

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DELMON L. JOHNSON,

Defendant.

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CRIMINAL NO. 08-00026-01-CR-W-FIG

**DEFENDANT DELMON JOHNSON'S MOTION
TO DISCOVER EVIDENCE FAVORABLE TO DEFENDANT**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, DELMON L. JOHNSON, Defendant in the above-entitled and numbered cause, and moves this Court for an order directing the United States to provide for inspection, copying, or photographing all evidence that is favorable to the Defendant or that will tend to exculpate the Defendant from the criminal charges against the Defendant. In support of this Motion, Delmon Johnson would show the Court as follows:

The Defendant requests that the Court direct discovery of the following items:

1. Any material information within the government's possession or control which tends to negate the guilt of the Defendant as to the offenses charged.
2. Any and all evidence in the possession of the government which is "favorable" to the Defendant and material to the issue of guilt or innocence or to punishment in this case,

pursuant to the Due Process Clause of the Fifth Amendment to the United States Constitution as interpreted by the United States Supreme Court in *Brady v. Maryland*, 373 U.S. 83 (1963), and any material which may be used to impeach a witness under *Giglio v. United States*, 405 U.S. 150 (1972) and *Jencks v. United States*, 353 U.S. 657 (1957), including but not limited to the following materials:

- a. Any oral, written, or recorded statement made by any person to law enforcement, to the government, or to the grand jury which tends to establish the accused's innocence or to impeach or contradict in a material way the testimony of any witness whom the government will call at the trial of the cause.
 - b. Any law enforcement investigation report made to law enforcement agents which tends to establish the accused's innocence or to impeach or contradict the testimony of any witness whom the government will call at the trial of the cause.
 - c. The names and addresses of witnesses who might establish the Defendant's innocence or impeach or contradict the testimony of any witness whom the government will call at the trial of this cause.
 - d. Any information or material which would tend to establish the Defendant's innocence or to impeach or contradict the testimony of any witness whom the government intends to call at the trial of the cause.
 - e. Any scientific or medical report which tends to establish the Defendant's innocence or to impeach or contradict any witness whom the government will call at the trial of the cause.
3. All information in the government's possession that may reasonably be considered admissible and useful to the defense in the sense that it is probably material and exculpatory, and such evidence in its possession which could be fairly and properly used to advantage by the accused on the issues of guilt or punishment.

4. The evidence sought to be discovered cannot otherwise be discovered under the Federal Rules of Criminal Procedure, and the Defendant cannot, by reasonable diligence, otherwise obtain such evidence except by court order.

WHEREFORE, DELMON L. JOHNSON requests that this Honorable Court order the United States Attorney to provide to Mr. Johnson the information requested herein. Delmon Johnson prays for such other and further relief to which he is justly entitled.

Respectfully submitted,

BANNWART & ASSOCIATES, P.C.

By:



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ATTORNEYS FOR DEFENDANT
DELMON L. JOHNSON

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing Defendant Delmon Johnson's Motion to Discover Evidence Favorable to Defendant has this day been caused to be served on Assistant United States Attorney Rudy Rhodes for the Western District of Missouri, and other ECF listed counsel through use of the Electronic Court Document Filing System.

SIGNED this 16th day of June, 2008.

BANNWART & ASSOCIATES, P.C.

By:



ANTHONY L. BANNWART

ATTORNEYS FOR DEFENDANT
DELMON L. JOHNSON