

NORTH CAROLINA
PITT COUNTY

FILE NUMBER: 09-CRS-_____

FILM NUMBER: _____

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

STATE OF NORTH CAROLINA }
 }
 vs }
 }
 LAURA JANE DOE, }
 Defendant }
 }

MOTION FOR INDEPENDENT TESTING

NOW COMES the defendant, by and through counsel, and respectfully moves this Honorable Court for the entry of an Order requiring the State to produce for the undersigned the complete records made by any scientists, forensic experts, or other experts who either performed or are responsible for the tests or experiments performed on all the items of physical evidence, including such information as: (1) Evidence involved; (2) Evidence tested; (3) Tests performed; (4) Results of each specific test; (5) Procedure for each test: laboratory worksheets, “bench notes”, and copies of all said memoranda worksheets, notes, and records kept by said experts; and (6) any such other information related to any forensic testing on alleged marijuana seized by the Pitt County Sheriff Department.

1. The defendant was indicted on manufacturing of marijuana and possession of drug paraphernalia.
2. This Court has not set any deadlines for the delivery of discovery, nor any dates for the hearing of pretrial motions as contemplated by G. S. 7A-49.4. The defense was only supplied with limited discovery.
3. To the best of the belief and knowledge of defense counsel, law enforcement authorities chose not to forward the alleged marijuana plant or any drug paraphernalia for forensic testing.
4. The Defense requests to have said items inspected or tested by the defense experts.
5. Defendant, by counsel, contends that she is entitled to production of same prior to trial pursuant to N.C.G.S. 15A-902, *et. seq.*, and 15A-267, in sufficient time to enable her to meaningfully examine said items and test them to prepare for trial. Failure to grant the defendant’s motion would violate the defendant’s rights to Due Process of Law under the Fifth and Fourteenth Amendments to the United States Constitution; Article I, Sections 18, 19, and 23,

of the Constitution of North Carolina; and effective assistance of counsel, in violation of the Sixth Amendment to the United States Constitution; Article I, Sections 19 and 23 of the Constitution of North Carolina; and his discovery rights under N.C. Gen. Stat. §15A-903.

6. Defendant requests the Court to order that the Pitt County Sheriff's Department to provide Defendant any evidence related to this case for testing, to be turned over to a private investigator for the defense so that said items can be delivered to and inspected and tested by the defense's independent expert to confront, challenge, or rebut the State's evidence in this case. After said inspections and testing the defense's private investigator will collect said items from the defense expert and deliver them back to the Pitt County Sheriff's Department.

WHEREFORE, the undersigned prays that this Court will enter such Orders as are just and proper with respect to production of the above-mentioned items and the inspection and independent testing by the experts appointed to assist the defense.

Respectfully submitted this the ____ day of May, 2010.

Attorney for Defendant

CERTIFICATE OF SERVICE

This is to certify that on this date the attached pleading or paper was served upon the State of North Carolina by hand delivery or by mailing a copy of said motion to Assistant District Attorney, Brian DeSoto, 3rd Floor, Courthouse, 100 W. 3rd St., P.O. Box 8185, Greenville, North Carolina 27835-8185.

This the ____ day of May, 2010.

Attorney for Defendant