidence from acquisition to trial: _____ or **will not stipulate**. See CrR 4.5. (Defense fills in applicable box.)

Provided N/A Discovery extension requested to _____
 Objection raised. Discovery extension is: Agreed Disagreed
 State acknowledges objection and will file Motion to Compel

9. That the defendant be required to (State must check any requesting):

- appear in a lineup be fingerprinted speak for voice identification
- pose for photographs not involving reenactment of the crime try on clothing
- permit taking of specimens under fingernails permit the taking of samples of the defendant's blood, hair, or other bodily materials involving no unreasonable intrusions thereof;
- submit to a physical external examination of the defendant's body
- provide handwriting specimens
- submit to reasonable physical, or mental or examination.

Provided N/A Discovery extension requested to _____
 Objection raised. Discovery extension is: Agreed Disagreed
 State acknowledges objection and will file Motion to Compel

10. The defense state whether the defendant's prior convictions **will be stipulated** to, or will **not be stipulated** to and need to be proved. (Defense fills in applicable box).

Provided N/A Discovery extension requested to _____
 Objection raised. Discovery extension is: Agreed Disagreed
 State acknowledges objection and will file Motion to Compel

11. The following additional information in State's filed omnibus applications, incorporated herein by reference (identify request by description or paragraph number in request): _____

Provided N/A Discovery extension requested to _____
 Objection raised. Discovery extension is: Agreed Disagreed
 State acknowledges objection and will file Motion to Compel

12. The following additional prosecution requests _____.

Provided N/A Discovery extension requested to _____
 Objection raised. Discovery extension is: Agreed Disagreed
 State acknowledges objection and will file Motion to Compel

Additional Explanations or Information for the Court: _____

Objections Raised: The defense objects to the following specifically identified prosecution discovery requests for the following reasons (identified by their number, from _____)

The prosecution **agrees** to withdraw the following discovery requests(s) objected to: _____
_____ and does not agree to withdrawing any other requests objected to. Unless all
objections are agreed, counsel shall appear to argue discovery objections at an omnibus (first omnibus
unless a second omnibus is set).

II. PRESERVATION OF DISCOVERY DEMAND

The prosecution **has** **has not** received a request or notice to preserve discovery. The
prosecution acknowledges that they may have legal obligations to undertake related to the demand.

The prosecution objects to the following portion(s) of the preservation demand: _____

_____.

Defense withdraws the all of the portions objected to above the following portions objected to
above: _____
_____.

III. JOINT DISCOVERY CERTIFICATION

The prosecution and defense hereby each certify by their signatures below that they have read every
discovery request contained in this order and in the opponent's omnibus application or discovery request and
will comply with every request as ordered herein. The prosecution and defense certify their representations
regarding discovery compliance set forth herein are true and correct.

The prosecution and defense certify by signing below that they will comply with all discovery obligations
required by the court rules, the Constitution, statutes, and court orders. They also certify they understand
they have discovery duties to disclose information they or **any staff of their office** have in their **knowledge**,
possession, or control, CrR 4.7(a)(4), and, in some instances, affirmative duties to obtain **and to disclose**
material and information held by others, including law enforcement.

***The prosecution and the defense further certify that if they later discover additional material or
information that is subject to disclosure under court rules, law, or any court order, they shall
immediately notify the other party of the existence of such additional material as required by CrR
4.7(h)(2), and if discovered during trial, counsel shall immediately notify the court. CrR 4.7(h)(2).***

IV. PROCEDURAL CASE INFORMATION

A. WITNESSES: The State **has** **has not** provided defense with a current witness list. The list
contains ___ witnesses (indicate number). The defense **has** **has not** provided the state with a
current witness list. The list contains ___ witnesses (indicate number).

B. GENERAL NATURE OF DEFENSE: The defense states the general nature of the defense is:
 General denial Alibi Diminished capacity Intoxication Insanity Self-defense
 Defense of others Entrapment Other: _____.

C. PLEA OFFER:

Deadline: The State has indicated that it will leave open its plea offer until: _____

The State has given the defendant notice that if he/she/they does not accept its plea offer it may take the following action: _____

V. DEFENDANT'S CUSTODIAL STATEMENTS:

The prosecution states the defendant's statements referred to in the State's discovery **will be offered**, **will not be offered**, **will be offered in rebuttal only**.

The defense states it **will stipulate** **will not stipulate** to the admissibility of defendant's statements in discovery.

If some statements will be offered and some will not, or if stipulation will be made to some statements and not others, please explain: _____

VI. PRETRIAL MOTIONS

The parties will note all pretrial motions consistent with SCLCrR 8.2.

Plaintiff gives notice the following pretrial motions are needed:

- To compel discovery or for a discovery protection order
- For a CrR 3.5 hearing to admit defendant's statements
- To take depositions(s) or obtain a court order to interview witnesses
- To secure the appearance of a witness
- Other motions _____

Defendant gives notice the following pretrial motions are needed:

- To compel discovery or for a discovery protection order
- To dismiss for failure to state an offense or insufficient evidence
- To sever co-defendant's cases or defendant's counts and for separate trial
- To make more definite and certain
- To suppress evidence for illegal search, illegal arrest, other specified as _____
- For a CrR 3.5 hearing before admitting statements of the defendant
- To take deposition(s) or obtain a court order to interview witnesses
- Other motions _____

VII. TRIAL:

State estimates trial will last ___ days. Defense estimates ___ days.

State ___ will seek to admit child hearsay statements pursuant to RCW 9A.44.120 if this box is checked.

An interpreter **is needed**, an interpreter **is not needed**. Language: _____. **Counsel needing interpreter services for any hearing or trial shall advise the Court Administrator's Office at least 14 days prior to the hearing or trial.**

VIII. COURT ORDERS:

This court hereby,

ORDERS that the parties shall comply with all their discovery obligations set forth in CrR 4.5, CrR 4.7, the Washington State Court Rules, the Constitution, statutes, case law and any court orders.

ORDERS that each party shall produce all discovery requested above or in the opposing party's omnibus applications unless either (1) the party has objected herein to a request for an identified good faith reason and it is stated underneath that request herein that the opponent must bring a motion to compel, or (2) the party has objected and brings a motion for protection showing the matter is not subject to disclosure and prevails thereon for any request where it is stated herein that the party objecting must disclose unless that party obtains an order to the contrary. Materials designated as required to be disclosed by CrR 4.7 unless there is a protective order or showing the material is not subject to disclosure shall be disclosed absent obtaining an order to the contrary. See, e.g., CrR 4.7(b)(1) ("Except as otherwise provided as to matters not subject to disclosure and protective orders, the defendant *shall* disclose to the prosecuting attorney the following"); CrR 4.7(a)(1) & (c).

ORDERS that the parties and counsel shall supply all discoverable materials to the opponent as soon as the materials become available even if that is prior to the omnibus hearing, unless a party obtains a protection order allowing a delay in disclosure. Counsel shall promptly obtain discovery so that it can be turned over to the other side, and if counsel cannot promptly obtain discovery, counsel shall immediately notify the opponent of the existence of the missing discovery and the reason for delay. See CrR 4.7(d). Pursuant to CrR 4.7, the date of omnibus is hereby set as the final discovery deadline and the parties are ordered to supply all discovery as ordered herein by no later than that date, unless they have requested a discovery extension for a specified item and that is granted, or they have objected to a discovery request. If the objecting obligated party is required herein to produce discovery absent a motion to the contrary, the objecting party shall either promptly file a motion or promptly disclose the mandatory discovery.

ORDERS that if the parties agreed herein to an extension date for a specified discovery item herein, unless noted otherwise, the court hereby adopts that agreed extended discovery deadline for that discovery item only. If the parties disagreed as to a requested discovery extension or the court does not approve their agreed extension, the court sets _____ (date) as the deadline for the following identified discovery _____ and/or ____ finds an additional hearing is necessary and sets the matter for another hearing above at which counsel shall appear.

ORDERS that objections to discovery requests are granted or denied as follows: _____

_____ and/or ____ finds an additional hearing is necessary as set above to resolve outstanding objections. If an objection is denied herein, the discovery objected to shall be produced immediately unless the court sets another date for production here: _____. The court may, in its discretion, resolve discovery disputes at omnibus as authorized by CrR 4.5.

ORDERS that counsel shall appear for any hearing set on Page 1.

ORDERS that the parties shall comply with their CrR 4.7(h)(2) continuing duty to disclose. ***If the prosecution or defense later discover additional material or information that is subject to disclosure under court rules, law, or court orders, they shall promptly notify the other party of the existence of such additional material as required by CrR 4.7(h)(2), and if discovered during trial, immediately notify the court as required by CrR 4.7(h)(2).***

ORDERS _____.

Dated this ____ day of _____, 2022,

Superior Court Judge

Counsel certify they have read this form and
and their representations are true and correct.

Counsel certify they have read this form and
and their representations are true and correct.

Prosecuting Attorney, WSBA#_____

Attorney for Defendant, WSBA#_____