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STATE OF NORTH CAROLINA  
COUNTY OF FORSYTH

IN THE GENERAL COURT OF JUSTICE

SUPERIOR COURT DIVISION DEC 18 PM 1:14

FILE NO. 07 CRS 52020

FORSYTH COUNTY, C.S.C.

STATE OF NORTH CAROLINA )  
)  
v. )  
)  
KEITH A. CARTER, Defendant )  
\_\_\_\_\_ )

ORDER REQUIRING  
LABORATORIES  
TO PRODUCE RECORDS  
TO DEFENDANT

*John A. Bumgardner*

THIS CAUSE CAME ON TO BE HEARD before the undersigned Superior Court Judge on the 12th day of December, 2008, upon Defendant's Motion For Production of Laboratory Records; the Defendant was represented by his attorneys, S. Mark Rabil and Kimberly C. Stevens, and the State was represented by District Attorney Tom Keith and David Hall, Chief Assistant District Attorney; and the Court, having reviewed the Motion, and having considered the arguments of counsel, hereby finds and concludes as follows:

1. The Defendant Keith A. Carter has been charged with one count of first degree murder.
2. The State has produced discovery to the Defendant indicating that a 9mm handgun purchased by the Defendant is consistent with the bullet that killed the victim, [REDACTED] and that shell casings found in the parking lot where the shooting took place are consistent with a 9mm handgun purchased by the Defendant. The State has used the SBI Crime Laboratory to test the firearms and toolmark evidence in this case. The Defendant questions the accuracy of these SBI Laboratory conclusions. The Defendant is, by law, presumed to be innocent of these charges.

3. The firearms and toolmark identification evidence is material to both the State and the Defendant in this case. The State contends that this evidence is inculpatory, whereas the Defendant contends that his expert should be allowed to inspect, test and analyze the evidence to determine the accuracy of the State's contention or to determine whether the evidence is in fact exculpatory.
4. In his Motion, the Defendant requests that the following information and documentation be provided:
  - a. the results and reports related to all tests, measurements or experiments conducted in connection with these cases, including bench notes, handwritten notes and other reports or impressions, regardless of whether such materials have been previously provided to the prosecution and or the defense;
  - b. all of the testing procedures used by any examiners or technicians involved in these investigations;
  - c. any data used by, or collected by or discovered by the Examiner during the course of the investigation, including any references, scientific papers, quality assurance manuals, standards, interpretational guidelines, resources or data pools relied upon or available to the examiners;
  - d. the disclosure of any data, devices, equipment or computer programs that were used by any examiner conducting any test in connection with these cases;

- e. any technical manuals, protocols, written S.O.P.'s (standard operating procedures), treatises, devices or techniques available to were used by the examiners in reaching their conclusions;
- f. inspection, examination or testing of the physical evidence collected and inspection of the equipment used in the investigation of these cases;
- g. tests performed or procedures utilized by experts to reach their conclusions;
- h. the curriculum vitae of individuals who perform test upon or analyze evidence in these cases; and
- i. any and all photographs, video tapes, digital recordings or other types of recordings pertained to the above.

5. The Court concludes that the State is required to disclose the items requested by the Defendant in his Motion pursuant to N.C. Gen. Stat. § 15A-903 (a).

Additionally, these materials must be turned over pursuant to the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, and Article I, §§ 19, 20, 23, 24, and 27 of the North Carolina Constitution.

6. The Court finds and concludes that the SBI Laboratory should be Ordered to provide complete copies of all of their records pertaining to these cases and to provide a certification that the records produced are complete.

**IT IS THEREFORE ORDERED AS FOLLOWS:**

- 1. The Defendant's Motion for Production of Laboratory Records is allowed, subject to the terms and conditions set forth below.

2. The SBI Laboratory shall produce the following to the State and to the Defendant:
  - a. the results and reports related to all tests, measurements or experiments conducted in connection with these cases, including bench notes, handwritten notes and other reports or impressions, regardless of whether such materials have been previously provided to the prosecution and or the defense;
  - b. all of the testing procedures used by any examiners or technicians involved in these investigations;
  - c. any data used by, or collected by or discovered by the Examiner during the course of the investigation, including any references, scientific papers, quality assurance manuals, standards, interpretational guidelines, resources or data pools specifically relied upon in this case, but not to include the many resource materials, texts and other general material which the experts used to obtain their education or have otherwise used during their career;
  - d. the disclosure of a list of any data, devices, equipment or computer programs that were used by any examiner conducting any test in connection with these cases;
  - e. inspection, examination or testing of the physical evidence collected and inspection of the equipment used in the investigation of these cases;
  - f. tests performed or procedures utilized by experts to reach their conclusions;

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*Karen A. Baumgardner*

- g. the curriculum vitae of individuals who perform test upon or analyze evidence in these cases; and
  - h. any and all photographs, video tapes, digital recordings or other types of recordings pertained to the above.
3. The SBI Laboratory, or any other laboratory that has conducted testing or analyses in this case, shall produce the above-described items and documents within sixty (60) days of the entry of this Order.
  4. This Order is without prejudice to the right of the defendant to move for any further discovery at a later time.

This the 18 day of December, 2008.

*R. Stewart Allgren*  
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SUPERIOR COURT JUDGE