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| IN THE FOURTH JUDICIAL DISTRICT COURT  UTAH COUNTY, STATE OF UTAH | |
| STATE OF UTAH,  Plaintiff,  v.  JOHN DOE,  Defendant. | REPLY TO STATE’S MEMORANDUM IN OPPOSITION TO DEFENDANT’S MOTION FOR COURT ORDER TO OBTAIN POLICE/INITIAL CONTACT REPORT(S) PURSUANT TO THE GOVERNMENT RECORDS ACCESS MANAGEMENT ACT  Case No. 000000000  Judge XXXXX |

Defendant JOHN DOE (“Mr. Doe”), by and through his attorney of record, BENJAMIN R. ALDANA, hereby replies to the State’s Memorandum in Opposition to Defendant’s Motion for Court Order to Obtain Police/Initial Contact Report(s) Pursuant to the Government Records Access Management Act (“State’s Opposition”).

Mr. Doe’s Motion for Court Order to Obtain Police/Initial Contact Report(s) Pursuant to the Government Records Access Management Act (“Mr. Doe’s Motion”) sets forth the legal and equitable reasons for his request; it clearly explains the constitutional basis with respect to why the requested court order will be used to obtain evidence which is not only relevant, but critical to Mr. Doe’s defense. Mr. Doe is constitutionally entitled to obtain impeachment evidence pertaining to one of the State’s witnesses. In addition to explaining his legal entitlement to have his attorneys review the requested information, Mr. Doe’s Motion also explains the appropriate statutory process by which the Court may grant Mr. Doe’s attorneys access to that information.

The State’s Opposition consists of two arguments, neither of which should persuade the Court to deny Mr. Doe’s request for access to information made in his Motion. According to the State, the Court should deny Mr. Doe’s Motion because: (1) Mr. Doe is not entitled to admit the evidence/information he seeks; and (2) Mr. Doe has made no showing that the sought-after information is relevant.

In response to the State’s first assertion—that Mr. Doe is not entitled to admit the sought-after evidence/information—the fact of the matter is that admissibility is not the standard by which Mr. Doe is required to conduct discovery; he is entitled to have his attorneys conduct a proper and thorough investigation of his case. Admissibility is a question to be determined once the parties have had the opportunity to review whatever is produced, *after* which the Court will make the determination regarding admissibility, if that becomes necessary.

And in response to the State’s second assertion—that the evidence/information Mr. Doe seeks to obtain is irrelevant—Mr. Doe’s motion makes quite clear that the sought-after evidence/information is relevant to Mr. Doe’s defense because it relates to Mr. Doe’s ability to impeach the State’s most important witness. The evidence/information will help the jury determine whether the allegations against Mr. Doe are more likely true or are more likely not true, which is the very definition of relevance. *See* Utah R. Evid. 401 (stating that if evidence “has any tendency to make a fact more or less probable than it would be without the evidence” and “the fact is of consequence in determining the action,” then the evidence is relevant).

Finally, based on foregoing flawed assertions, the State concludes that because Mr. Doe “has not made any showing of relevance or admissibility,” the Court cannot find that Mr. Doe’s request meets “the requirements of Utah Code § 63G-2-202(7). Aside from the fact that the evidence/information being sought is relevant and its admissibility will be determined at a later time, § 63G-2-202(7) makes no mention of either relevance or admissibility. It seems that the State would have the Court add the words “relevant to and admissible in” in front of the words “a matter in controversy” contained in § 63G-2-202(7)(a). But that’s not what § 63G-2-202(7)(a) says. The multiple felony charges the State has accused Mr. Doe of committing is the matter in controversy over which this Court clearly has jurisdiction. And the evidence/information sought in Mr. Doe’s Motion relates to the credibility of the primary witness against him in this case.

For the foregoing reasons, the Court should grant Mr. Doe’s Motion. And the admissibility of the evidence/information can simply be decided at a later time.

DATED this 17th day of August, 2020.

*/s/ Benjamin R. Aldana*

Benjamin R. Aldana

Attorney for Mr. Doe

CERTIFICATE OF SERVICE

Via the court’s electronic filing system a copy of the foregoing was sent to the Utah County Attorney’s Office, this 17th day of August, 2020.

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|  |  | */s/ Benjamin R. Aldana* |