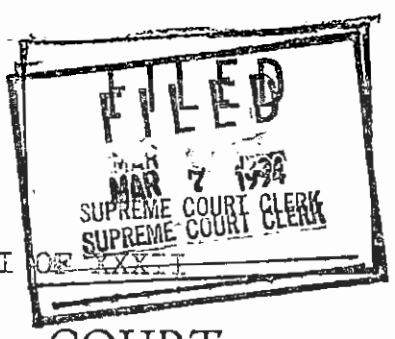


I 03601-9403-CR-00090

TRANSCRIPT



NO. 5033, 5034, 5035 & 5036

APPEALED FROM VOLUME I OF XXXI

SEVIER COUNTY CRIMINAL COURT

AT SEVIERVILLE, TENNESSEE

HON. REX HENRY OGLE, JUDGE
SEVIERVILLE, TN 37862

MISS HELEN K. LOVEDAY, CLERK
SEVIERVILLE, TN 37862

IN THE CASE OF

STATE OF TENNESSEE

vs.

GARY WAYNE SUTTON AND JAMES ANDERSON DELLINGER, APPELLANTS

TO THE

CRIMINAL APPEALS COURT

KNOXVILLE, TENNESSEE

JUDGMENT LOWER COURT

SEE VOL. II, PP. 436 & 438

DEFENDANTS PRESENTLY IN DOC.

MR. G. SCOTT GREEN, ASST. ATTY. GEN. FOR SEVIER CO., TN
SEVIERVILLE, TN 37862 ATTORNEYS FOR PLAINTIFF

MR. EDWARD C. MILLER, PUBLIC DEFENDER, P. O. BOX 416,
DANDELIDGE, TN 37725

MR. W. ZANE DANIEL, NATIONS BANK, 550 W. MAIN AVE., SUITE 950
KNOXVILLE, TN 37902

MR. DAVID W. WEBB, 140A COURT AVE., SEVIERVILLE, TN 37862
ATTORNEYS FOR DEFENDANT

FILED DAY OF 19

COURT CLERK

NO. DEP. CLERK

31 v.
Exhibits
in Blount Co.
(for trial)



Courtesy of
Time of Death Podcast
by Beth Braden



IN THE COURT OF CRIMINAL APPEALS, SITTING AT
KNOXVILLE, TENNESSEE

STATE OF TENNESSEE

VS.

#5033, 5034, 5035, 5036

GARY WAYNE SUTTON AND
JAMES ANDERSON DELLINGER

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Courtesy of
Time of Death Podcast
by Beth Braden

True Bill

No. 5033

PRESENTMENT — ~~INDICTMENT~~

THE STATE

GARY WAYNE SUTTON, ALIAS
vs

FIRST DEGREE MURDER

ARSON

PROSECUTOR:

Witnesses sworn by me in the presence of the
Grand Jury March 5 1992

Foreman of the Grand Jury.

Filed 5th day of March, 1992
Helen F. Lueders, Clerk

LIST OF WITNESSES:

SHERIFF DON OGLE -

DAVID DAVENPORT - TBI -

DETECTIVE JIM WIDNER - BLOUNT COUNTY SHERIFF'S DEPT.

DETECTIVE DALE GOURLEY - BLOUNT COUNTY SHERIFF'S DEPT. -

MIKE VONCANNON - SCSD

DETECTIVE MARK TURNER - SCSD

DETECTIVE LARRY MCMAHAN - SCSD

DETECTIVE DONNIE HUSKEY - SCSD

DEON CARMON - TBI CRIME LAB

WITNESSES CONTINUED:

1. [Signature]
Foreman of the Grand Jury.

2. Anthony Ranny

3. Herbert Pappert

4. Debbay Proffitt

5. Betty Large

6. Ruth Phillips

7. Aunt Annie

8. Robert W. Sanner

9. Alfred Gibson

10. Barbara S. Eptine

11. Donald H. Johnson

12. Robert Sanchez

13. Wayne Anderson

Clerk: Summon all named witnesses for
the State.

AL SCHMUTZER, JR.

District Attorney General.

STATE OF TENNESSEE

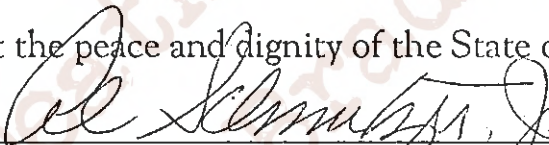
CIRCUIT COURT FOR SEVIER COUNTY

FIRST COUNT

The Grand Jurors for the State and County aforesaid, upon their oath present and say, that GARY WAYNE SUTTON, ALIAS

on or about the ----- day of FEBRUARY, 19 92, before the finding of this indictment, in the State and County aforesaid, did unlawfully intentionally, premeditatedly and deliberately kill Connie Branam and in such committed murder in the first degree, in violation of T.C.A. §39-13-202(a)(1)

contrary to the statute, and against the peace and dignity of the State of Tennessee.



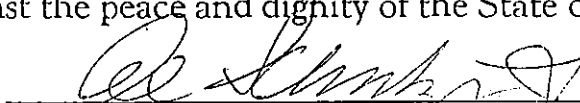
District Attorney General

SECOND COUNT

The Grand Jurors for the State and County aforesaid, upon their oath present and say, that GARY WAYNE SUTTON, ALIAS

on or about the ----- day of FEBRUARY, 19 92, before the finding of this indictment, in the State and County aforesaid, did unlawfully, feloniously damaged a 1970 Dodge Dart automobile by means of a fire or explosion without the consent of the owner Connie Branam

contrary to the statute, and against the peace and dignity of the State of Tennessee.



District Attorney General

True Bill

1. J. H. D. L.
Foreman of the Grand Jury.

2. Anthony Ramsey

3. Betty Large

4. Herbert Garrett

5. Deby Profit

6. Ruth Phillips

7. Carl Cruise

8. Robert Barnes

9. Barbara S. Clinton

10. Donald H. Palmer

11. Albert Gibson

12. Robert Barnes

13. Wayne Anderson

No. 5034

PRESENTMENT — ~~INDICTMENT~~

THE STATE

VS
GARY SUTTON, ALIAS

ARSON

PROSECUTOR:

Witnesses sworn by me in the presence of the
Grand Jury March 5 1992

D. H. R.
Foreman of the Grand Jury.

Filed 5th day of March, 1992
Helen L. Freedman, Clerk

LIST OF WITNESSES:

Agent David Davenport

Gary Clabo - Arson Investigator

WITNESSES CONTINUED:

Clerk: Summon all named witnesses for
the State.

AL SCHMUTZER, JR.
District Attorney General.

STATE OF TENNESSEE

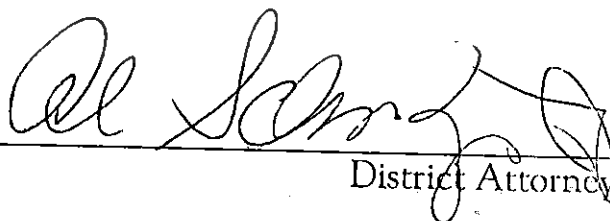
CIRCUIT COURT FOR SEVIER COUNTY

The Grand Jurors for the State of Tennessee, having been duly summoned, elected, impanelled, sworn and charged to inquire for the body of the County and State aforesaid, present,

that GARY SUTTON, ALIAS

on the day of February, 19 92, before the finding of this indictment, in the State and County aforesaid, did unlawfully, feloniously and knowingly damaged a mobile home by means of fire or explosion without the consent of Tommy Mayford Griffin who was living there at the time or of Boyd and Connie Branam, the owners of the mobile home, in violation of T.C.A. 39-14-301,

contrary to the statute, and against the peace and dignity of the State of Tennessee.



District Attorney General

True Bill

1. [Signature]
Foreman of the Grand Jury.

2. Anthony Ramsey

3. Herbert Pappert

4. Debbi Probst

5. Betty Large

6. Ruth Phillips

7. Carl Cruise

8. Robert [Signature]

9. Albert [Signature]

10. Barbara S. Clinton

11. Donald H. Johnson

12. Robert [Signature]

13. Wayne Anderson

No. 5035

PRESENTMENT — ~~INDICTMENT~~

THE STATE

VS

JAMES ANDERSON DELLINGER, ALIAS

FIRST DEGREE MURDER

ARSON

PROSECUTOR:

Witnesses sworn by me in the presence of the
Grand Jury March 5 1972

[Signature]
Foreman of the Grand Jury.

Filed 5th day of March, 1972
Heleen L. Lenevay, Clerk

LIST OF WITNESSES:

SHERIFF DON OGLE

DAVID DAVENPORT - TBI

DETECTIVE DONNIE HUSKEY - SCSD

DETECTIVE LARRY MCMAHAN - SCSD

DETECTIVE MARK TURNER - SCSD

MIKE VONCANNON - SCSD

DON CARMON - TBI CRIME LAB

DETECTIVE JIM WIDNER - BLOUNT COUNTY SHERIFF'S DEPT.

DETECTIVE DALE GOURLEY - BLOUNT COUNTY SHERIFF'S DEPT.

WITNESSES CONTINUED:

Clerk: Summon all named witnesses for
the State.

AL SCHMUTZER, JR.

District Attorney General.

STATE OF TENNESSEE

CIRCUIT COURT FOR _____ SEVIER _____ COUNTY

FIRST COUNT

The Grand Jurors for the State and County aforesaid, upon their oath present and say, that JAMES ANDERSON DELLINGER, ALIAS

on or about the _____ day of FEBRUARY, 19 92, before the finding of this indictment, in the State and County aforesaid, did unlawfully intentionally, premeditatedly and deliberately kill Connie Branam and in such committed murder in the first degree, in violation of T.C.A. §39-13-202(a)(1)

contrary to the statute, and against the peace and dignity of the State of Tennessee.

SECOND COUNT

The Grand Jurors for the State and County aforesaid, upon their oath present and say, that JAMES ANDERSON DELLINGER, ALIAS

on or about the _____ day of FEBRUARY, 19 92, before the finding of this indictment, in the State and County aforesaid, did unlawfully, feloniously damaged a 1970 Dodge Dart automobile by means of a fire or explosion without the consent of the owner Connie Branam

contrary to the statute, and against the peace and dignity of the State of Tennessee.

District Attorney General

True Bill

1. [Signature]
Foreman of the Grand Jury.

2. Anthony Ramsey
3. Betty Large

4. Herbert Parratt

5. Vicky Hoffitt

6. Ruth Phillips

7. Ant Cruise

8. Robert Barnes

9. Albert Wilson

10. Barbara S. Clifton

11. Donald H. Johnson

12. Robert Bennett

13. Wayne Anderson

No. 5036

PRESENTMENT — ~~INDICTMENT~~

THE STATE

VS
JAMES ANDERSON DELLINGER, ALIAS

ARSON

PROSECUTOR:

Witnesses sworn by me in the presence of the
Grand Jury March 5 1972

[Signature]
Foreman of the Grand Jury.

Filed 5th day of March, 1972
John R. Lonsday, Clerk

LIST OF WITNESSES:

Agent David Davenport

Gary Clabo - Arson Investigator

WITNESSES CONTINUED:

Clerk: Summon all named witnesses for
the State.

AL SCHMUTZER, JR.
District Attorney General.

STATE OF TENNESSEE

CIRCUIT COURT FOR SEVIER COUNTY

The Grand Jurors for the State of Tennessee, having been duly summoned, elected, impanelled, sworn and charged to inquire for the body of the County and State aforesaid, present,

that JAMES ANDERSON DELLINGER, ALIAS

on the ----- day of February, 19 92, before the finding of this indictment, in the State and County aforesaid, did unlawfully, feloniously and knowingly damaged a mobile home by means of fire or explosion without the consent of Tommy Mayford Griffin who was living there at the time or of Boyd and Connie Branam, the owners of the mobile home, in violation of T.C.A. 39-14-301,

contrary to the statute, and against the peace and dignity of the State of Tennessee.



District Attorney General

CAPIAS—INSTANTER

Form 325

Mathis Co.—Knoxville

STATE OF TENNESSEE

TO THE SHERIFF OF Sevier COUNTY—GREETING:

You are hereby commanded to take the body of

Gary Wayne Sutton, alias,

if to be found in your County, and him safely keep, so that you have him before the Judge of our

Circuit

Court now sitting for the County of

Sevier

at the Courthouse, in the town

of Sevierville, TN

instantly, then and there to answer the State on an Indictment

for

First Degree Murder, Arson; also Charge of
Arson in 2d Presentment

Herein fail not, and have you then and there this Writ.

Witness,

Allen R. Lacey

Clerk of our said Court, at office, the

5

day of

March

1992

Allen R. Lacey

Clerk

D. C.

(on 2 Presenals)

No. 5633-5034

State of Tennessee

Sevier COUNTY.

Circuit COURT

STATE OF TENNESSEE

vs.

Gary Wayne Sutton,
alias

INSTANTER CAPIAS

Issued 5th day of

March, 1992
Hiram S. Hensley,
Clerk.

Came to hand 5 March 1992

and executed by arresting

My instant

This 5 day of March, 1992

Don C. Ogle, Sheriff

STATE OF TENNESSEE

TO THE SHERIFF OF

Sevier COUNTY—GREETING:

You are hereby commanded to take the body of

if to be found in your County, and him safely keep, so that you have him before the Judge of our

Court now sitting for the County of

of Sevierville, TN instantler, then and there to answer the State on an Indictment

for

First Degree Murder, Arson; 2d Prosecuted Arson

Herein fail not, and have you then and there this Writ

Witness,

5th

day of

March

1942

Helen K. Luedday, Clerk of our said Court, at office, the

Helen K. Luedday

Clerk

D. C.

(on 2 Presentments)

No. 50 35-5036

State of Tennessee

Deeuel COUNTY.

Deeuel COURT

STATE OF TENNESSEE

vs.

James Anderson
Bellinger, alias

INSTANTER CAPIAS

Issued 5th day of

March 1921
Green R. Lowday
Clerk

Came to hand 5 March 1922

and executed by arresting

Defendant
This 5 day of March 1921

Paul C. Gage Sheriff

FORM 325 Mathis Co. - Knoxville

IN THE CIRCUIT COURT FOR SEVIER COUNTY

STATE OF TENNESSEE)

NO.

5035

v.)

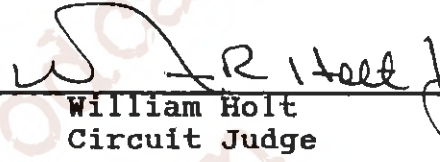
JAMES A. DELLINGER)

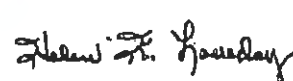
5036

ORDER

IT IS ORDERED that James A. Dellinger be transported by the Sevier County Sheriff's Office to the Green County Jail and confined there pending further orders of this court.

Entered this 23rd day of March, 1992


William Holt
Circuit Judge

CIRCUIT COURT	
FILED	
HOUR	12:30 P. M.
DATE: MAR 23 1992	
	
CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

IN THE CIRCUIT COURT FOR SEVIER COUNTY

STATE OF TENNESSEE

v.

GARY WAYNE SUTTON

NO.

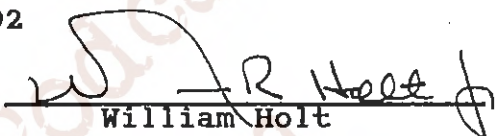
5033

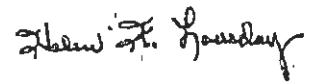
5034

ORDER

IT IS ORDERED that Gary Wayne Sutton be transported by the Sevier County Sheriff's Office to the Green County Jail and confined there pending further orders of this court.

Entered this 23rd day of March, 1992


William Holt
Circuit Judge

CIRCUIT COURT FILED	
HOUR	12:30 P.M.
DATE: MAR 23 1992	
	
CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

IN THE CRIMINAL COURT FOR COCKE COUNTY, TENNESSEE
AT NEWPORT

STATE OF TENNESSEE

v.

JAMES DELLINGER

CIRCUIT COURT FILED	
HOUR <u>12:30 P</u>	M
DATE: <u>MAR 25 1992</u>	NO. <u>5035 & 5036</u>
<i>Shelby W. Laws</i> CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

REQUEST OF STATE'S INTENTION TO USE EVIDENCE

Comes the defendant, by and through counsel, and requests notice of the State's intention to use any evidence which the defendant may be entitled to discover under Rule 16 of the Tennessee Rules of Criminal Procedure within a reasonable period of time before the trial in this case to afford the defendant an opportunity to move to suppress any evidence as would be proper. This request is made pursuant to Tennessee Rules of Criminal Procedure, Rule 12(d)(2).

Respectfully submitted,

Susanna W. Laws
SUSANNA W. LAWS
Asst. Public Defender
4th Judicial District
P. O. Box 416
Dandridge, TN 37725
615-397-0108

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the foregoing to the District Attorney for Cocke County, Tennessee.

This the 23 day of March, 1992.

Susanna W. Laws

IN THE CRIMINAL COURT FOR COCKE COUNTY, TENNESSEE

AT NEWPORT

CIRCUIT COURT
FILED

HOOR 12:30 P M

STATE OF TENNESSEE

DATE: MAR 25 1992

NO. 5035 & 5036

v.

JAMES DELLINGER

Shawn L. Housley
CIRCUIT COURT CLERK

SEVIER COUNTY, TENN.

MOTION FOR NOTICE BY THE STATE OF ITS INTENTION TO
USE EVIDENCE ARGUABLY SUBJECT TO SUPPRESSION

Comes now the defendant by and through counsel, pursuant to Rule 12(d)(2), T.R. Crim. P., and moves the Court for entry of an Order directing the State to make inquiry and to serve and file specific written notice of the following:

Any and all evidence or information in the possession, custody, or control of the State, or the existence of which is known, or by the exercise of due diligence could become known to the State, which evidence or information the State presently or at any time contemplates or considers using at trial in this case, in order to afford the Defendant an opportunity to move to suppress.

Respectfully submitted,

Susanna W. Laws
SUSANNA W. LAWS
Asst. Public Defender
4th Judicial District
P. O. Box 416
Dandridge, TN 37725
615-397-0108

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the foregoing to the District Attorney for Cocke County, Tennessee.

This the 23 day of March, 1992.

Susanna W. Laws

IN THE CRIMINAL COURT FOR COCKE COUNTY, TENNESSEE
AT NEWPORT

STATE OF TENNESSEE

v.

JAMES DELLINGER

CIRCUIT COURT FILED	
HOUR <u>12:30 P.</u>	M
DATE: <u>MAR 25 1992</u>	
<i>Theresa H. Howard</i> CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

NO. 5035 & 5036

MOTION TO PRODUCE ALL EXCULPATORY MATERIAL
AND INFORMATION

Comes the defendant by and through his attorney and moves this Honorable Court for an Order requiring the State to furnish to his attorney all information of whatever form, source and nature, which tends to exculpate the Defendant either, through an indication of his innocence or through the potential impeachment of State's witnesses and all information which may be or may become beneficial to the Defendant in the preparation for or the presenting of the merits of his defense of innocence at trial. This request specifically includes all information or evidence of whatever form, source or nature which the District Attorney General's Office, the State Bureau of Investigation, the Cocke County Sheriff's Department, or any other sheriff's department or law enforcement agency of any kind the State might have in their possession or with the exercise of due diligence would discover.

Respectfully submitted,

Susanna W. Laws
SUSANNA W. LAWS
Asst. Public Defender
4th Judicial District
P. O. Box 416
Dandridge, TN 37725
615-397-0108

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the foregoing to the District Attorney for Cocke County, Tennessee.

This the 23 day of March, 1992.

Susanna W. Laws

✓

IN THE CRIMINAL COURT FOR COCKE COUNTY, TENNESSEE
AT NEWPORT

STATE OF TENNESSEE

v.

JAMES DELLINGER

)
) NO. 5035 & 5036
)
)
)

MOTION FOR TRIAL DATE

Comes now the defendant by and through his attorney and moves this Honorable Court to order the District Attorney General to provide a trial date no later than five days after appearance date. Specifically, the defendant, by and through his attorney makes this request in order to have a reasonable amount of time in which to subpoena any witnesses on his behalf.

Respectfully submitted,

CIRCUIT COURT FILED	
HOOR <u>12:30</u>	M
DATE: <u>Mar 25</u> 1992	
<i>James H. [Signature]</i> CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

Susanna W. Laws
SUSANNA W. LAWS
Asst. Public Defender
4th Judicial District
P. O. Box 416
Dandridge, TN 37725
615-397-0108

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the foregoing to the District Attorney for Cocke County, Tennessee.

This the 23 day of March, 1992.

Susanna W. Laws

IN THE CIRCUIT COURT FOR COCKE COUNTY, TENNESSEE
AT NEWPORT

STATE OF TENNESSEE

v.

JAMES DELLINGER

CIRCUIT COURT	
FILED)	
HOUR <u>12:30 p</u>	) M
)	
DATE: <u>MAR 25 1992</u>	)
)	
<i>Stephen W. Hawley</i>	
CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

NO. 5035 & 5036

MOTION FOR LEAVE TO FILE FURTHER MOTIONS

Comes the defendant, through his counsel, and respectfully moves this Honorable Court to permit the filing of additional motions in this matter. Counsel for the defendant has filed motions which he believes to be necessary in order to protect the interest of the defendant in this cause. Counsel will continue its responsibility to investigate the factual aspects of this case, researching issues involved, and otherwise provide effective representation of counsel. The filing of additional motions may be necessary in order to adequately provide the effective representation of counsel to which the defendant is entitled under the laws of the United States and Tennessee Constitutions.

This motion is not made for the purpose of delay or to encumber the court with unnecessary or irrelevant motions, but simply to provide counsel the opportunity to represent adequately the defendant herein.

Respectfully submitted,

Susanna W. Laws

SUSANNA W. LAWS
Asst. Public Defender
4th Judicial District
P. O. Box 416
Dandridge, TN 37725
615-397-0108

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the foregoing to the District Attorney for Cocke County, Tennessee.

This the 23 day of March, 1992.

IN THE CRIMINAL COURT FOR COCKE COUNTY, TENNESSEE
AT NEWPORT

STATE OF TENNESSEE

v.

JAMES DELLINGER

CIRCUIT COURT FILED	
HOUR <u>12:30 P</u>	M
DATE: <u>MAR 25 1992</u>	
<i>Sharon H. Hensley</i>	
CIRCUIT COURT CLERK	
<u>MOTION TO CHARGE PENALTIES</u>	

No. 5035 & 5036

Comes now the defendant pursuant to Tenn. Code Ann. Section 40-35-201(d) and moves the Court to charge the jury as to all possible penalties for the offenses charged and for all lesser included offenses.

Respectfully submitted,

Susanna W. Laws
SUSANNA W. LAWS
Asst. Public Defender
4th Judicial District
P. O. Box 416
Dandridge, TN 37725
615-397-0108

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the foregoing to the District Attorney for Cocke County, Tennessee.

This the 23 day of March, 1992.

Susanna W. Laws

IN THE CRIMINAL COURT FOR COCKE COUNTY, TENNESSEE

STATE OF TENNESSEE

v.

JAMES DELLINGER

AT NEWPORT
CIRCUIT COURT
FILED
HOUR 12:20 P M
DATE: MAR 25 1992 NO. 5035 & 5036
[Signature]
CIRCUIT COURT CLERK
SEVIER COUNTY, TENN.

MOTION FOR TRIAL DATE

Comes now the defendant by and through his attorney and moves this Honorable Court to order the District Attorney General to provide a trial date no later than five days after appearance date. Specifically, the defendant, by and through his attorney makes this request in order to have a reasonable amount of time in which to subpoena any witnesses on his behalf.

Respectfully submitted,

[Signature]
SUSANNA W. LAWS
Asst. Public Defender
4th Judicial District
P. O. Box 416
Dandridge, TN 37725
615-397-0108

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the foregoing to the District Attorney for Cocke County, Tennessee.

This the 23 day of March, 1992.

[Signature]

IN THE CRIMINAL COURT FOR COCKE COUNTY, TENNESSEE

AT NEWPORT

STATE OF TENNESSEE

v.

JAMES DELLINGER

CIRCUIT COURT FILED	
HOUR <u>12:30 P</u>	M
DATE: <u>MAR 25 1992</u>	
<i>Glenn E. Goodley</i>	
CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

NO. 5035 & 5036

MOTION TO PRODUCE ALL EXCULPATORY MATERIAL
AND INFORMATION

Comes the defendant by and through his attorney and moves this Honorable Court for an Order requiring the State to furnish to his attorney all information of whatever form, source and nature, which tends to exculpate the Defendant either through an indication of his innocence or through the potential impeachment of State's witnesses and all information which may be or may become beneficial to the Defendant in the preparation for or the presenting of the merits of his defense of innocence at trial. This request specifically includes all information or evidence of whatever form, source or nature which the District Attorney General's Office, the State Bureau of Investigation, the Cocke County Sheriff's Department, or any other sheriff's department or law enforcement agency of any kind the State might have in their possession or with the exercise of due diligence would discover.

Respectfully submitted,

Susanna W. Laws
SUSANNA W. LAWS
Asst. Public Defender
4th Judicial District
P. O. Box 416
Dandridge, TN 37725
615-397-0108

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the foregoing to the District Attorney for Cocke County, Tennessee.

This the 23 day of March, 1992.

Susanna W. Laws

IN THE CRIMINAL COURT FOR COCKE COUNTY, TENNESSEE
AT NEWPORT

STATE OF TENNESSEE

v.

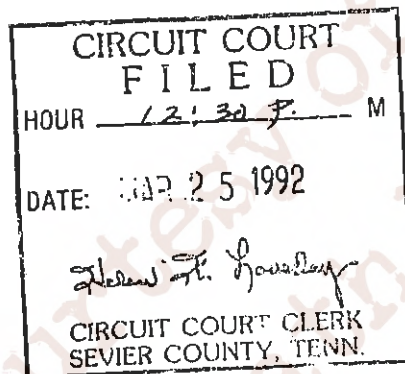
JAMES DELLINGER

NO. 5035 & 5036

MOTION TO CHARGE PENALTIES

Comes now the defendant pursuant to Tenn. Code Ann. Section 40-35-201(d) and moves the Court to charge the jury as to all possible penalties for the offenses charged and for all lesser included offenses.

Respectfully submitted,



Susanna W. Laws
SUSANNA W. LAWS
Asst. Public Defender
4th Judicial District
P. O. Box 416
Dandridge, TN 37725
615-397-0108

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the foregoing to the District Attorney for Cocke County, Tennessee.

This the 27 day of March, 1992.

Susanna W. Laws

✓

IN THE CIRCUIT COURT FOR COCKE COUNTY, TENNESSEE
AT NEWPORT

STATE OF TENNESSEE

v.

JAMES DELLINGER

CIRCUIT COURT FILED	
HOOR <u>12:15 P</u>	NO <u>5035 & 5036</u>
DATE: <u>APR 25 1992</u>	
<i>Shelby W. Laws</i> CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

MOTION FOR LEAVE TO FILE FURTHER MOTIONS

Comes the defendant, through his counsel, and respectfully moves this Honorable Court to permit the filing of additional motions in this matter. Counsel for the defendant has filed motions which he believes to be necessary in order to protect the interest of the defendant in this cause. Counsel will continue its responsibility to investigate the factual aspects of this case, researching issues involved, and otherwise provide effective representation of counsel. The filing of additional motions may be necessary in order to adequately provide the effective representation of counsel to which the defendant is entitled under the laws of the United States and Tennessee Constitutions.

This motion is not made for the purpose of delay or to encumber the court with unnecessary or irrelevant motions, but simply to provide counsel the opportunity to represent adequately the defendant herein.

Respectfully submitted,

Susanna W. Laws

SUSANNA W. LAWS
Asst. Public Defender
4th Judicial District
P. O. Box 416
Dandridge, TN 37725
615-397-0108

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the foregoing to the District Attorney for Cocke County, Tennessee.

This the 23 day of March, 1992.

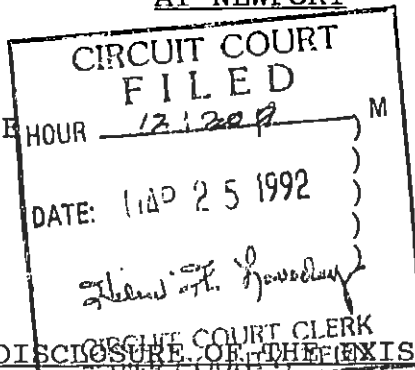
Susanna W. Laws

IN THE CRIMINAL COURT FOR COCKE COUNTY, TENNESSEE
AT NEWPORT

STATE OF TENNESSEE

v.

JAMES DELLINGER



NO. 5035 & 5036

MOTION TO COMPEL DISCLOSURE OF THE EXISTENCE AND SUBSTANCE OF
PROMISES OF IMMUNITY, LENIENCY, OR PREFERRED TREATMENT

Comes the defendant, by and through counsel, and respectfully moves this Honorable Court to order the State to disclose to him the existence and substance of any promises of immunity, leniency, or preferred treatment. Specifically, the defendant requests that the State make the following information available:

1. The existence, substance, and the manner of execution or fulfillment of any promise, statement, agreement, understanding, or arrangement, either verbal, written or implied between the State or its agents and any prosecution witness or cooperating individual, or such person's attorneys or representatives, for the purpose of obtaining said person's testimony or cooperation, or the disclosure of information by the person to the State, wherein the State or any of its agents has agreed to do or has suggested it would do any of the following:

a. Not prosecute said person for any crime or crimes or recommend that the person not be prosecuted for any past or future criminal conduct;

b. Not prosecute a third party for any crime or crimes where the reason for not prosecuting the third party is the consideration to the person;

c. Provide a formal grant of statutory immunity or to provide an informal assurance that the person will not be prosecuted in connection with any testimony, cooperation, or information given by him or her;

d. Recommend leniency or a particular sentence for any crime or crimes for which he or she stands convicted or believes might be convicted;

e. Comply with any prior agreements although said witness may have previously violated a part of his agreement;

f. Provide favorable treatment or consideration, including, but not limited to, money, a job, a new location, a new start, etc..., to the person himself or to friends or relatives of the person in return for his or her testimony, cooperation, and provision of information;

g. Make any recommendation of benefit to the person, to any state or federal agency including, but not limited to, any state or federal agency including, but not limited to, any state or federal law enforcement agency; and

h. Cooperate with any state law enforcement agency in that agency's agreement not to prosecute said person for any crime or crimes prohibited by state law; and

i. Make any other recommendation of benefit, or give any other consideration to the person or friends or relatives of said person.

2. Any cancelled check, receipt, voucher, or any other document produced as a result of any promise, statement, agreement, understanding or arrangement by which any of the above was provided to the person or by which record was kept of such by the State.

3. The substance and manner of execution of any threat of prosecution or intimidation in any way by any state agent, or other person acting on behalf of the state, to a witness, concerning the giving or not giving of any testimony, cooperation, or information in this case.

MEMORANDUM

The State, of course, has a constitutional obligation to disclose to a defendant any consideration that has been given, promised, or any way held out to a witness. Graves v. State, 489 S.W.2d 74 (Tenn. Cr. App. 1972).

In Giglio v. United States, 405 U.S. 150 (1972), the Supreme Court made plain that the prosecution's duty to disclose was an affirmative one and that ignorance of one prosecutor about the promises made to a government witness by another prosecutor does not excuse the failure to disclose. In accordance with Giglio, *id.*, the District Attorney must make an appropriate inquiry to determine what consideration, broadly defined, has been offered to or bestowed upon its witnesses.

In addition to disclosing any promise of consideration that might promote a witness cooperation, the State must make known to the defendant any communication that might cause the witness to color his testimony in favor of the State out of fear or interest in self-preservation. Consequently, suggestions by any State agent about the witness' possible vulnerability to prosecution, parole, or probation revocation, or other sanctioned by the State must be disclosed to the defendant. See *eg.*, United States v. Sutton, 542 F.2d 1239 (4th Cir. 1976).

The existence of any promise or suggestion by the State of favorable or harsh treatment to a witness is obviously extremely relevant to the witness credibility, and courts have made plain that failure to disclose such information violates a defendant's Fifth and Sixth Amendment rights. Giglio v. United States, *supra*; United States v. McCrane, 527 F.2d 906 (3rd Cir. 1975), *aff'd* after remand, 547 F.2d 205 (1976); Luwinski v. Ristaino, 448 F. Supp. 690 (D. Mass. 1978). To enable the defendant to prepare for trial, he respectfully requests that the motion be granted and that disclosure be made as soon as possible.

Respectfully submitted,


SUSANNA W. LAWS
Asst. Public Defender
4th Judicial District
P. O. Box 416
Dandridge, TN 37725
615-397-0108

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the foregoing
to the District Attorney for Cocke County, Tennessee.

This the 23rd day of MARCH, 1992.

Suzanne D. Laws

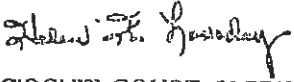
Courtesy of
Time of Death Podcast
by Beth Braden

IN THE CRIMINAL COURT FOR COCKE COUNTY, TENNESSEE
AT NEWPORT

STATE OF TENNESSEE

v.

JAMES DELLINGER

CIRCUIT COURT	
FILED	
HOUR <u>12:30 P</u>	M
DATE: <u>MAY 25 1992</u>	
	
CIRCUIT COURT CLERK	

NO. 5035 & 5036

MOTION FOR STATE AGENTS TO RETAIN ROUGH NOTES

Comes the defendant through his counsel and respectfully moves this Honorable Court to enter an Order requiring all State agents who investigated the events resulting in the instant prosecution to retain and preserve all notes taken as a part of their investigation, regardless of whether or not the contents of the notes have been or will be incorporated into official records.

MEMORANDUM IN SUPPORT OF MOTION FOR STATE AGENTS
TO RETAIN ROUGH NOTES

The purpose of this motion is to insure that the trial court can make an informed determination of whether the disclosure of the notes is required by statutory or constitutional law. The production of statements of witnesses is governed in our courts by Rule 26.2 of the Tennessee Rules of Criminal Procedure. That rule is substantially identical to the same rule in the Federal Rules of Criminal Procedure. The obligation of the government to preserve discoverable evidence has been addressed in the federal system in the case of United States v. Bryant, 439 F.2d 642 (1971). In that case the Government argued that its constitutional and statutory duty to disclose certain evidence to the defendant extended only to evidence currently in its possession. Rejecting this position, the Court of Appeals made plain that the government has a duty to preserve all material arguably producible under Brady v. Maryland, 373 U.S. 83 (1963), 18 U.S.C. 3500, and Rule 16 of the F.R.Cr.P.:

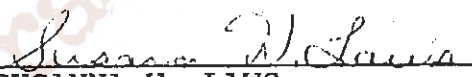
Technically, it may be that evidence which cannot be found is not in the government's 'possession.'

And, of course, that which the government does not have, it cannot disclose. But this line of reasoning is far too facial, and clearly self-defeating. The language of Brady, Rule 16 and the Jencks Act includes no reference to the timing of possession and suppression. It is most consistent with the purposes of those safeguards to hold that the duty of disclosure attaches in some form once the government has first gathered and taken possession of the evidence in question. Otherwise disclosure might be avoided by destroying vital evidence before prosecution begins or before defendants hear of its existence. Hence we hold that before a request for discovery has been made, the duty of disclosure is operative as a duty of preservation. Only if evidence is carefully preserved during the early stages of investigation will disclosure be possible later.

Id. at 650.

Accordingly, the preservation of the notes and memorandum by all offices and agents involved in the investigation of this is manifestly in the interest of justice and will enable the state to satisfy its statutory and constitutional obligations in this state.

Respectfully submitted,


SUSANNA W. LAWS
Asst. Public Defender
4th Judicial District
P. O. Box 416
Dandridge, TN 37725
615-397-0108

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the foregoing to the District Attorney for Cocke County, Tennessee.

This the 23rd day of MARCH, 1992.



IN THE CRIMINAL COURT FOR COCKE COUNTY, TENNESSEE
AT NEWPORT

STATE OF TENNESSEE

v.

JAMES DELLINGER

CIRCUIT COURT FILED	
HOUR <u>12:30 P</u>	M
DATE: <u>APR 25 1992</u>	
<i>Shawn R. Howard</i> CIRCUIT COURT CLERK	

NO. 5035 & 5036

MOTION TO DISCLOSE UNCHARGED CONDUCT

Comes the defendant, by and through counsel, and moves this Honorable Court for an Order compelling the State to disclose uncharged conduct it intends to rely on at trial.

MEMORANDUM IN SUPPORT OF MOTION FOR DISCLOSURE OF UNCHARGED
CONDUCT ON WHICH THE STATE INTENDS TO RELY AT TRIAL

It is well established that in a criminal trial, evidence that the defendant has committed some other crime independent of that for which he is charged, even though it is a crime of the same character, is usually not admissible because it is irrelevant. Mays v. State, 145 Tenn. 118, 230 S.W. 1096 (1921); Lee v. State, 194 Tenn. 652, 254 S.W.2d 747 (1953). Tennessee has long adhered to the doctrine that the admission of proof of other crimes is "contrary to the general rules of evidence that proof of a transaction not charged in the indictment...be received at all". Rabin, Tennessee Criminal Practice and Procedure, Section 27.281, p. 522, citing Peek v. State, 21 Tenn. (2 Hump.) 78, 87 (1840); State v. Fisher, 670 S.W.2d 232 (Tenn. Crim. App. 1983).

Such proof is highly prejudicial and the risk is great that a jury may conclude the defendant is a bad person likely to commit the offenses for which he is on trial. Schockley v. State, 585 S.W. 2d 645 (Tenn. Crim. App. 1978). Inherent dangers attend the use of "other crimes" evidence. In order to minimize these dangers and to insure that such evidence is not offered for abusive purpose, the Tennessee Supreme Court has reaffirmed the criteria for admissibility of evidence of other crimes. The State must first demonstrate that the

evidence has an independent basis of relevancy to some matter actually an issue in the case at trial. After an initial showing, the Court will weigh the evidence and determine if the probative value outweighs the prejudicial upon the defendant. Only by meeting both requirements of this two prong analysis of admissibility can such evidence be properly admitted. State v. Parton, 694 S.W. 2d 299, 302-3 (Tenn. 1985); Bunch v. State, 605 S.W.2d 299, 229-30 (Tenn. 1980).

Fundamental fairness requires the defendant to have notice, pursuant to Rule 12(d)(2), Tennessee Rules of Criminal Procedure of the State's intention and opportunity to review the evidence involved in pretrial. Our motion seeks notice and disclosure so that we may inform this Court of matters which will assist in its understanding and determination of this admissibility question. Thus our motion seeks to avoid surprise at trial and the opportunity to meaningfully prepare for the potential tendering of such evidence so that this evidentiary ruling may be made in a fair and informed manner.

Respectfully submitted,

Susanna W. Laws
SUSANNA W. LAWS
Asst. Public Defender
4th Judicial District
P. O. Box 416
Dandridge, TN 37725
615-397-0108

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the foregoing to the District Attorney for Cocke County, Tennessee.

This the 23RD day of MARCH, 1992.

Susanna W. Laws

IN THE CRIMINAL COURT FOR COCKE COUNTY, TENNESSEE
AT NEWPORT

STATE OF TENNESSEE

v.

JAMES DELLINGER

CIRCUIT COURT FILED	
HOUR <u>12:30 P</u>	M
NO.	
DATE: <u>APR 25 1992</u>	
<i>Glenn H. Housley</i>	
CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	
<u>MOTION IN LIMINE</u>	

5035 & 5036

Comes the defendant by and through his attorney and moves this Honorable Court to (a) instruct the District Attorney General, his staff, and any and all of the State's witnesses in this cause not to allude to, refer to, or in any other way bring before the jury, whether as a panel or as a jury selected to try this cause, any of the matters stated in the numbered paragraphs below, and avers that to allow such testimony would be prejudicial to the rights of the Defendant and a violation of the Constitution and the Laws of the United States, and the Laws of the State of Tennessee; and (b) instruct the District Attorney General not to refer to or allude to such matters without first approaching the bench and making it known to the Court and the attorney for the Defendant, outside the presence and hearing of the jury, that he intends to offer such proof, thus permitting the jury to be retired and the evidence and objection heard, and the Court to rule on the admissibility of such evidence before it is placed before the jury, thus preventing prejudicial error that no subsequent instruction could cure. Your defendant requests the instruction concerning the following evidence:

1. That the accused has been charged with or convicted of any criminal offenses.

2. Any reputation evidence concerning the accused in this cause until it is first determined outside the presence of the jury if the witnesses testifying to the reputation evidence has had adequate opportunity to gain such evidence and has had adequate information available to him or her to permit his or her testifying, due to the fact that to allow such testimony and

cross examination in the presence of the jury would only serve to allow prejudicial testimony to get before the jury causing error which no subsequent instruction can cure.

3. Any oral or written statement from the Defendant which may have been made during the alleged transactions herein or a result thereof.

4. The results of any lie detector test that the Defendant was administered after arrest.

5. Any result of photographic line-ups or in-person line-ups.

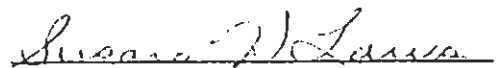
Respectfully submitted,


SUSANNA W. LAWS
Asst. Public Defender
4th Judicial District
P. O. Box 416
Dandridge, TN 37725
615-397-0108

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the foregoing to the District Attorney for Cocke County, Tennessee.

This the 23rd day of March 1992.

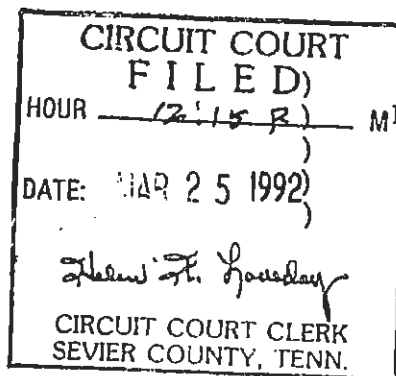


IN THE CRIMINAL COURT FOR COCKE COUNTY, TENNESSEE
AT NEWPORT

STATE OF TENNESSEE

v.

JAMES DELLINGER



MOTION FOR DISCOVERY PURSUANT TO TENNESSEE RULE 12(1)
FEDERAL RULES OF EVIDENCE 802(24) AND 804(B)(5)

Comes now the defendant, by and through his attorney, pursuant to Rule 16(a), Tennessee Rules of Criminal Procedure, and the due process clause of the Fourteenth Amendment of the United States Constitution, Brady v. Maryland, 373 U.S. 83, (1963) and respectfully moves as follows:

I.

For an order requiring the State or law enforcement officer, or any other person acting in conjunction with or in behalf of any law enforcement officer to allow the defendant's attorney to inspect or photocopy any books, papers, documents, or tangible objects obtained from, or belonging to the defendant or obtained from others which are in the possession of or under the control of the State, any law enforcement officer, or any other person acting in conjunction with or on behalf of any law enforcement officer. This includes any law enforcement officer or other person not under the direct control of the District Attorney General.

II.

For an order requiring the State to furnish defendant's attorney with a copy of any written confession or admission against interest made by the defendant in this case, together with a list of the names and addresses of all persons present at the time such confession or admission against interest was made. If such confession or admission against interest was not reduced to writing, then a list of the names and addresses of

of all persons present at the time of the confession or admission against interest was made.

III.

For an order requiring the State to furnish defendant's attorney with all reports and results of scientific tests or experiments made in connection with this case; or any other case in which defendants are charged.

Defendant would further move this Court to require the State to furnish defendant's attorney with all reports or scientific tests or experiments including all comparison of fingerprints, signatures or other materials made in connection with this case.

IV.

For an order requiring the State to allow the defendant's attorney to inspect, copy or photocopy all diagrams, photographs, tapes and/or moving pictures in their possession or any material that has resulted from an electronic surveillance or in the possession of any law enforcement officer or any other person acting on behalf of any law enforcement officer in the investigation of this case.

V.

For an order directing the State to allow the defendant's attorney to inspect, copy or photocopy all books, tapes, documents and/or tangible objects that the State of Tennessee plans to offer into evidence in this case.

VI.

All materials not now known to the District Attorney General, his assistants, law enforcement officers or persons working in conjunction with law enforcement officers or which through due diligence, may become known to the investigating officer or the witnesses in the case, which is exculpatory in nature or favorable to the accused, or which may lead to exculpatory material. This includes, but is not limited to, the reports of any investigation carried out by the United States Government, or the State of Tennessee and the names and addresses of suspects other than the defendant. Giglio v.

United States, 405 U.S. 150, 92 S. Ct. 763.

VII.

For an order requiring the State to furnish defendant's attorney with any evidence or information which would tend to lessen the degree of guilt of the defendant and/or mitigate any punishment which the defendant might receive by a court order and/or jury which includes but is not limited to a denial of guilt by the defendant. Opper v. United States, 384 U.S. 84, 91, 75 S. Ct. 153.

VIII.

For an order directing the State to furnish defendant's attorney with F.B.I. and local arrests or conviction records of all persons the State plans to call as witnesses as well as their names and addresses. Further, for an order directing the State to furnish the defendant's attorney with a list of all witnesses they intend to call in this case.

IX.

The defendant further moves to be informed if the State has any statements pertaining to the case made by persons the State does not plan to call as witnesses.

X.

The defendant further moves to be furnished with a resume of the qualifications of any expert witness or any person the State intends to call to testify as an expert witness who would render interpretive testimony.

XI.

Defendant further moves to be furnished with the names and addresses of witnesses and potential witnesses or co-defendants who have been offered immunity, leniency, and/or any other award or promise by the State of Tennessee or any other governmental entity.

XII.

Defendant further moves to be furnished with the names and addresses of all informants who have given information to any law enforcement officer concerning this cause. Defendant further moves to be informed if the State has made any

searches of any residence or the person of the defendant charged in this case.

XIII.

The defendant further moves that a copy of his prior criminal records, if any, be furnished pursuant to State Rule of Criminal Procedure 16(a)(B). Further, defendant requests that all statements discoverable under State Rule of Criminal Procedure 16(e) be produced by the State. The defendant requests this Honorable Court to inspect said statements in advance of direct testimony as provided in Rule 16(e).

XIV.

The defendant further moves pursuant to State Rules of Criminal Procedure 12(1) to be informed immediately of the intention, if any, of the State to use any specified evidence at trial so as to afford the defendant's attorney an opportunity to raise objections to such evidence prior to trial.

XV.

The accused moves this Court to order the State to reveal to the accused the existence of any material variances in the statements of witnesses, accomplices, co-conspirators, accessories before and after the fact, and/or principals, including statements given the investigatory agency, the prosecution, testimony in another trial, or testimony before the grand jury immediately so as to allow the defendant's attorney adequate time to prepare. This information is sought pursuant to Tennessee Jencks Act.

XVI.

The accused moves this Court to order the State to reveal to the accused the names, addresses and telephone numbers of any witnesses known to any investigatory agencies and/or the prosecution who have misidentified any physical evidence or facts pertaining to the charges pending against the accused, or who have in fact, misidentified the accused, any accomplice, co-conspirator, accessory before or after the fact, or co-principal.

XVII.

The accused moves this Court to order the State to reveal to the accused, the names, addresses and telephone numbers of any witnesses who have furnished the investigatory agencies and/or the prosecution with physical descriptions which do not correspond to the physical description of the accused, or who have been unable to identify the accused from photographs, line-ups, or other attempts at identifying the accused as being the perpetrator of the pending criminal charges.

XVIII.

The accused moves this Court to order the State to furnish the accused, or his counsel, with any medical, psychiatric and/or scientific evidence consistent with the innocence of the accused and/or that is exculpatory in nature.

XIX.

The accused alleges that he is in need of the material requested in this motion in advance of trial and at the earliest opportunity. Common sense indicates the information furnished the accused may lead the accused to additional source of information. Thus, furnishing the accused with such information in advance of trial will permit the accused, with the effective assistance of counsel, to investigate, accumulate, evaluate and prepare the evidence for trial without unnecessary delay. Tennessee Jencks Act.

XX.

The defendant requests an in camera inspection of all the evidence or information obtained by the State so as to make an independent decision on the exculpatory or impeachment value of such evidence. U. S. v. Dinitz, 538 F.2d 1214 (5th Cir. 1976).

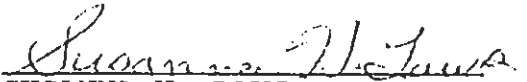
XXI.

The accused moves this Court to make its order in this cause a continuing order, and require the prosecution to furnish the accused with such facts and information contemplated by the order which is received by the prosecution subsequent to the entering of the order.

XXII.

The defendant moves this Court to order the prosecution to furnish the defendants with any hearsay statements the prosecution intends to introduce. This motion is made pursuant to Federal Rules of Evidence 803(23) and 804(5). Said motion includes the name and address of the declarant.

Respectfully submitted,


SUSANNA W. LAWS
Asst. Public Defender
4th Judicial District
P. O. Box 416
Dandridge, TN 37725
615-397-0108

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the foregoing to the District Attorney for Cocke County, Tennessee.

This the 23rd day of MARCH, 1992.



IN THE CRIMINAL COURT FOR SEVIER COUNTY, TENNESSEE
AT SEVIERVILLE

STATE OF TENNESSEE

v.

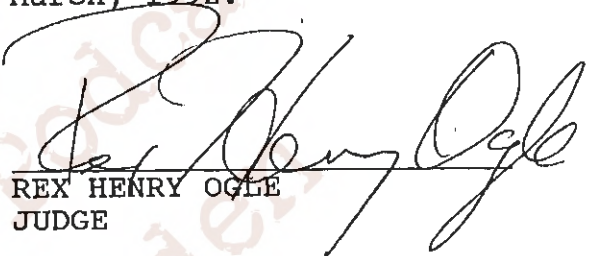
GARY WAYNE SUTTON

NO. 5033 & 5034

ORDER TO SUBSTITUTE COUNSEL

This cause came to be heard on the 26 day of March, 1992, before the Honorable Rex Henry Ogle, Judge of the Criminal Court, to substitute David Webb, hired counsel, in the place of appointed counsel, the Public Defender's Office for the Fourth District, for counsel in the above styled cause.

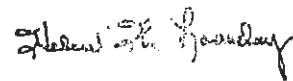
ENTER this the 26 day of March, 1992.


REX HENRY OGLE
JUDGE

APPROVED FOR ENTRY:


SUSANNA W. LAWS
ASST. PUBLIC DEFENDER


DAVID WEBB
ATTORNEY FOR DEFENDANT

CIRCUIT COURT	
FILED	
HOUR	2:35 M
DATE: MAR 26 1992	
	
CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

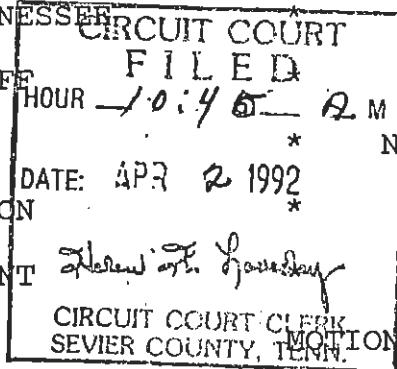
STATE OF TENNESSEE

PLAINTIFF

VS.

GARY W. SUTTON

DEFENDANT



NO. 5033, 5034.

COMES your Defendant, Gary Wayne Sutton, by counsel, and moves this Honorable Court for an Order directing the Sevier County Sheriff's Office to transport and return the Defendant to the Sevier County Jail pending the trial of these cases and for cause shows:

1. That on or about March 5, 1992 the Sevier County Grand Jury met and issued a Presentment in cause #5033 charging this Defendant with First Degree Murder and Arson; and in cause #5034 issued a Presentment charging this Defendant with Arson. Pursuant thereto an instanter capias was issued and served on this Defendant and this Defendant was arrested and incarcerated on March 5, 1992. Your Defendant is presently being held without bond.

2. On or about March 23, 1992 an Order was entered wherein the Defendant was ordered transported by the Sevier County Sheriff's Office to the Greene County Jail and confined there pending further Orders of this Court.

3. On March 23, 1992 the undersigned was retained by the family of the Defendant to represent the Defendant in the captioned causes.

4. That since March 23, 1992 the undersigned has exhausted all efforts to have the Sheriff of Sevier County, Tennessee return the Defendant to the Sevier County Jail.

5. That this Defendant is entitled under the Constitutions of the State of Tennessee and the United States to effective and competent legal assistance in the defense of his cases.

6. That as part of effective and competent representation of this Defendant the undersigned has a duty to properly investigate, gather appropriate information including background information of this Defendant and his family and to further have reasonable access to this Defendant such that the undersigned and the Defendant can discuss the merits of these cases.

7. That since this Defendant has been transported to the Greene County Jail the undersigned has been unable to meet with his client to discuss anything associated with these cases.

8. The undersigned simply submits to the Court that there is no reasonable possibility that he can adequately represent his client in these cases without having reasonable access to his client.

9. Defendant would further show to this Honorable Court that the State will not suffer any prejudice or substantial inconvenience in having this Defendant returned to the Sevier County Jail pending further hearing. On the other hand, this Defendant will be denied the full benefit of his Constitutional rights to effective assistance of counsel if this Motion be denied.

WHEREFORE, Premises Considered, the Defendant moves this Honorable Court for entry of an Order directing the Sheriff of Sevier County, Tennessee to transport and return this Defendant to the Sevier County Jail for the reasons set forth herein.

RESPECTFULLY SUBMITTED:

THIS the 1st day of April, 1992.

GARY WAYNE SUTTON, DEFENDANT

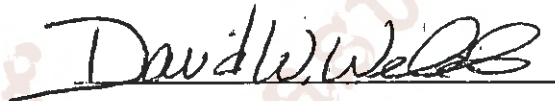
BY: David W. Webb

DAVID W. WEBB, ATTORNEY FOR
DEFENDANT

ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by U.S. Mail and/or Hand Delivery.

THIS the 1st day of April, 1992.



DAVID W. WEBB, ATTORNEY

feb\mar\92\sut-ret.jai

Courtesy of
Time of Death Podiatry
by Beth Braden

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE

*

PLAINTIFF

*

VS.

*

NO. 5033, 5034.

GARY W. SUTTON

*

DEFENDANT

*

NOTICE

TO THE STATE OF TENNESSEE

DISTRICT ATTORNEY GENERAL

Third Floor, County Courthouse

Sevierville, TN. 37862

CIRCUIT COURT FILED	
HOUR <u>10:45</u>	<u>A.M.</u>
DATE: APR 2 1992	
<i>Shawn A. Hinesley</i>	
CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

PLEASE TAKE NOTICE that I plan to appear in the Circuit Court for Sevier County, Tennessee on the 20th day of April, 1992 at 9:00 a.m. to move the Court for an Order for transportation and return of the Defendant in the captioned matter to the Sevier County Jail from Greene County, Tennessee.

You may be present if you so desire.

THIS the 1st day of April, 1992.

DAVID W. WEBB, ATTORNEY

ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing NOTICE to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by U.S. Mail and/or Hand Delivery.

THIS the 1st day of April, 1992.

David W. Webb
DAVID W. WEBB, ATTORNEY

feb\mar\92\bsut-not

CLERK OF DISTRICT COURT
LED
HOUR 11:35A M
DATE: APR 10 1992
Shawn H. Gooden
SEVIER COUNTY, TENNESS
CIRCUIT COURT CLERK
SEVIER COUNTY, TENN.

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE
CIRCUIT COURT CLERK
SEVIER COUNTY, TENN.

STATE OF TENNESSEE *

PLAINTIFF *

VS. * NO. 5033, 5034.

GARY W. SUTTON *

DEFENDANT *

REQUEST FOR DISCOVERY AND INSPECTION OF EVIDENCE

COMES the Defendant, Gary W. Sutton, by and through counsel, and respectfully requests, pursuant to the authorities cited below, that the District Attorney General for the State of Tennessee provide the following information which is material to the preparation of the defense.

For the purposes of this request, the defendant defines the "State of Tennessee" to include District Attorney General, the Sevier County Sheriff's Department, the Tennessee Bureau of Investigation, any agents or employees of those offices, any other law enforcement officer, and any other person acting in conjunction with, or on behalf of, any law enforcement agency. The defendant defines the request to include items currently within the actual or constructive possession, custody, control or knowledge of the State of Tennessee, and items which may become known, identified or available through the exercise of due diligence by the State of Tennessee. See, generally, Tenn.R.Crim.P. 16 (hereinafter, cited as "Rule 16"); State vs. Brown, 552 S.W.2d 383 (Tenn.1977); ABA Standards, Discovery Sections 2.4, 2.1(d) and Section 2.2(a).

The following is requested:

1. Statements of Defendant.

(a) Any written or recorded statement, confession or admission against interest made by the Defendant, and the names and addresses of any witnesses to such statements. Rule 16(a)(1)(A); ABA Standards, Discovery 2.1(a)(ii).

(b) The substance of any oral statement, confession or admission against interest made by the defendant, whether

before or after arrest, to law enforcement officials, or persons acting on behalf of or in concert with said officials, any notes that reflect the substance of these statements, and the names and addresses of witnesses to these statements. Rule 16(a)(1)(A); ABA Standards, Discovery 2.1(a)(ii). These include but are not limited to any such statements made to deputies, officers, or any other agent of the State.

(c) Any recorded testimony of the defendant before a grand jury which relates to the offense charged. Rule 16(a)(1)(A).

2. Defendant's Prior Record.

A copy of defendant's prior record, if any. Rule 16(a)(1)(B).

3. Documents and Tangible Objects.

(a) That the defendant, through his attorney, be allowed to inspect and copy or photograph all audio tapes, books, papers, videotapes, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which are in the possession, custody or control of the State and which are intended for use by the State as evidence in chief at the trial of this cause. Rule 16(a)(1)(C).

(b) That the defendant, through his attorney, be allowed to inspect and copy or photograph all audio and videotapes, books, papers, photographs, documents, tangible objects, buildings or places or copies or portions thereof, which are within the possession, custody or control of the State and which are material to the preparation of the defense in this matter. Rule 16(a)(1)(C).

(c) That the defendant, through his attorney, be allowed to inspect and copy or photograph all books, papers, documents, photographs, tangible objects, buildings or places or copies thereof, which are in the possession of the State and which were obtained from or belonged to the Defendant.

(d) The items requested herein specifically include,

but are not limited to any and all audio and videotaped interviews with any person whether produced by the Sevier County Sheriff's Department, or a psychologist or social worker or any other agency, medical personnel or Sheriff's Department.

(e) Further, the items requested herein specifically included, but are not limited to, any and all items obtained, seized, or subpoenaed in the course of this investigation which the State does not intend to use in its case in chief, as its decision not to use arguably relevant material to the accused. Cf. 2 Wigmore, Evidence, 285, 286 (Chadburn rev. 1979) United States vs. Burton, 525 F. 2d 17 (1975).

4. Reports of Examinations and Tests.

(a) That the defendant, through his attorney, be allowed to inspect and copy or photograph any results or reports of physical or mental examinations, and of scientific tests or experiments, or copies thereof, which are in the possession, custody or control of the State and which are intended by the State as evidence in chief at the trial of this cause. Further, the laboratory notes, work sheets, equipment printouts and other data made during or subsequent to said tests, which form the basis of expert conclusions. Rule 16(a)(1)(D).

(b) That the Defendant, through his attorney, be allowed to inspect and copy or photograph any results or reports of physical or mental examinations, and of scientific tests or experiments, or copies thereof, which are within the possession, custody or control of the State, and which are material to the preparation of the defense. Further, the laboratory notes, work sheets, equipment printouts and their data made during or subsequent to said tests, which form the basis of expert conclusions. Rule 16(a)(1)(D); State vs. Benson, 645 S.W.2d 423 (Tenn.Cr.App. 1983); State vs. Gaddis, 530 S.W.2d 64 (Tenn. 1975).

(c) The nature and extent of any mental or physical

infirmity of witnesses, and any results and reports of same, relating to a witness intended to be called by the State at the trial of this cause, such as those showing a mental or physical condition which would affect the witness's ability to perceive, see, hear, or understand or otherwise affect his ability about the matters which said witness is expected to testify. State vs. Butts, 640 S.W.2d 77 (Tenn.Cr.App. 1982); State vs. Brown, 552 S.W.2d 383 (Tenn. 1977).

(d) The items requested herein include, but are not limited to: (1) any and all examinations conducted by any Doctor and/or any other professional who examined the defendant or any co-defendant (2) copies of all tests administered by such professionals to these persons.

5. Names and addresses of State's Witnesses.

A list of the names and current addresses of all witnesses who the State intends to call to testify, whether or not they are listed upon the Indictment. T.C.A. Section 40-13-107, T.C.A. Section 40-17-106; State vs. Aldridge, 470 S.W. 2d 42 (Tenn.Cr.App. 1971); McBee vs. State, 213 Penn. 15, 372 S.W.2d 173 (1963); ABA Standards, Discovery 2.1(a)(1).

6. Statements of Witnesses not to be called.

The written or recorded statements, notes, memorandum or reports, or the substance of oral statements, in the possession or control of the State of individuals who the State does not plan to call as witnesses but who were interviewed about this case by the State. Since disclosure will materially assist this defendant in trial preparation and will not unfairly jeopardize the State's case, disclosure of these statements is required to insure the exercise of defendant's due process rights. Rule 16(a)(1)(C); United States vs. Perkins, 383 F.Supp. 922, 930 (w.D.Ohio 1974); see also 8 Moore's Federal Practice, 16.05(4).

7. Police Reports and Witness Statements.

(a) Any police reports and witness statements to the

extent that they contain the defendant's prior record, his statement, or statement of co-defendant's or the results of any tests or examinations. State vs. Robinson, 618 S.W. 2d 754 (Tenn.Cr.App. 1981).

(b) The statements and reports of any witness after the witness testifies. Said production to be made outside the presence of the jury. Rule 26.2.

8. Notification of Electronic Surveillance.

Notification as to whether there has been any electronic surveillance of any type, including wiretapping, conducted in connection with the investigation of this case; in the event of any such electronic surveillance, the defendant further requests an inventory of all telephonic, radio and/or recorded information which has been intercepted and/or recorded by law enforcement or any other person acting on behalf or in conjunction with any law enforcement officers during the investigation of this case. Rule 16(a)(1)(A), 16(a)(1)(C), 12(d)(2), 18 U.S.C.A. Section 25.18(8) and (9); ABA Standards relating to Discovery, Section 2.1.

9. Notification of Persons Present at time of Offense.

The names and addresses of all persons known to the District Attorney or other law enforcement officers to have been present at the time and place of the alleged offense. Roviaro vs. United States, 353 U.S. 53, 77 S.Ct. 623, 1. L.Ed2d 639 (1957); see also Roberts vs. State, 489 S.W.2d 263 (Tenn.Cr.App. 1972).

10 Disclosure of Juror Information.

Any information complied by the District Attorney as to any prospective juror, including but not limited to arrest or conviction records, or whether the prospective juror was ever a witness.

11. Disclosure of Identification Procedure.

In the event the State intends to offer any "eye witness identification testimony" the defendant, through his attorney,

be informed as to whether any such witness has, at any time, been asked to make any pretrial extrajudicial identification of the defendant, whether by means of a live line up, a photographic spread, or other type of confrontation; in the event such an extrajudicial identification has taken place, the defendant further requests the date of such identifications, and the names of all persons present at the identification. If such identification occurred as a result of a line up, show up or photographic identification, the defendant requests the names and addresses of all persons attending and all persons who may have appeared in such line up or photospread with the defendant, as well as any written memorandum or documentation of such including, but not limited to, the photographs taken or used in the identification process. Rule 12(d)(2) and 16(a)(1)(C); State vs. Frazier, 683 S.W.2d 346 (Tenn.Cr.App.1984).

12. Opinion Testimony.

A notice of whether the State intends to rely upon any opinion testimony, either by lay witnesses or by experts, and the facts or data upon such witnesses will rely to base their opinions. Specifically, the defendant requests that this disclosure include, but not be limited to, all periodicals, treatises, interdepartmental reports, and all documents, reviews, considered or relied upon by any person who is to testify as an expert.

Disclosure of such intent is sought pursuant to the 5th and 6th Amendments to the United States Constitution, Article 1, Section 9 of the Tennessee Constitution and Rule 12.

13. Business Records.

Any and all documents which the State intends to rely, and the admissibility of which it will contend rests on T.C.A. Section 24-7-111.

Disclosure of such documents is required in order to protect the defendant's rights under the 5th and 6th Amendments

to the United States Constitution and Article 1, Section 9 of the Tennessee Constitution.

14. Statement of Unavailable Declarants.

Any and all statements which the State will seek to admit into evidence upon the theory that the declarant is unavailable as well as whether it intends to rely upon the former testimony of such declarant.

Disclosure of such statements and information is required in order to protect the defendant's rights under the 5th and 6th Amendments to the United States Constitution and Article 1, Section 9 of the Tennessee Constitution.

15. Recorded Grand Jury Testimony.

Any recorded testimony of the witness or witnesses before a Grand Jury which relates to the offense(s) charged. Rule 16 (a)(1)(A).

WHEREFORE, Gary W. Sutton, respectfully requests that the District Attorney General for the State of Tennessee provide the above referenced information so that he may adequately prepare his defense.

RESPECTFULLY SUBMITTED this the 10th day of April, 1992.

GARY W. SUTTON, DEFENDANT

BY: David W. Webb
DAVID W. WEBB

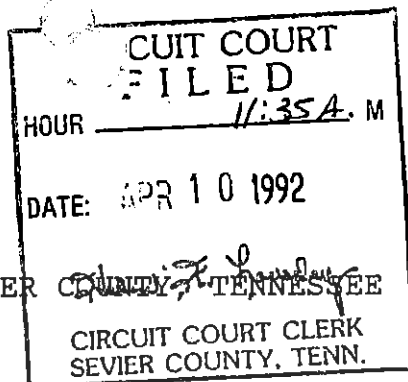
ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by U.S. Mail and/or Hand Delivery.

THIS the 10th day of April, 1992.

David W. Webb
DAVID W. WEBB, ATTORNEY

apr92\b\sut-dis.mot



IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE *
PLAINTIFF *

VS. * NO. 5033, 5034

GARY W. SUTTON *

DEFENDANT *

MOTION

COMES THE DEFENDANT, Gary W. Sutton, by counsel, and moves this Honorable Court for the entry of an Order reserving his right to file such additional motions as the future progression of this case may merit.

THIS the 10th day of April, 1992.

GARY W. SUTTON, DEFENDANT

BY: David W. Webb

DAVID W. WEBB, ATTORNEY FOR

ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by U.S. Mail and/or Hand Delivery.

THIS the 10th day of April, 1992.

David W. Webb

DAVID W. WEBB, ATTORNEY

apr92\b\sut-fil.mot

47

11:35 A M

DATE: APR 10 1992

CIRCUIT COURT CLERK
SEVIER COUNTY, TENN.

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE *
PLAINTIFF *

VS. * NO. 5033, 5034

GARY W. SUTTON *

DEFENDANT *

MOTION FOR BILL OF PARTICULARS

COMES the Defendant, Gary W. Sutton, by and through counsel, pursuant to Rule 7(c) of the T.R.C.P. and moves this Honorable Court to Order the state to file a Bill Of Particulars with the above docket number(s) and reveal the following:

1. The date of each offense.
2. The time and place of each offense.
3. The persons present during the time of the commission of the offense(s) charged.
4. The manner in which the defendant participated i.e. whether he was a principal or an aider and abettor.
5. The names of any un-indicted co-conspirators or co-participants involved in this crime.

PREMISES CONSIDERED the Defendant asks that the Court order the State to comply with this Bill of Particulars in writing so that it would be made a part of the record in this cause.

RESPECTFULLY SUBMITTED this the 10th day of April, 1992.

GARY W. SUTTON, DEFENDANT

BY: David W. Webb

DAVID W. WEBB

ATTORNEY FOR DEFENDANT

ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by U.S. Mail and/or Hand Delivery.

THIS the 10th day of April, 1992.

David W. Webb
DAVID W. WEBB, ATTORNEY

apr92\b\sut-bill.par

CIRCUIT COURT
FILED
HOUR 11:35 M
DATE: APR 10 1992
COUNTY: Sevier TENNESSEE
CIRCUIT COURT CLERK
SEVIER COUNTY, TENN.

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENN.
 STATE OF TENNESSEE *
 PLAINTIFF *
 VS. * NO. 5033, 5034
 GARY W. SUTTON *
 DEFENDANT *

CIRCUIT COURT
 SEVIER COUNTY

MOTION TO REVEAL EXCULPATORY EVIDENCE

COMES THE DEFENDANT, by and through counsel, and moves the Court to require the State of Tennessee, by and through the District Attorney General's Office, to furnish any and all exculpatory evidence which has come to the knowledge of the Attorney General and/or agents, and in support thereof would show unto the Court the following:

1. Pursuant to the cases of Brady v. Maryland, 373 U.S. 83 (1963), and Branch v. State, 469 S.W.2d 533 (1969), Defendant requests any evidence, material or information within the possession, custody or control of the State or its investigators, or other agents, the existence of which is known, or by the exercise of due diligence may become known, which is favorable to or which exculpates the Defendant or tends to establish a defense in whole or in part, to the allegations of the indictment or which may help the Defendant avoid conviction, or mitigate punishment.

2. This request includes any evidence, material, tangible or intangible, or information which would tend to impeach the credibility of any person or scientific test which the Attorney for the State intends to produce in the trial of this action. By way of illustration, such evidence which relates to the credibility of the State's witnesses would include:

(a) Any information which tends to contradict the testimony that the State anticipates will be given by any of its witnesses.

3. This request also includes any statement or

information in the State's possession describing conduct of the Defendant which would refute or be inconsistent with his participation in the crime(s) charged.

4. Defendant asserts the information sought is material to the preparation of his defense, and further, this information would be favorable, and he hereby makes proper request for the production of this evidence, whether such evidence is or is not competent or admissible in Court. Defendant further requests the Court to order the District Attorney General's Office or any of its staff or agents to recognize the continuing duty to disclose any additional evidence or material requested in this Motion prior to trial which may not be available to the Attorney General at this time, but which may become available at a later date.

5. Defendant reserves the right to amend this Motion.

RESPECTFULLY SUBMITTED;

THIS THE 10th day of April, 1988.

GARY W. SUTTON, DEFENDANT

BY: David W. Webb

DAVID W. WEBB

ATTORNEY FOR DEFENDANT

ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by U.S. Mail and/or Hand Delivery.

THIS the 10th day of April, 1992.

David W. Webb
DAVID W. WEBB, ATTORNEY

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IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE

PLAINTIFF

VS.

GARY W. SUTTON

DEFENDANT

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NO. 5033, 5034

MOTION FOR BOND HEARING

CIRCUIT COURT FILED	
HOUR	11:00 A.
DATE:	APR 13 1992
<i>Shawn F. Goodday</i>	
CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

COMES NOW THE DEFENDANT, Gary Sutton, by counsel, and respectfully moves this Honorable Court to set a reasonable bond in the captioned causes so that the Defendant may obtain release from incarceration pending hearing, and for cause states:

1. The Defendant has in the past been charged with minor offenses and has always made Court appearances.

2. Prior to his arrest in this case, the Defendant voluntarily met with authorities on two (2) separate occasions.

3. This Defendant has strong family ties in Sevier County, Tennessee.

4. This Defendant can obtain suitable employment in Sevier County, Tennessee.

5. That although the charges are serious there has been absolutely no proof offered in an open Court proceeding relative to this Defendant. In fact, this Defendant has been denied his right to a Preliminary Hearing and has yet to receive any Discovery from the State of Tennessee regarding State's evidence.

6. In a related matter this Defendant was charged by the Blount County, Tennessee Grand Jury on April 6, 1992 charging this Defendant with First Degree Murder and this Defendant was served on April 8, 1992 while incarcerated at the Greene County, Tennessee jail. The Blount County charge is similar to the charges this Defendant faces in Sevier County and his bond in Blount County was set at \$50,000.00.

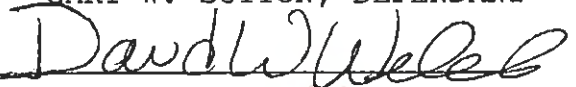
WHEREFORE, for the reasons stated this Defendant requests this Court to set a reasonable Bond so as he may obtain release from incarceration provided said Bond is set at an adequate amount to assure his appearance at the trial of these charges.

RESPECTFULLY SUBMITTED:

THIS the 13th day of April, 1992.

GARY W. SUTTON, DEFENDANT

BY:



DAVID W. WEBB, ATTORNEY FOR DEFENDANT

ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by U.S. Mail and/or Hand Delivery.

THIS the 13th day of April, 1992.



DAVID W. WEBB, ATTORNEY

apr92\b\sut-bd.mot

IN THE CRIMINAL COURT FOR SEVIER COUNTY, TENNESSEE
AT SEVIERVILLE

STATE OF TENNESSEE

v.

JAMES DELLINGER

NO. 5035 & 5036

NOTICE

TO THE STATE OF TENNESSEE
DISTRICT ATTORNEY GENERAL
Third Floor, County Courthouse
Sevierville, TN 37862

CIRCUIT COURT FILED	
HOUR	<u>4:30</u> P M
DATE: APR 14 1992	
<i>Thom H. Housley</i> CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

PLEASE TAKE NOTICE that I plan to appear in the Circuit Court for Sevier County, Tennessee on the 20th day of April, 1992 at 9:00 a.m. to move the Court for an Order for transportation and return of the Defendant in the captioned matter to the Sevier County Jail from Greene County, Tennessee.

You may be present if you so desire.

THIS the 13 day of April, 1992.

Susanna W. Laws
SUSANNA W. LAWS
Asst. Public Defender

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the foregoing to the District Attorney for Sevier County, Tennessee and to Mr. David Webb, Attorney At Law 140 A Court Avenue, Sevierville, TN 37862, this the 13 day of April, 1992.

Susanna W. Laws

IN THE CRIMINAL COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE

v.

JAMES DELLINGER

CARC SEVIER
FILED
HOUR <u>4:30</u> P.M.
DATE: APR 14 1992
<i>Shawn H. Housley</i>
CIRCUIT COURT CLERK SEVIER COUNTY, TENN.

NO. 5035 & 5036

Comes now the defendant, James Dellinger, by counsel, and moves this Honorable Court for an Order directing the Sevier County Sheriff's Office to transport and return the Defendant to the Sevier County Jail pending the trial of these cases and for cause shows:

1. That on or about March 5, 1992, the Sevier County Grand Jury met and issued a Presentment in cause #5035 charging this Defendant with First Degree Murder and arson; and in cause 5036 issued a Presentment charging this Defendant with Arson. Pursuant thereto an instanter capias was issued and served on this Defendant and this Defendant was arrested and incarcerated on March 5, 1992. Your defendant is presently being held without bond.

2. On or about March 23, 1992 an Order was entered wherein the Defendant was ordered transported by the Sevier County Sheriff's Office to the Greene County Jail and confined there pending further Orders of this Court.

3. That since March 23, 1992, the undersigned has exhausted all efforts to have the Sheriff of Sevier County, Tennessee return the Defendant to the Sevier County Jail.

4. That this Defendant is entitled under the Constitutions of the State of Tennessee and the United States to effective and competent legal assistance in the defense of his cases.

5. That as part of effective and competent representation of this Defendant the undersigned has a duty to properly investigate, gather appropriate information including background information of this Defendant and his family and to further have reasonable access to this Defendant such that the undersigned and the Defendant can discuss the merits of these cases.

6. That since this Defendant has been transported to the Greene County Jail the undersigned has been unable to meet with his client to discuss anything associated with these cases.

7. The undersigned simply submits to the Court that there is no reasonable possibility that he can adequately represent his client in these cases without having reasonable access to his client.

8. Defendant would further show to this Honorable Court that the State will not suffer any prejudice or substantial inconvenience in having this Defendant returned to the Sevier County Jail pending further hearing. On the other hand, this defendant will be denied the full benefit of his Constitutional rights to effective assistance of counsel if this Motion be denied.

WHEREFORE, Premises Considered, the Defendant moves this Honorable Court for entry of an Order directing the Sheriff of Sevier County, Tennessee to transport and return this Defendant to the Sevier County Jail for the reasons set forth herein.

Respectfully submitted,


SUSANNA W. LAWS
Asst. Public Defender
4th Judicial District
P. O. Box 416
Dandridge, TN 37725
615-397-0108

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the foregoing to the District Attorney for Sevier County, Tennessee and to Mr. David Webb, Attorney At Law 140 A Court Avenue, Sevierville, TN 37862, this the 13 day of April, 1992.



SEVIER COUNTY CIRCUIT, APRIL 20, 1992

Came the Assistant District Attorney General, Scott Green, and the Defendant in person with his attorney, James Greenlee, upon the Defendant's motion to waive his right of appeal. It is ordered by the Court that said motion is hereby granted.

STATE OF TENNESSEE

VS.

No. 5033 and 5034

GARY WAYNE SUTTON, ALIAS

and

STATE OF TENNESSEE

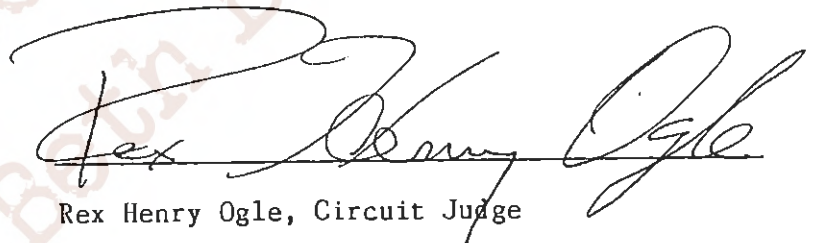
VS.

No. 5035 and 5036

JAMES DELLINGER, ALIAS

Came the District Attorney General, Al Schmutzer, Jr., and defense counsels for both defendants upon motions of the defendants to be transported back to the Sevier County Jail for easier access to their legal counsel. It is ordered by the Court that said motion is granted and that the Defendants shall be transported to the Sevier County Jail as soon as possible.

These were all of the proceedings had this 20th day of April, 1992. Court thereupon adjourned. These minutes were read and approved for entry this 4 day of May, 1992.



Rex Henry Ogle, Circuit Judge

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE

PLAINTIFF

VS.

GARY W. SUTTON

DEFENDANT

AND

STATE OF TENNESSEE

PLAINTIFF

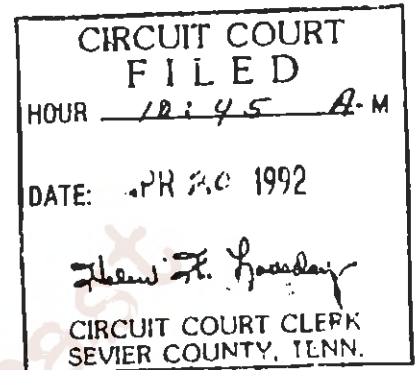
VS.

JAMES DELLINGER

DEFENDANT

NO. 5033, 5034

NO. 5035, 5036



ORDER

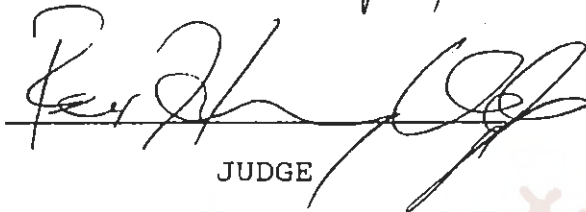
THIS CAUSE came to be heard on this the 20th day of April, 1992 before the Honorable Rex Henry Ogle, Judge for the Circuit Court for Sevier County, Tennessee; upon Motion by each of the Defendants in the captioned matters for the entry of an Order directing the Sevier County Sheriff's Department to transport and return the Defendants to the Sevier County Jail; argument from defense counsel for each of the Defendants; testimony from the State; testimony from the Sheriff of Sevier County, Tennessee; from all of which the Court ORDERS:

1. That the Sheriff of Sevier County, Tennessee is hereby ordered and directed to transport and return each of the above Defendants, Gary Sutton and James Dellinger, from Greene County to the Sevier County Jail and these Defendants are to be confined therein pending further hearing of these causes.

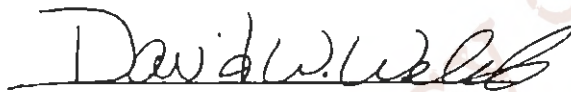
2. That as a condition of this Order for transportation

and return, these Defendants and their families must obey all the rules and regulations of the Sevier County Jail and the Sevier County Sheriff's Department and none shall create any disruption or disturbance.

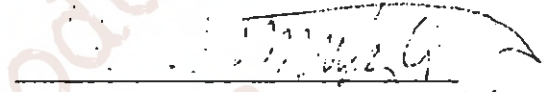
ENTER THIS the 20 day of April, 1992.


JUDGE

APPROVED:



DAVID W. WEBB, ATTORNEY
FOR DEFENDANT SUTTON



AL SCHMUTZER, DISTRICT
ATTORNEY GENERAL FOR THE
STATE OF TENNESSEE

SUSANNA LAWS, ATTORNEY
FOR DEFENDANT DELLINGER

apr92/b/sut-ret.ord

SEVIER COUNTY CIRCUIT, APRIL 20, 1992

Came the Assistant District Attorney General, Scott Green, and the Defendant in person with his attorney, James Greenlee, upon the Defendant's motion to waive his right of appeal. It is ordered by the Court that said motion is hereby granted.

STATE OF TENNESSEE

VS.

No. 5033 and 5034

GARY WAYNE SUTTON, ALIAS

and

STATE OF TENNESSEE

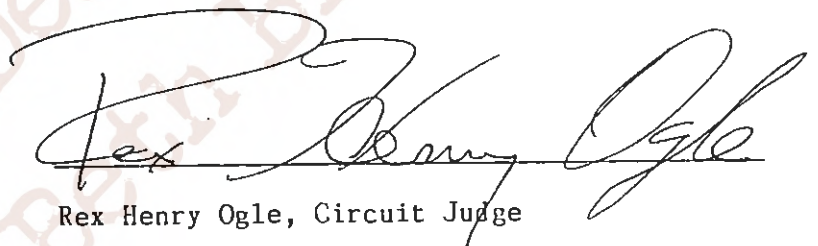
VS.

No. 5035 and 5036

JAMES DELLINGER, ALIAS

Came the District Attorney General, Al Schmutzer, Jr., and defense counsels for both defendants upon motions of the defendants to be transported back to the Sevier County Jail for easier access to their legal counsel. It is ordered by the Court that said motion is granted and that the Defendants shall be transported to the Sevier County Jail as soon as possible.

These were all of the proceedings had this 20th day of April, 1992. Court thereupon adjourned. These minutes were read and approved for entry this 4 day of May, 1992.



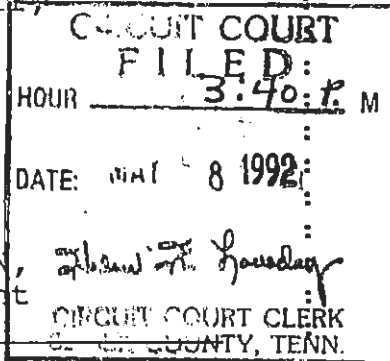
Rex Henry Ogle, Circuit Judge

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE
Plaintiff,

VS.

GARY WAYNE SUTTON,
Defendant



DISCOVERY RESPONSE: STATE'S
DEMAND FOR DISCOVERY AND
STATE'S DEMAND FOR ALIBI

NO: #5033 & #5034

Comes the State of Tennessee in response to the Defendant's
Motion for Discovery and files the following response:

1. The following are the names and addresses of the
witnesses for the State. These are in addition to those
previously furnished or listed on the indictment. The State
requests the Circuit Court Clerk to issue subpoenas for these
additional witnesses for trial.

Name	Address
Don C. Ogle	Sevier County Sheriff's Department
Mike VonCannon	Sevier County Sheriff's Department
Elaine Mays	2322 Bluff Heights Road, Sevier, 428-4072 -
Alvin Henry	2338 Bluff Heights Road, Sevier, 428-6970 -
Matthew Mays	2322 Bluff Heights Road, Sevier, 428-4072 -
Gary Clabo	State Fire Marshall 594-6710
Dr. William Bass	U.T. Forensic Anthropology Department - 252 South Stadium Hall, Knoxville, TN 974-4408
Danny Sutton	523 Vicksburg Lane, Kodak, TN 932-2925 -
David Davenport	Tennessee Bureau of Investigations -
Larry McMahan	Sevier County Sheriff's Department -
Donnie Huskey	Sevier County Sheriff's Department -
Arthur Harmon	Sevier County Sheriff's Department -
Viola Griffin	816 Whites School Road, Sevier 453-6225 -
Tammy Griffin	816 Whites School Road, Sevier 453-6225 -
Billy Griffin	816 Whites School Road, Sevier 453-6225 -
James Griffin	814 Whites School Road, Sevier 428 453-1896 -
Alvin Lee Henry	2338 Bluff Heights Road, Sevier 428-6970 -

Judy Griffin	814 Whites School Road, Sevierville,	428-1896 -
Carolyn Weaver	Seymour, TN	453-5519 -
Linda Dellinger	414 Maryville Hwy., Apt. 2, Seymour,	579-1668 -
Barbara Gordon	906 Laurel Lick Road, Pigeon Forge	436-6728 -
Judy Payne	305 Webb Road, Townsend, TN	448-2382 -
David Payne	305 Webb Road, Townsend, TN	448-2382 -
Larry Munsey	Blount County Sheriff's Department	982-4111 -
Eddie Buchanon	543 Rudd Hollow Road, Townsend, TN	448-9506 -
Ronald Suttles	8034 Old Hwy. 73, Townsend, TN	w:970-4085 -
Kenneth Bryant	1016 Cavern Road, Townsend, TN	448-6175 -
Jamie Marie Forsythe	129 Duberry Dr., Paynes Trailer Park,	✓
	Maryville, TN	448-6175 -
Nancy M. Bryant	1016 Cavern Road, Townsend, TN	w:448-6915 -
Fred Atchley	Sevier County Sheriff's Department	-
David Claxton	Sevier County Sheriff's Department	-
Bill Boddy	Blount County Sheriff's Department	-
Gary Hamilton	Blount County Sheriff's Department	-
Tom Defoe	Blount County Sheriff's Department	-
Ray Herron	Blount County Sheriff's Department	-
Drew Robers	Alcoa Police Department	-
Steven Brocks	Alcoa Police Department	-
Ken Beeler	Alcoa Police Department	-
Thomas Carter, Jr.	925 Cherokee, Maryville, TN	681-3291 -
James McDonald	153 East Leatherwood Drive, Walland,	977-7481 ✓
Sharon Davis	984-7545	-
Cindy Walker	675-3434	✓
Dr. Ellington	Blount Memorial Hospital	981-2323 ✓
Dana Carter	%Thomas Carter, Jr.	✓
Danny Westering	Blount County Sheriff's Department	-
Phil Smith	Tennessee Bureau of Investigation	-
Linda Henry	Gibson Hollow Road, Sevier,	428-6970 -
John Brown	Sevier County Sheriff's Department	-
James R. Gordon	906 Laurel Lick Road, Pigeon Forge,	436-6728 -
Johnny Wade McCarter	906 Laurel Lick Road, Pigeon Forge	436-6728 -
Boyd Ray Branam	2348 Bluff Heights Road, Sevier,	453-5787 -

3. () There are no statements of the Defendant known to the State at this time.
 (X) Listed below are all written and/or recorded statements made by the Defendant with copies attached.
 (X) Listed below are all oral statement(s) made by the Defendant in response to interrogation by a person known to the Defendant to be a law enforcement officer, the substance of which is attached.

Date/Time	Oral/Written/Recorded	Copy Attached
3:00 February 25, 1992	Recorded	(x) 48 pages
March 9, 1992	Oral	(x) 3 pages *
11:35 February 28, 1992	Recorded	(x) 10 pages
3:30 p.m. March 5, 1992	Oral	(x) 2 pages

* Attached are David Davenport's notes from that interview (5 pages)

4. () There are no co-defendants, or the trial is not a joint trial.
 () There are no statements made by a co-defendant which are known to the State at this time.
 () All statements or summaries of statements made by the co-defendant(s) are attached.
5. (x) There are no recorded Grand Jury Minutes.
6. () There are no documents or tangible objects known to the State at this time.
 (x) The following documents and tangible objects can be inspected, copied or photographed by contacting the person in possession at your convenience. If there is a problem notify us immediately.

Description of document or tangible objects/Person in Possession	
Consent to Search (12:40 p.m. March 3, 1992)	(Copy Attached)
Search Warrant (February 28, 1992)	(Copy Attached)
Audio Tapes of February 25, 1992	
Statement of Gary Sutton	Jim Widener
Search Warrant (February 29, 1992)	(Copy Attached)
Admonition and Waiver \ Gary Sutton	(Copy Attached)
March 9, 1992	

<u>Video Tape of Crime Scene (Connie Branam)</u>	<u>Don Ogle</u>
<u>Phone Bill (453-6725) (Viola Griffin)</u>	<u>(Copy Attached)</u>
<u>Phone Bill (453-5787)</u>	<u>(Copy Attached)</u>
<u>Admonition and Waiver (February 28, 1992)</u>	
<u>James Dellinger</u>	<u>(Copy Attached)</u>
<u>Admonition and Waiver (February 28, 1992)</u>	
<u>Gary Sutton</u>	<u>(Copy Attached)</u>
<u>Condition of Body Checklist (Tommy Griffin)</u>	<u>(Copy Attached)</u>
<u>Overview (Sketched) of Crime Scene</u>	
<u>Tommy Griffin</u>	<u>(Copy Attached)</u>
<u>Consent to Search Form (Angel Gray 2-28-92)</u>	<u>(Copy Attached)</u>
<u>Complaint Form (Blount County #101969)</u>	<u>(Copy Attached)</u>
<u>Jail Card (Tommy Griffin)</u>	<u>(Copy Attached)</u>
<u>Complaint Form (Blount County #1019708)</u>	<u>(Copy Attached)</u>
<u>Photographs of Blount County Crime Scene</u>	<u>Jim Widener</u>
<u>Report \ Sevier County Volunteer Fire Department</u>	<u>(Copy Attached)</u>
<u>Photographs of Burned Trailer and Scene</u>	<u>(Copy Attached)</u>
<u>Photographs of Each Victim</u>	<u>(Copy Attached)</u>
<u>Photographs of Car and Victim \ Crime Scene</u>	<u>Don Ogle</u>
<u>Two (2) Remington - Peters</u>	
<u>12 Gauge Shotgun Shells</u>	<u>Jim Widener</u>
<u>One (1) Box of Winchester Shotgun Shells</u>	<u>Jim Widener</u>
<u>One (1) Box of 303 Caliber Rifle Shells</u>	<u>Jim Widener</u>
<u>One (1) 20 Gauge Shotgun Shell</u>	<u>Jim Widener</u>
<u>One (1) Box of 20 Gauge Shotgun Shells</u>	<u>Jim Widener</u>
<u>One (1) 12 Gauge Mossberg Shotgun</u>	<u>Jim Widener</u>
<u>One (1) Red Plastic Clip Containing</u>	
<u>Ten (10) Unfired 30-30 Shells</u>	<u>Jim Widener</u>
<u>One (1) 303 Rifle</u>	<u>Jim Widener</u>

	David Davenport/ All Items Listed on Return of Each Search Warrant	Jim Widener
<u>One (1) J.C. Higgins 16 Gauge</u>		
Bolt Action Shotgun #5832		Jim Widener
Three (3) Empty 22 Caliber Brass Shells		Jim Widener
<u>Two (2) Soil Samples</u>		
From Right Fenders of Truck		David Davenport
One (1) Box 16 Gauge Winchester Shotgun Shells		Jim Widener
One (1) Empty Winchester Box Super Double-X Buckshot		Jim Widener
Pictures of Truck		(Copy Attached)
<u>Cloth From Front Drivers Seat</u>		
Area of Dodge Dart (VLT-105)		Gary Clabo
<u>Paper From Front Seat Floor</u>		
Area of Dodge Dart (VLT-105)		Gary Clabo
Body Tissue From Victim - Connie Brannam		Dr. William Bass
<u>Cloth, Carpet Debris From Front Seat Area of Dodge Dart</u>		
(VLT-105)		Gary Clabo
One (1) Spent 303 Brass Shell Casing		Don Ogle
One (1) Spent 12 Gauge Shotgun Shell		Don Ogle
One (1) Spent 20 Gauge Shotgun Shell		Don Ogle
One (1) Spent 20 Gauge Shotgun Shell		Don Ogle
One (1) Spent 20 or 16 Gauge Shotgun Shell		Don Ogle
One (1) Spent 303 Rifle Cartridge Found March 3, 1992		Don Ogle
Photographs of March 3rd Consent Search		Don Ogle
TBI Search Waiver (March 5, 1992)		(Copy Attached)
<u>Five (5) Winchester Super XX Magnum</u>		
12 Gauge Shells		David Griswold
Eight Winchester Super X#4 12 Gauge Shells		David Griswold
<u>One (1) Winchester Model 1200</u>		
12 Gauge Shotgun #444254		David Griswold
<u>Four (4) Spent 303 Shell Casings Found Off Waldon Creek Road,</u>		
Blount County		David Griswold
<u>303 and 12 Gauge Shells Casings</u>		
Recovered from Griffin Residence		David Griswold
<u>Admonition & Waiver, March 5, 1992, Gary Sutton (Copy Attached)</u>		

Liver Sample, Cloth, Lead Fragments

From Connie Branam

Dr. William Bass

One (1) 12 Gauge Shotgun Shell

From on Gary Sutton's Property

Don Ogle

Photographs of Crime Scene

Dodge Dart (Connie Branam)

Gary Clabo

Photographs of Crime Scene

Mobile Home (Tommy Griffin)

Gary Clabo

Other Evidence From Scene

At South Clear Fork Road:

Two (2) Budweiser Cans

Empty Budweiser Carton

Paper Napkin

Brown Paper Bag with Bud Light Carton

Three (3) Budweiser Cans

One (1) Mountain Dew Can

One (1) White Envelope

One (1) Brown Paper Bag with Empty Budweiser Carton

One (1) Budweiser Can

½ of Plastic Cup with Letter "ICE" on it

One (1) Empty Bush Light Carton

One (1) Pepsi Can

One (1) 12 Gauge Shotgun Shell

One (1) Marlboro Light Cigarette Pack

One (1) 16 Ounce Lite Beer Can

One (1) 20 Gauge Shotgun Shell

One (1) Mello Yello Bottle

Three (3) Bush Beer Cans

One (1) Ladies Boot (Black)

One (1) Salem Cigarette Butt

One (1) Milwaukee Beer Can

One (1) Pepsi Can

One (1) R.C. Cola Can

One (1) Sterofoam Coffee Cup

Two (2) Shotgun Shells (20 or 16 Gauge)
One (1) Unwound Cassette Tape
One (1) Mello Yello Bottle
One (1) Marlboro Light Cigarette Butt
One (1) Kool Cigarette Butt
One (1) Cigarette Butt (Brown)
One (1) $\frac{1}{2}$ Melted Plastic Bottle
One (1) Glass Orange Juice
One (1) Frito's Corn Chip Bag
Three (3) Old Milwaukee Beer Cans
No. #1 Cast Tire Impression
No. #2 Cast Tire Impression
Brown Bag Containing Keys and Hair Band
Bag Containing Coins/Shell
Bag with Miscellaneous Items
Budweiser Can
Two (2) Bags with Loose Beer Cans
Marlboro Light Empty Cigarette Pack
Left Tire Pad Remains (Rear Tire of Car)
Right Tire Pad Remains (Rear Tire of Car)
One (1) Diamond Ring
One (1) Spent Brass Shell Case, Marking 303
[Possession of Don Ogle]
[See Attached List, From South Clear Fork Incorporated Herein By
Reference (5 pages)]
[See Attached List of Evidence Prepared By Captain Larry
McMahan, Sevier County Sheriff's Department; Incorporated
Herein by Reference as if Set Forth Item by Item (4 Pages / 71
Numbered Items)]
Complaint Card - S.C.S.D. February 21, 1992 (Copy Attached)
Complaint Card - S.C.S.D. February 28, 1992 (Copy Attached)
[See Attached List on Report for Examination Form Submitted By
Jim Widener (2 Pages - Twenty-Four Listed Items).]

7. () There is no known Brady material at this time.
(X) The following Brady material is attached:

Statement of Devon Mays

Statement of Jack Sutton (March 4, 1992)

Statement of Joyce Tipton (March 4, 1992)

8. () There are no examinations or tests known to the State at this time.
(X) Attached are the following reports of examinations and/or tests:

Date	Description of Examination or Test
March 11, 1992	Forensic Anthropology Report #92-8 (5 pages)
March 12, 1992	TBI Lab Report #92102164 (4 pages)
	Autopsy Protocol / Tommy Griffin
	(To be supplied upon receipt.)
March 10, 1992	Report of State Fire Marshall - Gary Clabo
	(Vehicle)
March 10, 1992	Report of State Fire Marshall - Gary Clabo
	(Mobile Home)
March 5, 1992	Report of Arthur M. Bohanon, KPD (1 page)

STATE'S INTENTION TO USE EVIDENCE

Pursuant to Rule 12(b)(1), the State gives notice that it intends to use the above statements, documents, tangible objects, examinations, and/or tests in the trial of this case.

STATE'S REQUEST FOR DISCOVERY

Having complied with the Defendant's Motion for Discovery, the State Demands, pursuant to Rule 16 of the Tennessee Rules of Criminal Procedure, the following:

- I. that it be allowed to inspect, copy or photograph all books, papers, documents, photographs, tangible objects or copies or portions thereof within the possession, custody or control of the Defendant and which the Defendant expects to introduce as evidence-in-chief at the trial.

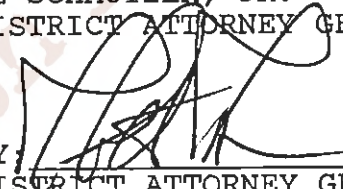
- II. to inspect, copy, or photograph any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this particular case, or copies thereof, within the possession or control of the Defendant which the Defendant intends to introduce as evidence-in-chief at the trial, or which were prepared by a witness whom the Defendant intends to call at the trial, when the results or reports relate to his testimony.

NOTICE OF ALIBI

Pursuant to Rule 12.1 of the Tennessee Rules of Criminal Procedure, the State demands that the Defendant serve within 10 days upon the District Attorney General a written notice of intention to offer defense of alibi which shall state the specific place or places of which the Defendant claims to have been at the time of the alleged offense, and the names and addresses of the witnesses upon whom he intends to rely to establish such an alibi.

The alleged crime was committed at approximately _____
(A.M.)(P.M.), on the _____ day of _____, 19____, at the
following location _____ (Please see attached Notice of Alibi)
_____.

AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

BY 
DISTRICT ATTORNEY GENERAL

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and exact copy of the
attached and foregoing document was mailed/hand-delivered to
Mr. David Webb, 140 Court Avenue, Sevierville, TN 37862,
Attorney for Defendant.

This the 8 day of May, 1992.

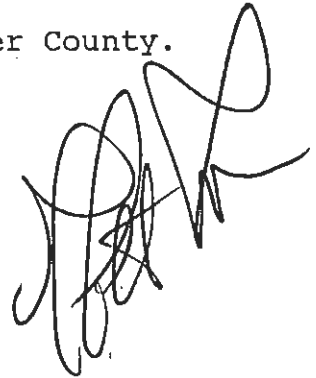

DISTRICT ATTORNEY GENERAL

c: Circuit Court Clerk

(26) NOTICE OF AND DEMAND FOR ALIBI

#5034 (Arson of Mobile Home)
Approximately 7:00 p.m. - 11:00 p.m.
February 21, 1992 at Gibson Hollow Road, Sevier County.

(26) 2317 Bluff Lights Road,
#5033 (Murder and Arson of Connie Branam)
Approximately 7:00 p.m. - 9:30 p.m.
February 22, 1992 at Clear Fork Road, Sevier County.



IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE
STATE OF TENNESSEE *

PLAINTIFF
VS.
GARY W. SUTTON
DEFENDANT

CIRCUIT COURT FILED	
HOUR _____	* NOV 5033, 5034
DATE: MAY 11 1992	
<i>Glenn H. Hensley</i> ORDER CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

THIS CAUSE ~~came to be heard~~ on this the 27th day of April, 1992; before the Honorable Rex Henry Ogle, Judge for the Circuit Court for Sevier County, Tennessee; upon the Defendant's Motion for Bond Hearing filed April 13, 1992; the agreement of the State and the Defendant to hear said Motion on this date; the appearance of the State and the appearance of counsel for the Defendant; the Parties announcing an agreement to use a rape recording of these proceedings in lieu of a court reporter; whereupon the Court made a preliminary ruling that on a hearing in a Capital Case for Application to Bail after Indictment, the burden of proof is on Applicant to show facts warranting allowance of bail. Thereafter, the Court heard argument from the Defendant, by counsel, as follows:

1. That the Defendant has in the past been charged with minor offenses and has always made court appearances and thus this Defendant is not a risk to flee this Court's jurisdiction;

2. That prior to his arrest in this case, the Defendant voluntarily met with authorities on two (2) separate occasions;

3. That this Defendant has strong family ties in Sevier County, Tennessee;

4. That although the charges against this Defendant are serious there has been absolutely no proof offered in an open court proceeding relative to this Defendant. In fact, this Defendant has been denied his right to a preliminary hearing and has yet to receive any discovery from the State of Tennessee regarding State's evidence;

Entered Minute Book A-2 Page 61-64

then made a request that it be allowed to submit a written statement as to proof and that the same be placed under seal provided defense counsel received a copy. The State's position was that in this way pre-trial publicity would be avoided. Defense counsel objected whereupon the Court overruled the objection. The Court further advised counsel that it would be the obligation of the State and defense to bring to the attention of the Court any pre-trial Motions and that all pre-trial Motions must be considered and ruled upon prior to the merits hearing in this cause and that the Court would not consider any Suppression Motion or any Motion to Continue on the day of trial.

THEREAFTER, the Court ORDERED as follows:

1. That at this time, the Court denies Bond to this Defendant.

2. That this hearing shall be adjourned and continued until May 20, 1992 at 9:00 a.m. in order to afford the State the time to determine whether or not the State intends to seek the death penalty and to otherwise to afford the State the opportunity to submit, in writing, a statement of its evidence such that this Court can determine whether or not proof is evident and the presumption great that this Defendant committed the offense with which he is charged.

3. That the statement from the State shall be submitted before the hearing date of May 20, 1992 and defense counsel shall be provided a copy thereof. The statement submitted shall remain under seal pending further Orders.

4. That both the State and defense shall have the affirmative burden of filing pre-trial Motions and requesting hearing dates on those Motions prior to the merits hearing in this cause. The Court will not consider, on the day of trial, any Motions for Continuance or any Motions for Suppression of evidence. It is ORDERED that

5. That in a related matter this Defendant was charged by the Blount County, Tennessee Grand Jury on April 6, 1992 charging this Defendant with First Degree Murder and this Defendant was served on April 8, 1992 while incarcerated at the Greene County, Tennessee jail. The Blount County charge is similar to the charges this Defendant faces in Sevier County and his Bond in Blount County was set at \$50,000.00.

THEREAFTER, the Court heard argument from the State, by counsel, as follows:

1. That the Defendant's risk of flight was great;
2. That the offense was serious in nature;
3. That the State has of yet not filed Notice seeking the death penalty and would not be in a position to make that determination until certain evidence was returned from the Tennessee Bureau of Investigation Crime Laboratory, whereupon the State will determine, in its opinion, whether or not one or more of the statutory aggravating circumstances exists so as to warrant Notice of the seeking of the death penalty in this cause;
4. That as of yet the State has failed to respond to Defendant's Motion for Production of Discovery.

AT THIS POINT of the hearing a bench conference was called wherein the Court advised counsel that pursuant to T.C.A. §40-11-102 that before trial all defendants shall be bailable by sufficient sureties except for Capital Offenses where the proof is evident or the presumption great. Thereafter, the Court inquired from the State as to whether or not the State was in a position to provide a statement to the Court regarding the State's proof so that the Court would be in a position to determine whether or not proof is evident and the presumption is great that this Defendant committed the offense with which he is charged. The State

those matters shall be taken up prior to trial.

ENTER THIS THE 11 day of May, 1992.

[Signature]
JUDGE

APPROVED:

[Signature]

DAVID W. WEBB, ATTORNEY
FOR DEFENDANT

[Signature]

AL SCHMUTZER, JR., DISTRICT
ATTORNEY GENERAL FOR THE
STATE OF TENNESSEE

Courtesy of
Time of Death Podcast
by Beth Braden

apr92/b/sut-bd.ord

74
64

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE

CIRCUIT COURT FILED	
HOUR _____	M _____
DATE: MAY 14 1992	
<i>Helen H. Loveday</i>	
CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

VS.

NO. 5033

GARY WAYNE SUTTON, ALIAS

NOTICE OF INTENT TO SEEK DEATH PENALTY

The State intends to seek the death penalty based on the following aggravating circumstance(s) as found in T.C.A. §39-13-204:

T.C.A. §39-13-204(i)(6) - The murder was committed for the purpose of avoiding, interfering, with, or preventing a lawful arrest or prosecution of the defendant or another.

SUBMITTED this 14 day of May, 1992.

Al Schmutzer
AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

CERTIFICATE OF SERVICE

I, Al Schmutzer, Jr., District Attorney General for the Fourth Judicial Circuit, do hereby certify that a true and exact copy of the foregoing Notice was mailed this 14 day of May, 1992, to the following:

1. Mr. David Webb, 140A Court Avenue, Sevierville, TN 37862.
2. Honorable Rex Henry Ogle, Victorian Mall, Sevierville, TN 37862.
3. Ms. Helen Loveday, Circuit Court Clerk, Courthouse, Sevierville, TN 37862.

Al Schmutzer
AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE
PLAINTIFF

VS.

GARY WAYNE SUTTON
DEFENDANT

CIRCUIT COURT FILED	
HOUR	9:45 A M
DATE:	MAY 29 1992
<i>William H. Hensley</i> CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

NOS. 5 1033 & 5 1034

~~MOTION TO PRODUCE DISPATCH TAPES~~

Comes the Defendant, Gary Wayne Sutton, through counsel, and moves this Honorable Court for an order requiring Robert Webb, the Operations Manager, or his agents, of the Rural Metro Ambulance Service, 521 Washington Avenue, Maryville, Tennessee, to produce for immediate inspection and or copying, the dispatch tapes recorded on February 21, 1992, in the evening hours, wherein someone called in on their radio and reported a young man on Highway 129 near Hunt Road was either intoxicated or injured. This young man was later identified as the victim in this case, Tommy Griffin. This information was then relayed to the Alcoa Police Department, who found the young man and arrested him on a charge of public intoxication. The tapes be preserved for the trial in this cause.

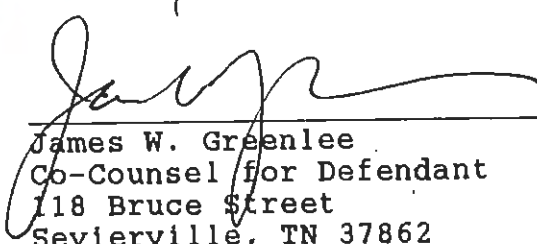
In support of this relief, the Defendant would show the Court as follows:

1. The Defendant is charged with a capital murder and aggravated arson in the above styled case.
2. The defense's investigation has indicated that Tommy Griffin was arrested by the Alcoa Police Department for public intoxication in the evening hours of February 21, 1992. He was arrested on Highway 129 near Hunt Road. Officer Drew Roberts indicated the complaint was received from the Rural Metro Ambulance Service in Alcoa, Tennessee, and he was present at the arrest of Tommy Griffin. Rural Metro Ambulance Service indicated they received a radio dispatch describing this incident and this tape has not yet been destroyed.
3. The Rural Metro Ambulance Service also indicated they would not release or reveal these tapes to defense counsel without an order from this Court.

4. These tapes may be material evidence, should be ordered produced for inspection and/or copying to defense counsel prior to trial as well as preserved for possible use at the trial of this cause. In the interest of the heightened standard of due process to which a citizen is entitled in a capital murder case, effective assistance of counsel, and the Defendant's right to a fair trial, the defense should be allowed access to this radio dispatch immediately for the purposes of investigating this case and preparing for trial.

PREMISES CONSIDERED, the Defendant asks that this Court sign an order requiring Robert Webb, Operations Manager, or his agent of Rural Metro Ambulance Service in Maryville, Tennessee, to turn over for inspection and or copying the dispatch tapes of the above described dispatch. Also, that the Court sign immediately, an order requiring the Rural Metro Ambulance Service in Maryville to preserve the tapes referred to above. The Defendant is entitled to this relief because the Defendant has a right to have the Court's assistance where necessary to independently investigate relevant facts and discover material evidence in the defense of Gary Wayne Sutton.

Respectfully submitted,
this 29 day of May, 1992.

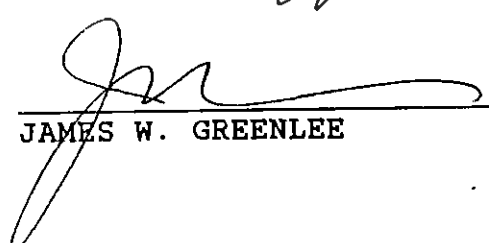

James W. Greenlee
Co-Counsel for Defendant
118 Bruce Street
Sevierville, TN 37862

David W. Webb
Co-Counsel for Defendant
140-A Court Avenue
Sevierville, TN 37862

CERTIFICATE OF SERVICE

I, James W. Greenlee, attorney, hereby certify that a true and exact copy of the foregoing has been delivered to the Attorney General's office by hand delivery.

This the 28 day of May, 1992.


JAMES W. GREENLEE

rmas.ord

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE
PLAINTIFF

VS.

GARY WAYNE SUTTON
DEFENDANT

NO. ⁵4033 & ⁵4034

ORDER

Upon motion of the Defendant and for cause shown, it is hereby ordered that Robert Webb, Operations Manager or his agent, for Rural Metro Ambulance Service, 521 Washington Avenue, Maryville, Tennessee, preserve for trial the dispatch tapes for their facility recorded on February 21, 1992, between the hours of 5:00 and 11:00 p.m. Specifically, the records of a dispatch reporting a young man involved in a fight on Route 129 near Hunt Road and subsequently relayed as a probable intoxicated or injured person to the Alcoa Police Department.

ENTER this the 29 day of May, 1992.

JUDGE

APPROVED:

James W. Greenlee
Co-Counsel for Defendant

David W. Webb
Co-Counsel for Defendant

CIRCUIT COURT	
FILED	
HOUR	<u>9:55</u> <u>A.</u> M
DATE: <u>MAY 29 1992</u>	
<u>William F. Housley</u>	
CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

William F. Housley, Jr.
District Attorney General

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE
PLAINTIFF

VS.

GARY WAYNE SUTTON, ALIAS
DEFENDANT

No. 5033
5034

ORDER DENYING BOND

CIRCUIT COURT FILED	
HOUR	10:15A.M
DATE: JUN 5 1992	
<i>James H. Greenlee</i>	
CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

This cause came on to be heard on the 20th day of May, 1992, upon the Motion of the Defendant, Gary Wayne Sutton, that bond be set on the charges of first degree murder. Based upon the testimony of the witnesses, items of proof which were stipulated, the statements of counsel, the statement of evidence and other matters which were sealed by the Court, and from the record as a whole, the Court finds as follows:

1. That the State of Tennessee is seeking the death penalty in this case.
2. That the proof in this case is evident and the presumption is great.
3. That the Defendant offered no testimony to contradict the statement of evidence offered by the State of Tennessee or the testimony of Officer Mark Turner.

FROM ALL OF WHICH IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Defendant, Gary Wayne Sutton is denied bond pending further orders of this Court.

Enter this the 4 day of June 1992.

Rex H. Ogle
Honorable Rex Henry Ogle

CERTIFICATE OF SERVICE

I, Rex Henry Ogle, Circuit Court Judge, do hereby certify that I have this date forwarded a true and exact copy of the foregoing Order Denying Bond to Mr. Al Schmutzer, Jr., District Attorney General, Suite 301, Sevier County Courthouse, Sevierville, TN 37862, and to Mr. David W. Webb, Attorney at Law, 140 A Court Avenue, Sevierville, TN 37862, to Mr. James W. Greenlee, Attorney at Law, P.O. Box 5525, Sevierville, TN 37864-5525.

Rex H. Ogle
Honorable Rex Henry Ogle

FILED

JUL - 9 1992

ROBERT W. SUMMAR, CLERK

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT KNOXVILLE, TENNESSEE

STATE OF TENNESSEE,

Appellee

v.

GARY WAYNE SUTTON,

Appellant

NO. 03C01-9206-CR-00221

SEVIER COUNTY

O R D E R

The appellant, Gary Wayne Sutton, has filed a motion under Rule 8 T.R.A.P. seeking review of the refusal of the trial judge to set bail pending trial. The case for which the appellant is to be tried is on a charge of first-degree murder in which the state seeks the death penalty.

It appears the trial court considered, in camera, certain statements of facts at the hearing for bail. The appellant was not allowed to fully cross-examine a witness called by the state. The appellant did not call any witness in the hearing.

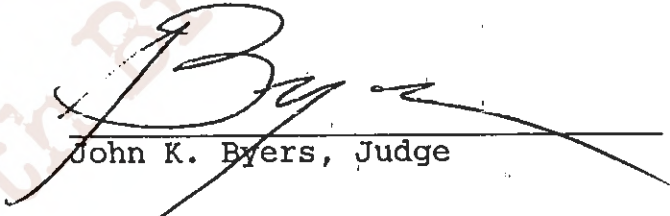
Under the rule of Shaw v. State, 164 Tenn. 192, 47 S.W.2d 92 (1932), the state does not have to present evidence to prevent the setting of bond in cases where the offense is a capital case. The burden is rather on the appellant to present evidence to show the setting of bail should be ordered.

Whatever evidence the appellant has available to him or which he may obtain by subpoena he must and may present.

In this case, it appears the action of the trial judge very well might have put an undue burden on the appellant. We conclude, therefore, that this matter should be returned to the trial court for a further hearing under the guidelines of Shaw. We express no view as to the propriety of denying or granting bail.

This matter is remanded to the trial court for further proceedings as directed herein.

Enter this the 9th day of July, 1992.


John K. Byers, Judge

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I, Robert W. Summar, Clerk, hereby certify that this is a true and exact copy of the original

Order

File in this cause.

This 9th day of July, 1992.

ROBERT W. SUMMAR, CLERK OF COURT

By: Janet Bradfute D. C.

SEVIER COUNTY CIRCUIT COURT, THURSDAY, JULY 16, 1992

STATE

VS

NO. 4947

MICHELLE JACKSON

A plea of not guilty was entered and the case was ordered set for trial. Seven additional days shall be allowed for plea negotiations.

STATE

VS

NO. 5062-5064

CHARLES MOULDEN, JR.

A plea of not guilty was entered and the case was ordered set for trial.

STATE

VS

NO. 4778

JERRY LEE THOMAS

A plea of not guilty was entered and the case was ordered set for trial.

STATE

VS

NO. 5000

MICHAEL TODD STACEY

A plea of not guilty was entered and the case was ordered set for trial.

STATE

VS

NO. 5033, 5034

GARY W. SUTTON

A plea of not guilty was entered and the case was ordered set for trial.

STATE

VS

NO. 5065

JAMES LYNN OWNBY

A plea of not guilty was entered and the case was ordered set for trial.

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE

:

:

VS.

:

CASE NO. 5033 & 5034

:

GARY WAYNE SUTTON, ALIAS :

MOTION IN LIMINE

Comes the State and would move this Court to enter an order, In Limine, to disallow any evidence, testimonial or otherwise, tending to establish an alibi on behalf of this defendant. As grounds for this Motion, the State would show the following:

1. That the State has previously set forth the date, time, and place of each of these offenses;
2. That, pursuant to Rule 12.1, Tennessee Rules of Criminal Procedure, this defendant had ten days from the date of service of said Demand for Alibi to furnish written notice of his intention to offer the defense of alibi, together with the mandated information set forth in Rule 12.1;
3. That to date, this defendant has failed to provide notice of his intention to offer the Defense of Alibi, more than ten (10) days having elapsed since the previously served Demand for Alibi.

PREMISES CONSIDERED, the State respectfully moves this Court to enter an order, in limine, disallowing any evidence, testimonial or otherwise, tending to establish the defense of alibi.

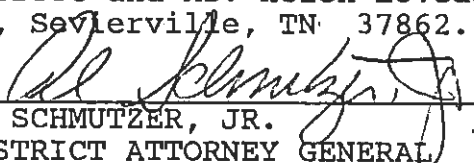
RESPECTFULLY SUBMITTED this 31 day of July, 1992.

CIRCUIT COURT	
FILED	
HOUR	3:00 P.M.
DATE JUL 31 1992	
<i>James H. Gooden</i>	
CIRCUIT COURT CLERK	
SEVIER COUNTY, TENN.	

Al Schmutzer, Jr.
AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

CERTIFICATE OF SERVICE

I, Al Schmutzer, Jr., District Attorney General for the Fourth Judicial Circuit, do hereby certify that a true and exact copy of the foregoing Motion in Limine was mailed and/or hand-delivered this 31st day of July, 1992 to Mr. David Webb, 140A Court Avenue, Sevierville, TN 37862, Mr. James Greenlee, 118 Bruce Street and Ms. Helen Loveday, Circuit Court Clerk, Courthouse, Sevierville, TN 37862.


AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

Courtesy of
Time of Death Podcast
by Beth Braden

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE

:

:

VS.

: CASE NO. 5035 & 5036

:

JAMES ANDERSON DELLINGER, ALIAS

:

MOTION IN LIMINE

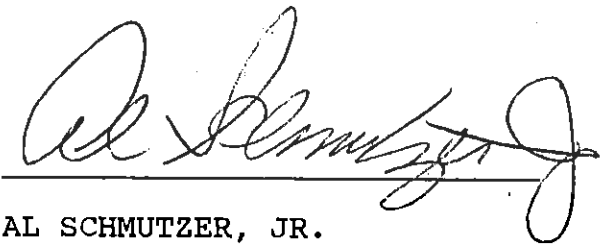
Comes the State and would move this Court to enter an order, In Limine, to disallow any evidence, testimonial or otherwise, tending to establish an alibi on behalf of this defendant. As grounds for this Motion, the State would show the following:

1. That the State has previously set forth the date, time, and place of each of these offenses;
2. That, pursuant to Rule 12.1, Tennessee Rules of Criminal Procedure, this defendant had ten days from the date of service of said Demand for Alibi to furnish written notice of his intention to offer the defense of alibi, together with the mandated information set forth in Rule 12.1;
3. That to date, this defendant has failed to provide notice of his intention to offer the Defense of Alibi, more than ten (10) days having elapsed since the previously served Demand for Alibi.

PREMISES CONSIDERED, the State respectfully moves this Court to enter an order, in limine, disallowing any evidence, testimonial or otherwise, tending to establish the defense of alibi.

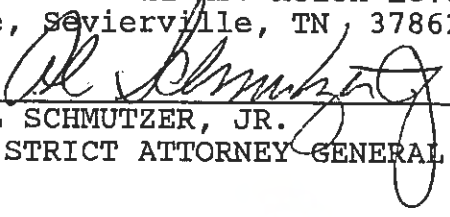
RESPECTFULLY SUBMITTED this 31 day of July, 1992.

CIRCUIT COURT	
FILED	
HOUR	3:00 P. M.
DATE: JUL 31 1992	
Circuit Court Clerk	
SEVIER COUNTY, TENN.	


AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

CERTIFICATE OF SERVICE

I, Al Schmutzer, Jr., District Attorney General for the Fourth Judicial Circuit, do hereby certify that a true and exact copy of the foregoing Motion in Limine was mailed and/or hand-delivered this 31st day of July, 1992 to Mr. David Webb, 140A Court Avenue, Sevierville, TN 37862, Mr. James Greenlee, 118 Bruce Street and Ms. Helen Loveday, Circuit Court Clerk, Courthouse, Sevierville, TN, 37862.


AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

Courtesy of
Time of Death Podcast
by Beth Braden

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE
PLAINTIFF

VS.

GARY WAYNE SUTTON
DEFENDANT

CIRCUIT COURT	
FILED	
HOUR	2:00 P.
DATE:	AUG 25 1992
NO. 5033 & 5034	
<i>Allen K. Gooding</i> CLERK SEVIERVILLE, TENN.	

STIPULATION

COMES the State and the Defense and by agreement stipulates to the following facts:

1. The State has no eye witnesses to the death of Connie Brannam.
2. The State does not have a confession, as normally understood and defined, by Gary Wayne Sutton to the participation in the death of Connie Brannam.
3. The State does not have any fingerprints to link Gary Sutton to the death of Connie Brannam.
4. The State does not have any statements from any witnesses wherein Gary Wayne Sutton has allegedly told them he participated in the death of Connie Brannam.
5. The State has in its possession a 303 fired rifle shell, seized from Connie Brannam's car, which was found to have been fired in a 303 rifle taken from the co-defendant, James Dellinger. The State has no forensic evidence to prove that that shell was fired at or around the time of Connie Brannam's death.
6. Dr. William Bass, the forensic expert who examined the body of Connie Brannam, cannot opine that Connie Brannam's cause of death was the result of any criminal instrumentality. ~~Nothing in Dr. Bass's examination supports the opinion that she was shot.~~ *DWB*
7. Dr. William Bass cannot opine that Connie Brannam was or was not shot by any firearm. ~~Nothing in Dr. Bass's examination supports the opinion that she was shot.~~ *DWB*
ACS
8. Dr. William Bass cannot opine the date or time of Connie Brannam's death.
9. The crime lab determined that no petroleum distillates were discovered in Connie Brannam's burned car. The crime lab has

determined that the pieces of metal found in Connie Brannam's shoulder weighing 19.2 grains contained no lead, but were made of zinc. There is no forensic, or other evidence, that Connie Brannam was alive when her body was burned. The drug screen on Connie Brannam revealed the substance, doxepin, in her body. The State believes Connie Brannam was drinking alcohol on the Saturday she disappeared.

10. The State has within its possession no statements from Connie Brannam indicating that she knew anything about her brother, Tommy Griffin's, death. The state does have statements that she was looking for her brother.

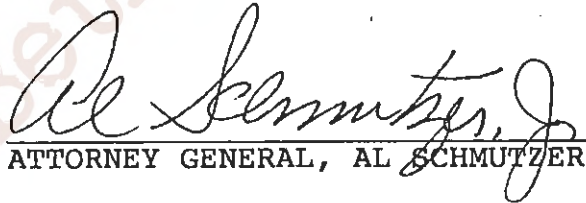
11. The 303 rifle seized in this case was not seized from the home of Gary Wayne Sutton.

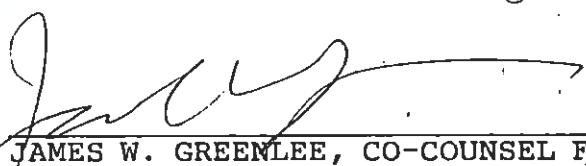
12. Before his arrest, the Defendant voluntarily met with authorities on two occasions to discuss this death.

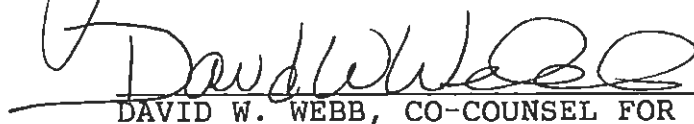
13. The Defendant has strong family ties in Sevier County.

14. The Defendant is charged with the First Degree Murder of Tommy Griffin in Blount County, Tennessee. That bond has been set at \$50,000.00.

RESPECTFULLY submitted this the 25th day of August, 1992.


ATTORNEY GENERAL, AL SCHMUTZER


JAMES W. GREENLEE, CO-COUNSEL FOR DEFENSE


DAVID W. WEBB, CO-COUNSEL FOR DEFENSE

STIP.4

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241

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE

PLAINTIFF

VS.

GARY W. SUTTON

DEFENDANT

CIRCUIT COURT FILED	
HOUR _____	* _____ M
DATE: AUG 25 1992 NO. 5033, 5034	
<i>Helene K. Housley</i> CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

SPECIFIC BRADY MOTION NUMBER I

COMES the Defendant, Gary Wayne Sutton, by and through counsel, and respectfully moves this Honorable Court for an Order, pursuant to Brady v Maryland, and its progeny, to direct the Government to provide the following exculpatory information:

1. Whether the victim's husband, Boyd Branam, ever stated that he was looking for his wife, the victim, Connie Branam, in the late afternoon or early evening on Saturday, February 22, 1992 and that while looking for his wife and while traveling on Goose Gap Road, in Sevier County, Tennessee, he observed a white Dodge pick-up truck whose sole occupant was the driver, whom he identified as James Dellinger, heading in the direction of the Dellinger residence.

Respectfully submitted this the 25th day of August, 1992.

GARY W. SUTTON, DEFENDANT

BY: *David W. Webb*

DAVID W. WEBB, JAMES W. GREENLEE

ATTORNEYS FOR DEFENDANT

ATTORNEY'S CERTIFICATE

I, David W. Webb and James W. Greenlee, Attorneys, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 by ~~U.S. Mail~~ hand delivery DWB.
THIS the 25th day of August, 1992.

David W. Webb
DAVID W. WEBB, ATTORNEY

JWG by DWB
JAMES W. GREENLEE, ATTORNEY

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IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE

PLAINTIFF

VS.

GARY W. SUTTON

DEFENDANT

CIRCUIT COURT FILED	
HOUR _____	AM
DATE: AUG 25 1992	
NO. 5033, 5034	
* <i>Theresa F. Hensley</i> CIRCUIT COURT CLERK	

NOTICE OF HEIGHTENED STANDARD

OF DUE PROCESS AND RELIABILITY

COMES NOW the Defendant, Gary W. Sutton, by and through counsel, and moves this Honorable court that all Motions, written and oral, filed and made by the Defendant shall be considered in view of the heightened standard of due process and reliability that attaches in capital cases pursuant to the Eighth and Fourteenth Amendments to the United States Constitution and Article I, Sections 8 and 16 of the Tennessee Constitution.

Respectfully submitted this the 25th day of August, 1992.

GARY W. SUTTON, DEFENDANT

BY: *David W. Webb*

DAVID W. WEBB, JAMES W. GREENLEE

ATTORNEYS FOR DEFENDANT

ATTORNEY'S CERTIFICATE

I, David W. Webb and James W. Greenlee, Attorneys, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by U.S. Mail. *by hand delivery to DW*

THIS the 25th day of August, 1992.

JWG by DW
JAMES W. GREENLEE, ATTORNEY

David W. Webb
DAVID W. WEBB, ATTORNEY

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IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE

PLAINTIFF

VS.

GARY W. SUTTON

DEFENDANT

*

*

*

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*

NOTICE

COMES the Defendant, Gary W. Sutton, by and through counsel, and provides Notice to the State of Tennessee that from and since February 28, 1992 the undersigned was counsel for the Defendant, Gary W. Sutton, and did so communicate to Blount County and Sevier County, Tennessee authorities that he was counsel for Defendant, Gary W. Sutton, and further admonished Blount County and Sevier County, Tennessee authorities not to converse with the Defendant, Gary W. Sutton, in any way, shape, form or fashion.

Counsel further advises the State of Tennessee not to engage in any conversation with the Defendant, Gary W. Sutton, either directly or indirectly, through its agents, informants, jail house "snitches" or otherwise in that same will violate this Defendant's Constitutional rights guaranteed him under the Federal and State Constitutions.

Respectfully submitted this the 25th day of August, 1992.

GARY W. SUTTON, DEFENDANT

BY:

DAVID W. WEBB, ATTORNEY

JAMES W. GREENLEE, ATTORNEY

ATTORNEY'S CERTIFICATE

I, David W. Webb, James W. Greenlee, Attorneys, do certify that I have this date sent a true and exact copy of the foregoing NOTICE to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by U.S. Mail.

THIS the 25th day of August, 1992.

JAMES W. GREENLEE, ATTORNEY

DAVID W. WEBB, ATTORNEY

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CIRCUIT COURT
FILED
HOUR 2:00 p m
DATE: AUG 25 1992
James W. Greenlee
CIRCUIT COURT CLERK
SEVIER COUNTY, TENN.

STATE VS GARY WAYNE SUTTON #5033, 5034

STATE VS. JAMES A. DELLINGER #5035, 5036

SUMMARY OF FACTS:

On Friday, February 21, 1992, Tommy Griffin, brother of Connie Branam, the victim in this case was last seen alive leaving the Blount County Jail with Gary Sutton and James Dellinger. His body was later found in Blount County dead of shotgun blast. Empty shells found at the scene matched shells later found at the Dellinger residence as having been fired from the same weapon.

On Saturday, February 22, 1992, Connie Branum left to try to find her brother, Tommy, and was last seen alive leaving a tavern in Blount County with Gary Sutton and James Dellinger. Her body was later found burned up in her car in Sevier County. An Autopsy revealed that she has been shot and a spent shell was found at the scene which was determined by the T.B.I. Crime Laboratory to have been fired from a rifle taken from Dellinger's residence.

Statements of both Dellinger and Sutton state that they were together at all times during February 21st and 22nd but deny committing the murders.

sutton.11

CIRCUIT COURT FILED	
HOUR	TM
DATE: AUG 25 1992	
<i>Allen H. Housley</i>	
CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

WITNESS STATEMENT

LT. TOM DEFOE, BLOUNT COUNTY SHERIFF'S DEPARTMENT
FEBRUARY 26, 1992

CIRCUIT COURT FILED	
HOUR	
DATE:	AUG 25 1992
<i>William F. Housley</i> CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

ON FRIDAY NIGHT 02/21/92, I HAD STOPPED BY THE JAIL AND WAS
STANDING IN THE SHERIFF'S DEPARTMENT LOBBY SPEAKING WITH OFFICER
KEN BEELER OF A.P.D.

DURING THIS TIME I SAW TWO (2) WHITE MALES, WHOM I LATER SAW AGAIN
PICTURED ON XEROX COPY GIVEN TO ME BY DET. JIM WIDENER, ALSO IN THE
LOBBY.

THEY EVIDENTLY HAD COME TO PICK UP ANOTHER SUBJECT BEING RELEASED
FROM JAIL. I ALSO WAS ABLE TO IDENTIFY THIS SUBJECT IN A MUG SHOT
DET. WIDENER SHOWED TO ME.

I ALSO REMEMBER AS THEY WERE ABOUT TO GO OUT OF THE DOOR ONE OF
THEM SAYING TO THE MAN WHO WAS RELEASED, "WE'VE GOT TO GET YOU BACK
TO SEVIERVILLE".

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE

VS.

JAMES DELLINGER

AT SEVIERVILLE
FILED
HOUR 2:20 P. M.

DATE: OCT 2 1992

NOS. 5035 & 5036

CIRCUIT COURT CLERK

MOTION TO STRIKE THE DEATH PENALTY

Comes the defendant, by and through counsel, and hereby moves this Honorable Court to issue an order striking the State's demand for the death penalty in this cause and in support would show to the Court as follows:

1. That the State has put the defendant on notice of the death penalty citing one statutory aggravating circumstance: "That the murder was committed for the purpose of avoiding, interfering with, or preventing a lawful arrest or prosecution of the defendant or another."
2. That all jurisdictions have interpreted this aggravating factor as applying to actual witnesses to the crime.
3. That the State of Tennessee has no proof that the victim in in this case was a witness to any crime committed by the defendant.

Respectfully submitted,

Edward C. Miller
EDWARD C. MILLER
PUBLIC DEFENDER
P.O. Box 416
Dandridge, TN 37725
(615) 397-0108

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing motion was mailed to Al Schmutzer, District Attorney General to his office in Sevierville, Tennessee. This 1st day October, 1992.

Edward C. Miller
EDWARD C. MILLER

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE	CIRCUIT COURT FILED HOUR <u>8:30 A.M.</u>	
VS.	DATE: <u>Oct 6 1992</u>	* No. 5033 and 5034
GARY WAYNE SUTTON	<u>Shawn A. Housley</u>	*
CIRCUIT COURT CLERK SEVIER COUNTY, TENN.		

ORDER

It is hereby ORDERED, ADJUDGED AND DECREED as follows:

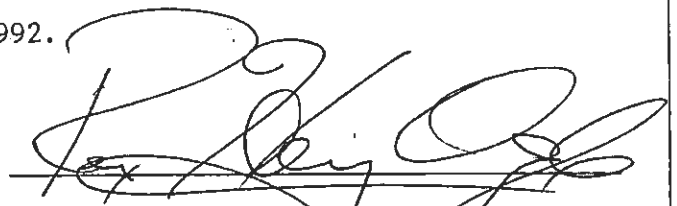
1. That all motions shall be filed by October 15, 1992.
 2. That a hearing on said motions shall be conducted on November 13, 1992, at 9:00 a.m., in the Circuit Court for Sevier County, Tennessee.
- ENTER this the 5 day of October, 1992.


Rex Henry Ogle, Circuit Judge

CERTIFICATE OF SERVICE

I, Rex Henry Ogle, Circuit Court Judge, do hereby certify that I have this date forwarded a true and exact copy of the foregoing order to Mr. Al Schmutzer, Jr., District Attorney General, Sevier County Courthouse, Sevierville, TN 37862, to Mr. David Webb, Attorney at Law, 140A Court Avenue, to Mr. James W. Greenlee, Attorney at Law, 118 Bruce Street, Sevierville, TN 37862, and to Mr. Edward Miller, Public Defender, P.O. Box 416, Dandridge, TN 37725.

This the 5 day of October, 1992.


Rex Henry Ogle, Circuit Judge

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE

*

VS.

* No. 5035 and 5036

JAMES ANDERSON DELLINGER

*

O R D E R

It is hereby ORDERED, ADJUDGED AND DECREED as follows:

1. That all motions shall be filed by October 15, 1992.
2. That a hearing on said motions shall be conducted on November 13, 1992, at 9:00 a.m., in the Circuit Court for Sevier County, Tennessee.

ENTER this the 5 day of October, 1992.

CIRCUIT COURT	
FILED	
HOUR	<u>8:30</u> A. M.
DATE: OCT 6 1992	
<i>[Signature]</i>	
CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

[Signature]
Rex Henry Ogle, Circuit Judge

CERTIFICATE OF SERVICE

I, Rex Henry Ogle, Circuit Court Judge, do hereby certify that I have this date forwarded a true and exact copy of the foregoing order to Mr. Al Schmutzer, Jr., District Attorney General, Sevier County Courthouse, Sevierville, TN 37862, to Mr. David Webb, Attorney at Law, 140A Court Avenue, to Mr. James W. Greenlee, Attorney at Law, 118 Bruce Street, Sevierville, TN 37862, and to Mr. Edward Miller, Public Defender, P.O. Box 416, Dandridge, TN 37725.

This the 5 day of October, 1992.

[Signature]
Rex Henry Ogle, Circuit Judge

Entered Minute Book A-5 Page 205

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205

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE

VS.

GARY WAYNE SUTTON, ALIAS

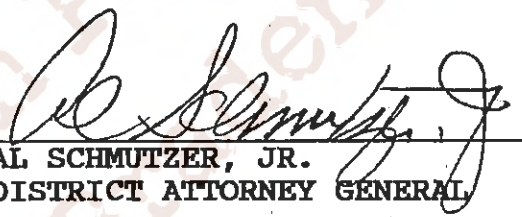
CIRCUIT COURT FILED	
HOUR	: 11:00A.M.
DATE: OCT 15 1992	
	: [Signature]
CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

NO. 5033 & 5034

MOTION TO CONSOLIDATE

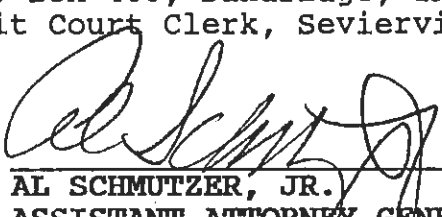
Comes the State pursuant to Rule 8, and 13, Tennessee Rules of Criminal Procedure, and moves this Honorable Court to enter an Order consolidating the captioned indictments for trial.

SUBMITTED this 14 day of October, 1992.


AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

CERTIFICATE OF SERVICE

I, Al Schmutzer, Jr., District Attorney General of the Fourth Judicial Circuit, do hereby certify that a true and exact copy of the foregoing Motion was mailed this 14 day of October, 1992, to the Attorney of Record, Mr. Ed Miller, Public Defender, P.O. Box 460, Dandridge, TN 37725 and Ms. Helen Loveday, Circuit Court Clerk, Sevierville, TN 37862.


AL SCHMUTZER, JR.
ASSISTANT ATTORNEY GENERAL

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE

VS.

JAMES DELLINGER, ALIAS

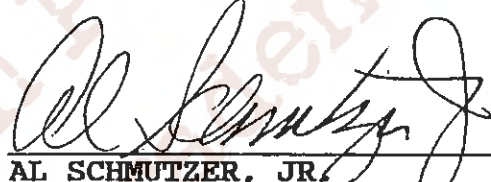
CIRCUIT COURT FILED	
HOUR	:11:00 A. M.
DATE: OCT 15 1992	
Circuit Court Clerk Sevier County, Tennessee	

NO. 5035 & 5036

MOTION TO CONSOLIDATE

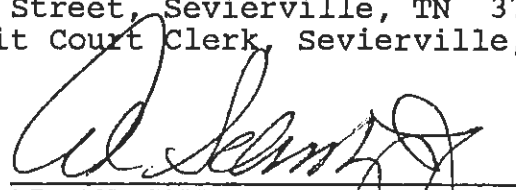
Comes the State pursuant to Rule 8, and 13, Tennessee Rules of Criminal Procedure, and moves this Honorable Court to enter an Order consolidating the captioned indictments for trial.

SUBMITTED this 14 day of October, 1992.


AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

CERTIFICATE OF SERVICE

I, Al Schmutzer, Jr., District Attorney General of the Fourth Judicial Circuit, do hereby certify that a true and exact copy of the foregoing Motion was mailed this 15th day of October, 1992, to the Attorneys of Record, Mr. David Webb, 140 Court Avenue, Sevierville, TN 37862, Mr. James Greenlee, 118 Bruce Street, Sevierville, TN 37862 and Ms. Helen Loveday, Circuit Court Clerk, Sevierville, TN 37862.


AL SCHMUTZER, JR.
ASSISTANT ATTORNEY GENERAL

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE

VS.

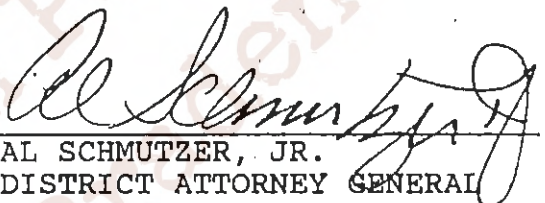
JAMES DELLINGER, ALIAS

CIRCUIT COURT FILED	
HOUR	11:00 A.
DATE	OCT 14 1992
NO.	5035 & 5036
CLERK OF COURT SEVIER COUNTY	

MOTION

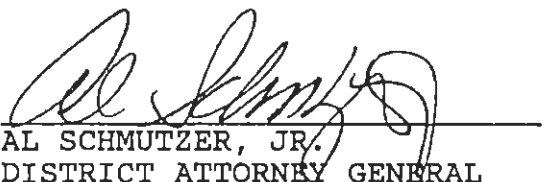
Comes the State and would move this Honorable Court to allow additional time for the filing of any pre-trial motions in response to this defendant's Motions.

SUBMITTED this 14 day of October, 1992.


AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

CERTIFICATE OF SERVICE

I, Al Schmutzer, Jr., District Attorney General for the Fourth Judicial Circuit, do hereby certify that a true and exact copy of the foregoing Motion was faxed\mailed this 14 day of October, 1992, to the Attorney of Record, Mr. Ed Miller, Public Defender, P.O. Box 460, Dandridge, TN 37725 and Ms. Helen Loveday, Circuit Court Clerk, Courthouse, Sevierville, TN 37862.


AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE

VS.

JAMES DELLINGER, ALIAS

CIRCUIT COURT	
FILED	
HOUR	11:00 A.M.
DATE	OCT 15 1992
NO.	5035 & 5036
<i>Sharon F. Hendrix</i>	
CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

MOTION

Comes the State and would move this Honorable Court to allow additional time for the filing of any pre-trial motions in response to this defendant's Motions.

SUBMITTED this 14 day of October, 1992.

Al Schmutzer, Jr.
AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

CERTIFICATE OF SERVICE

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Al Schmutzer, Jr.
AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE

VS.

GARY WAYNE SUTTON,

CIRCUIT COURT	
FILED	
HOUR	11:00 A M
DATE:	OCT 15 1992
CIRCUIT COURT CLERK	
SEVIER COUNTY, TENN.	

NO. 5033 & 5034

MOTION

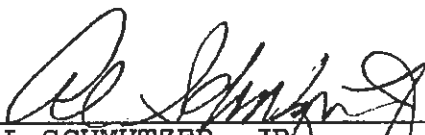
Comes the State and would move this Honorable Court to allow additional time for the filing of any pre-trial motions in response to this defendant's Motions.

SUBMITTED this 14 day of October, 1992.


AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

CERTIFICATE OF SERVICE

I, Al Schmutzer, Jr., District Attorney General for the Fourth Judicial Circuit, do hereby certify that a true and exact copy of the foregoing Motion was faxed\mailed this 14 day of October, 1992, to the Attorneys of Record, Mr. David Webb, 140A Court Avenue, Sevierville, TN 37862, Mr. James Greenlee, 118 Bruce Street, Sevierville, TN 37862 and Ms. Helen Loveday, Circuit Court Clerk, Courthouse, Sevierville, TN 37862.


AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE	CIRCUIT COURT FILED THUR <u>11:00 A.</u> M DATE: <u>OCT 15</u> 1992 : NO. <u>5033 & 5034</u> <i>[Signature]</i> CIRCUIT COURT CLERK SEVIER COUNTY, TENN.
VS.	
GARY WAYNE SUTTON,	

MOTION TO CONSOLIDATE

Comes the State pursuant to Rule 8, and 13, Tennessee Rules of Criminal Procedure, and moves this Honorable Court to enter an Order consolidating the captioned indictments with State vs. James Dellinger, Alias, #5035 and #5036 for trial.

SUBMITTED this 14 day of October, 1992.

[Signature]
AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

CERTIFICATE OF SERVICE

I, Al Schmutzer, Jr., District Attorney General of the Fourth Judicial Circuit, do hereby certify that a true and exact copy of the foregoing Motion was mailed this 14 day of October, 1992, to the Attorneys of Record, Mr. David Webb, 140 Court Avenue, Sevierville, TN 37862, Mr. James Greenlee, 118 Bruce Street, Sevierville, TN 37862 and Ms. Helen Loveday, Circuit Court Clerk, Sevierville, TN 37862.

[Signature]
AL SCHMUTZER, JR.
ASSISTANT ATTORNEY GENERAL

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE

VS.

JAMES DELLINGER, ALIAS

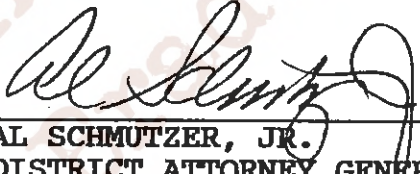
CIRCUIT COURT FILED	
HOUR	11:00 A.M.
DATE:	OCT 15 1992
Circuit Court Clerk Sevier County, Tenn.	

NO. 5035 & 5036

MOTION TO CONSOLIDATE

Comes the State pursuant to Rule 8, and 13, Tennessee Rules of Criminal Procedure, and moves this Honorable Court to enter an Order consolidating the captioned indictments with State vs. Gary Wayne Sutton, Alias, #5033 and #5034 for trial.

SUBMITTED this 14 day of October, 1992.


AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

CERTIFICATE OF SERVICE

I, Al Schmutzer, Jr., District Attorney General of the Fourth Judicial Circuit, do hereby certify that a true and exact copy of the foregoing Motion was mailed this 14 day of October, 1992, to the Attorney of Record, Mr. Ed Miller, Public Defender, P.O. Box 460, Dandridge, TN 37725 and Ms. Helen Loveday, Circuit Court Clerk, Sevierville, TN 37862.


AL SCHMUTZER, JR.
ASSISTANT ATTORNEY GENERAL

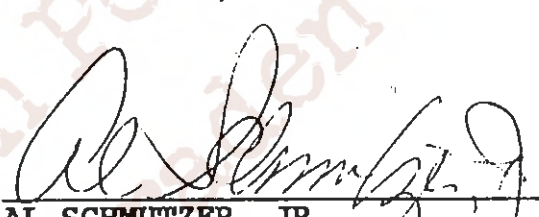
IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE	CIRCUIT COURT FILED HOUR <u>11:00 A.</u> DATE: OCT 15 1992. NO. <u>5035 & 5036</u> <u>5033 & 5034</u>
VS.	
JAMES DELLINGER, ALIAS GARY WAYNE SUTTON, ALIAS	CIRCUIT COURT CLERK SEVIER COUNTY, TENN.

MOTION

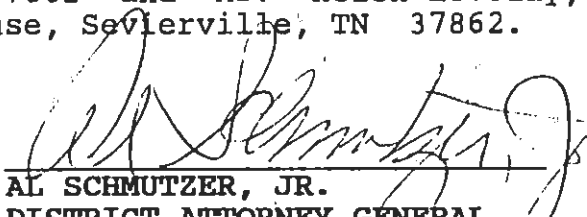
Comes the State and respectfully moves this Honorable Court to make a Pre-Trial ruling, and enter an Order on same, on the admissibility of the statements of both defendants in a joint trial.

SUBMITTED this 15 day of October, 1992.


AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

CERTIFICATE OF SERVICE

I, Al Schmutzer, Jr., District Attorney General for the Fourth Judicial Circuit, do hereby certify that a true and exact copy of the foregoing Motion was faxed\mailed this 15 day of October, 1992, to the Attorneys of Record, Mr. Ed Miller, Public Defender, P.O. Box 460, Dandridge, TN 37725, Mr. David Webb, 140A Court Avenue, Sevierville, TN 37862, Mr. James Greenlee, 118 Bruce Street, Sevierville, TN 37862 and Ms. Helen Loveday, Circuit Court Clerk, Courthouse, Sevierville, TN 37862.


AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE

VS.

JAMES DELLINGER, ALIAS
GARY WAYNE SUTTON, ALIAS

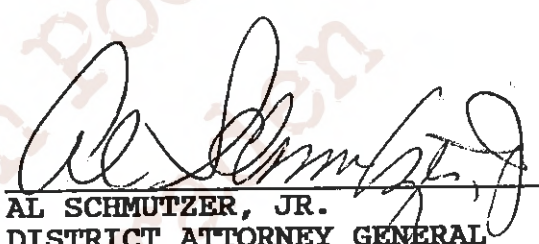
CIRCUIT COURT	
FILED	
HOUR	11:00 A.M.
DATE	OCT 15 1992
Circuit Court Clerk Sevier County, Tenn.	

NO. 5035 & 5036
5033 & 5034

MOTION

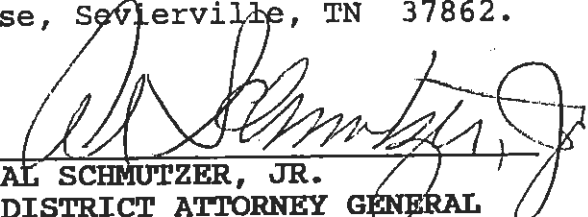
Comes the State and respectfully moves this Honorable Court to make a Pre-Trial ruling, and enter an Order on same, on the admissibility of the statements of both defendants in a joint trial.

SUBMITTED this 15 day of October, 1992.


AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

CERTIFICATE OF SERVICE

I, Al Schmutzer, Jr., District Attorney General for the Fourth Judicial Circuit, do hereby certify that a true and exact copy of the foregoing Motion was faxed\mailed this 15 day of October, 1992, to the Attorneys of Record, Mr. Ed Miller, Public Defender, P.O. Box 460, Dandridge, TN 37725, Mr. David Webb, 140A Court Avenue, Sevierville, TN 37862, Mr. James Greenlee, 118 Bruce Street, Sevierville, TN 37862 and Ms. Helen Loveday, Circuit Court Clerk, Courthouse, Sevierville, TN 37862.


AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

IN THE CRIMINAL COURT FOR SEVIER COUNTY, TENNESSEE
AT SEVIERVILLE

STATE OF TENNESSEE

v.

JAMES DELLINGER

HOOR 2:30

DATE: OCT 15 1992

Edward C. Miller
CLERK OF COURT
SEVIER COUNTY, TENN

NO. 5035 & 5036

MOTION IN LIMINE

Comes the defendant, by and through counsel, and moves this Honorable Court to issue an order in limine that the state not include any statement of Tommy Griffin.

Respectfully submitted,

Edward C. Miller

EDWARD C. MILLER
Public Defender
4th Judicial District
P. O. Box 416
Dandridge, TN 37725
615-397-0108

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the foregoing to Mr. Al Schmutzer, District Attorney for Sevier County, Tennessee, this the 14th day of October, 1992.

Edward C. Miller

IN THE CRIMINAL COURT FOR SEVIER COUNTY, TENNESSEE

AT SEVIERVILLE

FILED
HOUR 2:30

STATE OF TENNESSEE

DATE: OCT 15 1992

NO. 5035 & 5036

v.

JAMES DELLINGER

CIRCUIT COURT
SEVIER COUNTY, TENN.

MOTION IN LIMINE

Comes the defendant, by and through counsel, and moves this Honorable Court to issue an order in limine prohibiting the state from introducing any evidence with regard to the murder of Tommy Griffin.

Respectfully submitted,

Edward C. Miller

EDWARD C. MILLER
Public Defender
4th Judicial District
P. O. Box 416
Dandridge, TN 37725
615-397-0108

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the foregoing to Mr. Al Schmutzer, District Attorney for Sevier County, Tennessee, this the 14th day of October, 1992.

Edward C. Miller

IN THE CRIMINAL COURT FOR SEVIER COUNTY, TENNESSEE

	<u>CHATTANOOGA</u>	
	<u>FILED</u>	
	HOUR <u>2:30</u>	
STATE OF TENNESSEE	DATE: <u>OCT 15 1992</u>	) NO. 5035 & 5036
v.		
JAMES DELLINGER	<u>Circuit Court Clerk</u>	
	<u>SEVIER COUNTY, TENN.</u>	
	<u>MOTION TO SUPPRESS</u>	

Comes the defendant, by and through counsel and moves this Honorable Court for an order suppressing all evidence obtained pursuant to a search warrant issued by the Trial Justice Court on February 29, 1992, and pursuant to a search warrant issued by the Trial Justice Court on February 28, 1992, on the grounds that the affiant did not have personal knowledge of the facts set forth in the affidavit section of the warrant nor does the affidavit reflect who supplied the information so as to allow the magistrate to determine the reliability of the warrant.

Respectfully submitted,

Edward C. Miller
EDWARD C. MILLER
Public Defender
4th Judicial District
P. O. Box 416
Dandridge, TN 37725
615-397-0108

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the foregoing to Mr. Al Schmutzer, District Attorney for Sevier County, Tennessee.

This the 14th day of October, 1992.

Edw C. Miller

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE

VS.

JAMES DELLINGER, ALIAS

CIRCUIT COURT FILED	
HOUR	:11:00 A.M.
DATE:	OCT 15 1992
CIRCUIT COURT SEVIER COUNTY	

NO. 5035 & 5036

MOTION TO CONSOLIDATE

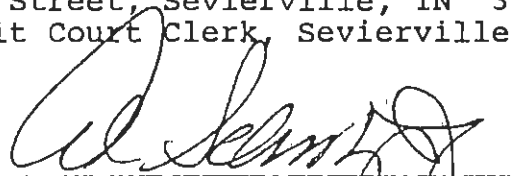
Comes the State pursuant to Rule 8, and 13, Tennessee Rules of Criminal Procedure, and moves this Honorable Court to enter an Order consolidating the captioned indictments for trial.

SUBMITTED this 14 day of October, 1992.


AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

CERTIFICATE OF SERVICE

I, Al Schmutzer, Jr., District Attorney General of the Fourth Judicial Circuit, do hereby certify that a true and exact copy of the foregoing Motion was mailed this 15th day of October, 1992, to the Attorneys of Record, Mr. David Webb, 140 Court Avenue, Sevierville, TN 37862, Mr. James Greenlee, 118 Bruce Street, Sevierville, TN 37862 and Ms. Helen Loveday, Circuit Court Clerk, Sevierville, TN 37862.


AL SCHMUTZER, JR.
ASSISTANT ATTORNEY GENERAL

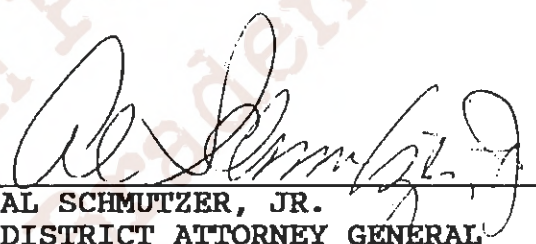
IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

<u>STATE OF TENNESSEE</u>	CIRCUIT COURT FILED HOUR <u>11:00 A</u> M DATE: OCT 15 1992	NO. <u>5035 & 5036</u> <u>5033 & 5034</u>
VS.		
<u>JAMES DELLINGER, ALIAS</u> <u>GARY WAYNE SUTTON, ALIAS</u>	CIRCUIT COURT SEVIER COUNTY	

MOTION

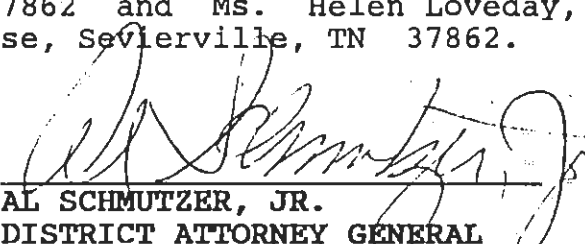
Comes the State and respectfully moves this Honorable Court to make a Pre-Trial ruling, and enter an Order on same, on the admissibility of the statements of both defendants in a joint trial.

SUBMITTED this 15 day of October, 1992.


AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

CERTIFICATE OF SERVICE

I, Al Schmutzer, Jr., District Attorney General for the Fourth Judicial Circuit, do hereby certify that a true and exact copy of the foregoing Motion was faxed\mailed this 15 day of October, 1992, to the Attorneys of Record, Mr. Ed Miller, Public Defender, P.O. Box 460, Dandridge, TN 37725, Mr. David Webb, 140A Court Avenue, Sevierville, TN 37862, Mr. James Greenlee, 118 Bruce Street, Sevierville, TN 37862 and Ms. Helen Loveday, Circuit Court Clerk, Courthouse, Sevierville, TN 37862.


AL SCHMUTZER, JR.
DISTRICT ATTORNEY GENERAL

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE
PLAINTIFF

VS.

GARY WAYNE SUTTON
DEFENDANT

CIRCUIT COURT FILED	
HOUR _____	M _____
DATE: OCT 15 1992 NO. 5033 & 5034	
<i>James W. Greenlee</i>	
CIRCUIT COURT OF SEVIER COUNTY, TENN.	

MOTION TO PRODUCE ALL EXCULPATORY MATERIAL
AND INFORMATION

COMES the Defendant, Gary Wayne Sutton, through counsel, and moves this Honorable Court for an Order requiring the State to furnish all information of whatever form, source and nature which tends to exculpate the Defendant, either through indication of his innocence or through the potential impeachment of State's witnesses, and all information which may be beneficial to the Defendant in the preparation for or the presenting of the merits of his defense of innocence at trial. In support of this relief the Defendant would show to the Court that this is a case wherein the State has requested the death penalty. As such there is a higher standard of due process which would require not only the production of all exculpatory information but information that would be of assistance in the presentation of a defense.

PREMISES CONSIDERED the Defendant asks that an order be entered requiring the State to furnish not only exculpatory material but also all information that may be beneficial to the defendant in preparation of his defense at trial.

RESPECTFULLY SUBMITTED this the 15 day of OCTOBER, 1992

David W. Webb
DAVID W. WEBB
Co-Counsel for Defendant

James W. Greenlee
JAMES W. GREENLEE
Co-Counsel for Defendant

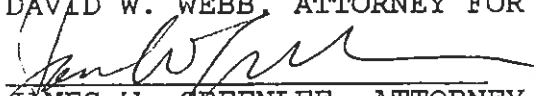
PREMISES CONSIDERED, the Defendant respectfully requests that this Court deny the Motion in Limine filed by the State and allow the Defendant to file his Notice of Alibi Defense.

RESPECTFULLY SUBMITTED:

THIS the 15 day of OCTOBER, 1992.

GARY WAYNE SUTTON, DEFENDANT

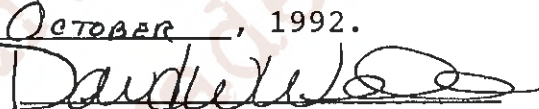
BY: 
DAVID W. WEBB, ATTORNEY FOR DEFENDANT


JAMES W. GREENLEE, ATTORNEY FOR DEFENDANT

ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing RESPONSE to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by Hand Delivery.

THIS the 15 day of OCTOBER, 1992.


DAVID W. WEBB, ATTORNEY

sep92\b\sut-res.ali

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE
PLAINTIFF

VS.

GARY WAYNE SUTTON
DEFENDANT

CIRCUIT COURT FILED	
HOUR _____	M _____
DATE: OCT 15 1992	NO. 5033 & 5034
<i>Andrew H. Handberg</i> CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

MOTION TO COMPEL DISCOVERY

COMES the Defendant, Gary Wayne Sutton, through counsel, and moves this Honorable Court for an Order regarding the discovery as follows:

1. An order enter compelling the State to turn over on or before November 15, 1992, all items of evidence or laboratory reports regarding such evidence seized regarding this case.

In support of this relief the Defendant would show the Court that:

1. The Defendant was indicted for First Degree Murder in Docket No. 5033 on the 5th day of March, 1992. Further, the Defendant was indicted for Arson of a Trailer in Docket No. 5034 on the 5th day of March, 1992.
2. The Defendant filed a Motion for Discovery on April 10, 1992.
3. The State has complied with Discovery in that it has given the Defendant an extensive list of exhibits seized on or about the time of these incidents in February, 1992.
4. Several items of evidence, hereinafter referred to as "exhibits," have been examined by the defense at the Sevier County Jail.
5. A considerable number of other items were not available for examination with the explanation that they had all been sent to the lab for testing. However, lab request forms for all these exhibits have not been turned over to the defense.

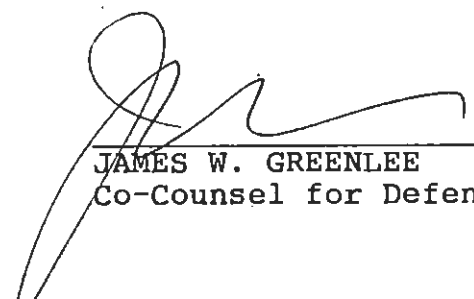
6. It has been almost seven months since these exhibits were seized and as of the date of filing this Motion, the results of the lab tests on the exhibits have not yet been produced to the defense.
7. The Defendant cannot prepare properly his defense without an accounting of all exhibits in the possession of the State. The Defendant, by the filing of its Motion for Discovery, has triggered the obligation of the State to timely and properly produce for examination or independent testing all exhibits. This request the State has not fully complied with.
8. A discovery cutoff date is appropriate, establishes order in the process and assures that the State will not ambush or surprise the defense by producing a lab report or other exhibit just before trial which had been in its possession prior to April 1, 1992.

PREMISES CONSIDERED, the Defendant ask that the Court issue an Order stating the following:

- A. That a discovery cutoff date be set at November 15, 1992, compelling all items of evidence and/or discoverable exhibits seized in this case be produced in their entirety to the defense. That the State's response, as is the practice in this district, be in writing;

RESPECTFULLY SUBMITTED this the 15 day of October, 1992

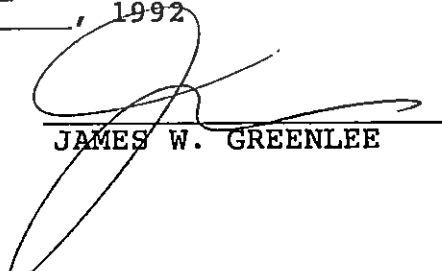

DAVID W. WEBB
Co-Counsel for Defendant


JAMES W. GREENLEE
Co-Counsel for Defendant

ATTORNEY'S CERTIFICATE

I, James W. Greenlee, attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the Attorney General's Office, 3rd Floor, Courthouse, Sevierville, Tennessee by HAND-DELIVERY

THIS the 15 day of Oct, 1992


JAMES W. GREENLEE

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE
PLAINTIFF

VS.

GARY WAYNE SUTTON
DEFENDANT

CIRCUIT COURT FILED	
HOOR _____	M _____
DATE: OCT 15 1992	
<i>Glenn A. Heston</i> CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

NO. 5033 & 5034

MOTION FOR SPEEDY TRIAL

COMES the Defendant, Gary Wayne Sutton, through counsel, and pursuant to the Tennessee and United States Constitutions, and moves this Honorable Court for an Order setting this cause on the docket for trial.

PREMISES CONSIDERED, the Defendant ask that the Court issue an Order stating that this cause be promptly set on the docket for trial.

RESPECTFULLY SUBMITTED this the 15 day of October, 1992

David W. Webb
DAVID W. WEBB
Co-Counsel for Defendant

James W. Greenlee
JAMES W. GREENLEE
Co-Counsel for Defendant

ATTORNEY'S CERTIFICATE

I, James W. Greenlee, attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the Attorney General's Office, 3rd Floor, Courthouse, Sevierville, Tennessee by HAND-DELIVERY

THIS the 15 day of October, 1992

James W. Greenlee
JAMES W. GREENLEE

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE
STATE OF TENNESSEE

PLAINTIFF

VS.

GARY W. SUTTON

DEFENDANT

FILED
DATE: OCT 15 1992

NO. 5033, 5034

CIRCUIT COURT CLERK
SEVIER COUNTY, TENN.

MOTION TO SET AND DISPOSE OF MOTIONS PRIOR TO TRIAL

COMES THE DEFENDANT, Gary W. Sutton, by and through counsel of record, and pursuant to Rule 12 of the Tennessee Rules of Criminal Procedure, moves this Honorable Court in the following particulars:

The Defendant has filed an array of Motions and alleges it is imperative these Motions be heard and disposed of prior to trial so that the Defendant may,

- a) investigate all of the facts prior to trial, and
- b) effectively present all available defenses at the trial of this cause on the merits.

WHEREFORE, the Defendant, pursuant to Rule 12 of the T.R.C.P., respectfully moves this Honorable Court to grant the relief sought in the premises of this Motion.

RESPECTFULLY SUBMITTED:

THIS the 15 day of OCTOBER, 1992.

GARY W. SUTTON, DEFENDANT

BY: David W. Webb

DAVID W. WEBB, ATTORNEY FOR DEFENDANT
JAMES W. GREENLEE, ATTORNEY FOR DEFENDANT

ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by ~~XXXXXX~~ HAND DELIVERY.

THIS the 15 day of OCTOBER, 1992.

David W. Webb
DAVID W. WEBB, ATTORNEY

apr92\b\sut-set.mot

IN THE ~~CIRCUIT COURT FOR~~ SEVIER COUNTY, TENNESSEE
 STATE OF TENNESSEE ~~CIRCUIT COURT~~ FILED*
 HOUR _____ M
 PLAINTIFF _____ *
 VS. DATE: OCT 15 1992 * NO. 5033, 5034
 GARY W. SUTTON ~~Plaintiff~~ *
 DEFENDANT ~~CIRCUIT COURT FOR~~ SEVIER COUNTY, TENNESSEE

MOTION FOR PRODUCTION OF DOCUMENTS

COMES THE DEFENDANT, Gary W. Sutton, by and through his attorney and moves the Court to order the State to produce all office files, telephone message pads, telephone records, all personal notes, and documents made by any persons known to the State or which by due diligence should be known to the State, or agents of the State of Tennessee or any other individual relative to this Defendant, the alleged charge(s) placed against the Defendant and all records of activities leading up to the presentments in this cause.

RESPECTFULLY submitted this the 15 day of October, 1992.

GARY W. SUTTON, DEFENDANT

BY:

David W. Webb
 DAVID W. WEBB, ATTORNEY FOR DEFENDANT
 JAMES W. GREENLEE, ATTORNEY FOR DEFENDANT

ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by ~~XXXXXX~~ HAND DELIVERY.

THIS the 15 day of October, 1992.

David W. Webb
 DAVID W. WEBB, ATTORNEY

apr92\b\sut-pro.doc

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE
 STATE OF TENNESSEE
 PLAINTIFF
 VS.
 GARY W. SUTTON
 DEFENDANT

FILED
 HOUR _____ M
 DATE: OCT 15 1992
 NO. 5033, 5034
 CIRCUIT COURT CLERK
 SEVIER COUNTY, TENN.

MOTION FOR PRETRIAL WRITTEN NOTICE OF ANY
 IMPEACHING CONDUCT RELATING TO THE ACCUSED

COMES THE DEFENDANT, Gary W. Sutton, by and through his attorney, pursuant to Rule 608(b)(3) of the Tennessee Rules of Evidence, and requests written notice by the State of any impeaching conduct that the State contemplates or intends on using for the purpose of attacking or supporting the credibility of Defendant. Defendant further requests that the Court rule of the admissibility of any such proof prior to trial.

RESPECTFULLY SUBMITTED:

THIS the 15 day of OCTOBER, 1992.

GARY W. SUTTON, DEFENDANT

BY: 

DAVID W. WEBB, ATTORNEY FOR DEFENDANT
 JAMES W. GREENLEE, ATTORNEY FOR DEFENDANT
 ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by ~~U.S. MAIL~~ HAND DELIVERY.

THIS the 15 day of OCTOBER, 1992.


 DAVID W. WEBB, ATTORNEY

apr92\b\sut-sup.con

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE
STATE OF TENNESSEE FILED

PLAINTIFF
VS.
GARY W. SUTTON
DEFENDANT

HOUR _____ M
DATE: OCT 15 1992
NO. 5033, 5034
CIRCUIT COURT CLERK
SEVIER COUNTY, TENN.

MOTION FOR NOTICE BY THE STATE PURSUANT TO
RULE 12(D)(2) OF ITS INTENTION TO USE EVIDENCE
ARGUABLY SUBJECT TO SUPPRESSION

COMES THE DEFENDANT, Gary W. Sutton, by and through his attorney, pursuant to Rule 12(d)(2) of the Tennessee Rules of Criminal Procedure, and moves the Court for entry of an Order directing the State to make inquiry and to serve and file specific written notice and designations of any and all evidence or information in the State's possession, custody or control, or the existence of which is known, or by the exercise of due diligence could become known to the State, which evidence or information the State presently or at any time contemplates or considers using in its evidence-in-chief at trial, in order to afford the Defendant an opportunity to move for suppression.

RESPECTFULLY submitted this the 15 day of
OCTOBER, 1992.

GARY W. SUTTON, DEFENDANT

BY: David W. Webb

DAVID W. WEBB, ATTORNEY FOR DEFENDANT
JAMES W. GREENLEE, ATTORNEY FOR DEFENDANT

ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by ~~XXXXXXX~~ HAND DELIVERY.

THIS the 15 day of OCTOBER, 1992.

David W. Webb
DAVID W. WEBB, ATTORNEY

apr92\b\sut-supp.ev

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE
 STATE OF TENNESSEE
 PLAINTIFF
 VS.
 GARY W. SUTTON
 DEFENDANT

FILED
 DATE: OCT 15 1992
 NO. 5033, 5034
 CIRCUIT COURT CLERK
 SEVIER COUNTY, TENN.

MOTION FOR PRETRIAL DISCLOSURE OF EVIDENCE OF
 OTHER CRIMES, WRONGS, OR ACTS AND FOR A PRETRIAL
 HEARING ON THE ADMISSIBILITY OF SUCH EVIDENCE

COMES THE DEFENDANT, Gary W. Sutton, by and through his
 attorney, pursuant to Rule 12(a) of the Tennessee Rules of
 Criminal Procedure and Rule 404(b) of the Tennessee Rules of
 Evidence, and moves the Court for appropriate relief to
 require the prosecution to disclose pretrial any evidence of
 any other crimes, wrongs, or acts intended or contemplated
 for use at trial against this Defendant. Further, Defendant
 moves for a pretrial hearing to determine the admissibility
 of any such evidence.

RESPECTFULLY SUBMITTED:

THIS the 15 day of OCTOBER, 1992.

GARY W. SUTTON, DEFENDANT

BY: David W. Webb

DAVID W. WEBB, ATTORNEY FOR DEFENDANT
 JAMES W. GREENLEE, ATTORNEY FOR DEFENDANT
 ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this
 date sent a true and exact copy of the foregoing Motion to
 the State of Tennessee, District Attorney General, Third
 Floor, County Courthouse, Sevierville, TN. 37862 and to Mr.
 Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN.
 37725-0416 by ~~US MAIL~~ HAND DELIVERY.

THIS the 15 day of OCTOBER, 1992.

David W. Webb
 DAVID W. WEBB, ATTORNEY

apr92\b\sut-dsc.mot

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE
STATE OF TENNESSEE

PLAINTIFF

VS.

GARY W. SUTTON

DEFENDANT

DATE: OCT 15 1992

NO. 5033, 5034

MOTION TO SUPPRESS STATEMENTS

COMES THE DEFENDANT, Gary Wayne Sutton, by and through counsel, and says:

1. That on February 25, 1992 and February 28, 1992 this Defendant voluntarily met with Detective Jim Widner and Detective Dale Gourley of the Blount County Sheriff's Department at the Sevier County Sheriff's Department in Sevierville, Sevier County, Tennessee.

2. On each of the above mentioned occasions this Defendant gave a statement. The Defendant was not under arrest but knew he was a suspect.

3. On February 28, 1992 at approximately 9:30 a.m. the Defendant's attorney, David W. Webb, received a telephone call which advised the Defendant's attorney that the Defendant was going to return to the Sevier County Sheriff's Department to talk with the investigators. Defendant's attorney, David W. Webb, immediately called Detective Jeff McCarter, of the Sevier County Sheriff's Department and advised this Detective that David W. Webb represented the Defendant, Gary Wayne Sutton, and that no one should take any statement from this Defendant without the presence of counsel. Detective McCarter acknowledged this demand and advised he would pass the information to the other investigators.

4. On February 28, 1992 at approximately 11:45 a.m. the Defendant, while giving a statement asked to call his

attorney, David W. Webb. The officers stopped the interview and allowed the Defendant to call his attorney.

5. At approximately 12:00 p.m. (noon) the Defendant's attorney, David W. Webb, along with co-counsel, James W. Greenlee, appeared at the Sevier County Sheriff's Department for the purpose of consulting with their client, this Defendant.

6. After consulting with their client, counsel for this Defendant advised the investigators that this Defendant would not be giving any further statements and admonished the investigators not to attempt to interrogate this Defendant any further. The investigators acknowledged that they would not interrogate this Defendant any further. The investigators did say they were going to photograph and fingerprint this Defendant and counsel did not object.

7. Several hours later this Defendant was released from custody.

8. This Defendant was arrested on March 5, 1992 and has been incarcerated since that date.

9. On March 5, 1992 at approximately 1:40 p.m. this Defendant was read his Constitutional rights and signed an Admonition and Waiver. At approximately 3:30 p.m. on the same date, this Defendant, while in the process of being booked, was confronted by Detective Jeff McCarter and was told "to do some soul searching about this incident". In response, this Defendant gave a statement. Before giving this statement the Defendant was not advised of his Constitutional rights. Furthermore, this Detective knew that this Defendant was represented by counsel.

10. On March 9, 1992 an alleged statement was taken by David Davenport of the Tennessee Bureau of Investigation. Defendant denies that he initiated the appearance of David Davenport or any other officer by making a request to talk to any officers. Defendant avers that David Davenport did

come to the Sevier County Sheriff's Department and try to pressure this Defendant into giving a statement. This Defendant told David Davenport that he would not give any further statement without his attorney present. Defendant avers that David Davenport then became upset and began to curse, threaten and vilify this Defendant. Defendant avers David Davenport then left.

Defendant avers that this agent knew that this Defendant was represented by counsel as reflected on the agent's statement and the Admonition and Waiver. There was no tape recording of the alleged statement so as to accurately reflect what occurred. All that exists is this agent's handwritten statement which was not signed by this Defendant and the Admonition and Waiver which likewise was not signed by this Defendant.

PREMISES CONSIDERED, Defendant avers that any statements he may have given authorities after his attorney admonished the authorities not to take any further statements from this Defendant should be suppressed for the following reasons:

1. Considering the totality of the circumstances the statements were not freely nor voluntarily given;

2. The statement given Detective McCarter was given by virtue of mental coercion and without timely advisement to this Defendant of his Constitutional rights;

3. The statements of February 28, 1992, March 5, 1992 and March 9, 1992 were obtained in violation of the Defendant's privilege against self-incrimination and the Defendant's right to counsel, both guaranteed by the Tennessee and the United States Constitutions.

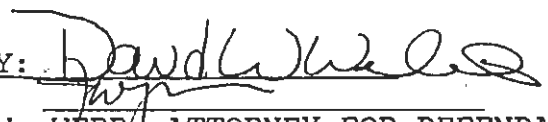
4. The interrogating officers knew that this Defendant was represented by counsel but never-the-less initiated a custodial interrogation of this Defendant without notifying

Defendant's counsel thus violating this Defendant's Constitutional rights.

RESPECTFULLY SUBMITTED:

THIS THE 15 DAY OF OCTOBER, 1992.

GARY WAYNE SUTTON, DEFENDANT

BY: 

DAVID W. WEBB, ATTORNEY FOR DEFENDANT
JAMES W. GREENLEE, ATTORNEY FOR DEFENDANT

ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by ~~US MAIL~~ HAND DELIVERY.

THIS the 15 day of OCTOBER, 1992.


DAVID W. WEBB, ATTORNEY

oct92\b\sut-sup.mot

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE
PLAINTIFF
VS.
GARY W. SUTTON
DEFENDANT

CIRCUIT COURT
FILED
DATE: OCT 15 1992
NO. 5033, 5034
CIRCUIT COURT CLERK
SEVIER COUNTY
MOTION

COMES the Defendant, Gary W. Sutton, through counsel and moves this Honorable Court to issue an Order requiring the prosecution to submit its complete files including any police investigative files under seal into the record in the above styled case and to further allow defense counsel an in camera inspection of these records in order that any Brady or Giglio type evidence be produced to the defense.

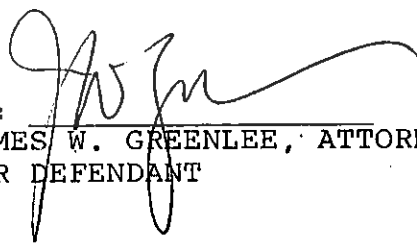
THE Defendant requests a hearing on this Motion.

MEMORANDUM OF LAW

THE Defendant's access to any Brady or Giglio type evidence is necessary to protect the Defendant's due process rights as provided by the Fourteenth Amendment of the United States Constitution and Article I, §8 of the Tennessee State Constitution. The Defendant's access to such information is also vital to protect the Defendant's right to confront witnesses against him or her pursuant to the Sixth Amendment of the United States Constitution and Article I, §9 of the Tennessee Constitution and of course is also necessary in order to protect the Defendant against cruel and unusual punishment pursuant to the Eighth Amendment of the United States Constitution and Article I, §16 of the Tennessee Constitution.

Respectfully submitted this the 15 day of OCTOBER,
1992.

GARY W. SUTTON, DEFENDANT

BY: 
JAMES W. GREENLEE, ATTORNEY
FOR DEFENDANT

BY: 
DAVID W. WEBB, ATTORNEY
FOR DEFENDANT

ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by Hand Delivery.

THIS the 15 day of OCTOBER, 1992.

David W. Webb

DAVID W. WEBB, ATTORNEY

FOR DEFENDANT

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IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE

PLAINTIFF

VS.

GARY W. SUTTON

DEFENDANT

CIRCUIT COURT
FILED
OCT 15 1992

NO. 5033, 5034

MOTION TO STRIKE ANTICIPATED JURY CHARGE

COMES the Defendant, Gary W. Sutton, by and through counsel, and in anticipation that this Court will charge the Jury in accordance with the Tennessee Pattern Jury Instructions, the Defendant hereby moves this Court to strike the last paragraph of said instructions which reads as follows:

The Jury in no case, should have any sympathy or prejudice or allow anything but the law and evidence to have any influence upon them in determining their verdict.

MEMORANDUM OF LAW

IN the case of Saffle v Parks, 88-1264, Cert. Granted U.S. _____, 45 Crim.Law Reporter 4021, 4022 (April 24, 1989), death sentence was reversed where the trial judge charged the Jury that they were not to consider sympathy for the Defendant in arriving at that their verdict.

Respectfully submitted this the 15 day of October, 1992.

GARY W. SUTTON, DEFENDANT

BY: David W. Webb
DAVID W. WEBB, ATTORNEY
JAMES W. GREENLEE, ATTORNEY
FOR DEFENDANT

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ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by ~~UXXXXXXX~~ HAND DELIVERY.

THIS the 15 day of October, 1992.



DAVID W. WEBB, ATTORNEY

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IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE
PLAINTIFF

VS.

GARY WAYNE SUTTON
DEFENDANT

CIRCUIT COURT FILED	
HOUR _____	M _____
DATE: OCT 15 1992	
NO. 5033 & 5034	
<i>Glenn H. Hordley</i>	
CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

MOTION IN LIMINE

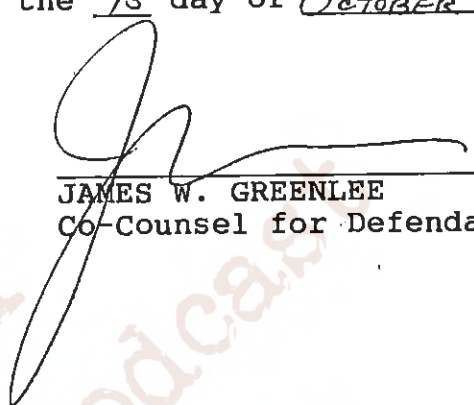
COMES the Defendant, Gary Wayne Sutton, through counsel, and moves this Honorable Court to hold a hearing to consider the defense's request that the facts and incidents surrounding the charges against this Defendant in Blount County, Docket No. C-6670, be inadmissible unless and until the State satisfactorily shows the Court that same becomes related during the course of the trial and a bench conference is held prior to it being mentioned before the jury. For this relief the Defense would show the court that:

1. The incident in Blount County is, as the date of this filing, is still a pending trial. The Defendant is charged with the murder of Tommy Griffin in Blount County, which allegedly occurred the day before the murder charged in Sevier County.
2. The facts necessary to prove the murder of Connie Brannam do not require the introduction of any facts that may be introduced at the trial of Tommy Griffin's murder.
3. Absent articulable and specific proof that Connie Brannam was murdered for the purpose of keeping her from testifying or revealing that these Defendants committed the murder of Tommy Griffin, this trial should be separately considered from all parts of the trial concerning the death of Tommy Griffin.
4. It is not necessary, in the trial of the arson of Tommy Griffin's trailer, to state any facts concerning the death of Tommy Griffin; inasmuch as the crime scene of Tommy Griffin's murder occurred several miles away and does not factually relate to the arson of his trailer.

PREMISES CONSIDERED, the Defendant ask that the Court issue an Order in Limine restricting the State from referring to the death of Tommy Griffin during voir dire and/or opening statements at the trial of this cause. Further that the Court Order before the State refers to, or in any way introduces evidence concerning the death of Tommy Griffin, that a bench conference be held and the admissibility of the evidence or testimony be reviewed by the Court.

RESPECTFULLY SUBMITTED this the 15 day of OCTOBER, 1992

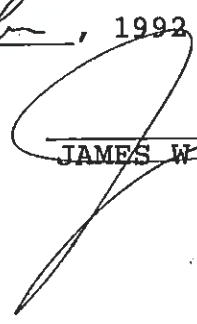

DAVID W. WEBB
Co-Counsel for Defendant


JAMES W. GREENLEE
Co-Counsel for Defendant

ATTORNEY'S CERTIFICATE

I, James W. Greenlee, attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the Attorney General's Office, 3rd Floor, Courthouse, Sevierville, Tennessee by HAND-DELIVERY

THIS the 15 day of Octob, 1992


JAMES W. GREENLEE

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE
STATE OF TENNESSEE

PLAINTIFF

VS.

GARY W. SUTTON

DEFENDANT

CIRCUIT COURT	
FILED	
HOUR	M
DATE: OCT 15 1992	
NO. 5033, 5034	
CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE	

MOTION FOR SPECIAL VOIR DIRE RE:

"HOW MANY YEARS IS A LIFE SENTENCE?"

COMES the Defendant, Gary W. Sutton, through counsel, and moves this Honorable Court to permit the Defendant's attorney(s) to individually question potential jurors regarding how many years that they suspect that the Defendant would have to serve should he receive a life sentence.

THIS Motion is made in light of the fact that there is substantial likelihood that the jurors would speculate, based on the cases receiving widespread publicity throughout the United States, the State of Tennessee, and in this community, that life imprisonment means the Defendant would be released within a few years. Therefore, the Defendant requests the opportunity to question the jurors as to the subject.

Respectfully submitted this the 15 day of OCTOBER, 1992.

GARY W. SUTTON, DEFENDANT

BY: 
JAMES W. GREENLEE, ATTORNEY
FOR DEFENDANT

BY: 
DAVID W. WEBB, ATTORNEY
FOR DEFENDANT

ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by ~~XXXXXXX~~ HAND DELIVERY.

THIS the 15 day of OCTOBER, 1992.


DAVID W. WEBB, ATTORNEY

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IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE
STATE OF TENNESSEE

PLAINTIFF

VS.

GARY W. SUTTON

DEFENDANT

CIRCUIT COURT FILED	
HOUR	DATE: OCT 15 1992 NO. 5033, 5034
CIRCUIT COURT CLERK SEVIER COUNTY	

MOTION FOR STATE TO DISCLOSE JUROR INFORMATION

MOTION FOR ACCESS TO JUROR FORMS

COMES the Defendant, Gary W. Sutton, through counsel, and moves this Honorable Court to issue an Order giving the Defendant access to all information forms completed by all prospective jurors in the above styled case.

Defendant further moves this Court to issue an Order requiring the State to disclose to the Defendant any knowledge it has regarding he prior jury performance of prospective jurors or any other pertinent information that the State has privy to about the prospective jurors in the above styled cause.

The Defendant requests a hearing on these Motions.

MEMORANDUM OF LAW

PURSUANT to the Fourteenth Amendment of the United State Constitution and Article 1, §8 of the Tennessee Constitution, an accused defendant in a death penalty case has a right that the death penalty will not be imposed against him in a discriminatory or arbitrary manner.

Respectfully submitted this the 15 day of OCTOBER, 1992.

BY: [Signature]
JAMES W. GREENLEE, ATTORNEY
FOR DEFENDANT

GARY W. SUTTON, DEFENDANT
BY: [Signature]
DAVID W. WEBB, ATTORNEY
FOR DEFENDANT

ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by ~~US MAIL~~ HAND DELIVERY

THIS the 15 day of OCTOBER, 1992.

[Signature]
DAVID W. WEBB, ATTORNEY

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IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE

PLAINTIFF

VS.

GARY W. SUTTON

DEFENDANT

CIRCUIT COURT FILED	
HOUR _____	* _____ M
DATE: OCT 15 1992	
NO. 5033, 5034	
* * * CIRCUIT COURT CLERK SEVIER COUNTY MOTION	

Comes the Defendant, Gary W. Sutton, through counsel, and moves this Honorable Court to issue an Order prohibiting the State's use of preemptory challenges to exclude a cognizable group of people, specifically including jurors whose scruples are against the death penalty. The Defendant requests a hearing on this Motion.

Respectfully submitted this the 15 day of OCTOBER, 1992.

GARY W. SUTTON, DEFENDANT

BY: David W. Webb

DAVID W. WEBB, ATTORNEY
JAMES W. GREENLEE, ATTORNEY
FOR DEFENDANT

ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by ~~U.S. MAIL~~ HAND DELIVERY.

THIS the 15 day of OCTOBER, 1992.

David W. Webb
DAVID W. WEBB, ATTORNEY

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IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE
STATE OF TENNESSEE

PLAINTIFF

VS.

GARY W. SUTTON

DEFENDANT

CIRCUIT COURT	
FILED	
HOUR _____	MIN _____
DATE: OCT 15 1992	
CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

NO. 5033, 5034

REQUEST OF STATE'S INTENTION TO USE EVIDENCE

COMES the Defendant, Gary W. Sutton, by and through counsel, and requests Notice of the State's intention to use any evidence which the Defendant may be entitled to discover under Rule 16 of the Tennessee Rules of Criminal Procedure within a reasonable period of time before the trial in this case to afford the Defendant an opportunity to move to suppress any evidence as would be proper. This request is made pursuant to Tennessee Rules of Criminal Procedure, Rule 12(d)(2).

Respectfully submitted this the 15 day of OCTOBER, 1992.

GARY W. SUTTON, DEFENDANT

BY:

DAVID W. WEBB, ATTORNEY

JAMES W. GREENLEE, ATTORNEY

FOR DEFENDANT, GARY W. SUTTON

ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by Hand Delivery.

THIS the 15 day of OCTOBER, 1992.

DAVID W. WEBB, ATTORNEY
FOR DEFENDANT

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IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE	CIRCUIT COURT FILED
PLAINTIFF	HOUR _____ M
VS.	DATE: OCT 15 1992
GARY W. SUTTON	NO. 5033, 5034
DEFENDANT	CIRCUIT COURT CLERK SEVIER COUNTY, TN

MOTION IN LIMINE

COMES the Defendant, Gary W. Sutton, by and through counsel, and moves this Honorable Court to issue an Order in Limine prohibiting the State from introducing any evidence calculated to illicit passion and inflame the jury such as testimony from the victim's family or friends or circumstances surrounding the death of the victim which is not particularly probative in the prosecution's attempt to prove the elements of the offense in this cause.

MEMORANDUM OF LAW

The introduction of irrelevant evidence intended to illicit passion and inflame the jury would be in violation of the Defendant's due process rights as guaranteed by the United States and Tennessee Constitutions.

Respectfully submitted this the 15 day of October, 1992.

GARY W. SUTTON, DEFENDANT

BY: David W. Webb
DAVID W. WEBB, ATTORNEY
JAMES W. GREENLEE, ATTORNEY
FOR DEFENDANT

ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by ~~XXXXXXX~~ HAND DELIVERY.

THIS the 15 day of October, 1992.

David W. Webb
DAVID W. WEBB, ATTORNEY

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IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE
STATE OF TENNESSEE

PLAINTIFF

VS.

GARY W. SUTTON

DEFENDANT

OCT 15 1992

NO. 5033, 5034

MOTION FOR INDIVIDUAL AND SEQUESTERED VOIR DIRE

COMES the Defendant, Gary W. Sutton, by and through counsel and moves this Honorable Court to issue an Order allowing individual and sequestered voir dire in the above styled case and would show the Court as follows:

1. That this case has received a large deal of pre-trial publicity which may be prejudicial to the Defendant and in order to secure the rights to a fair trial as guaranteed by the United States and Tennessee Constitutions, individual and sequestered voir dire is necessary. The Defendant requests a hearing on this Motion.

Respectfully submitted this the 15 day of OCTOBER, 1992.

GARY W. SUTTON, DEFENDANT

BY:

DAVID W. WEBB, ATTORNEY
JAMES W. GREENLEE, ATTORNEY
FOR DEFENDANT

ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by ~~XXXXXX~~ HAND DELIVERY.

THIS the 15 day of OCTOBER, 1992.

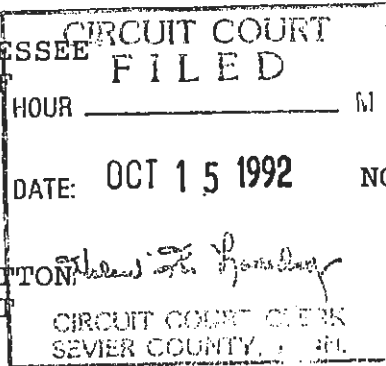
DAVID W. WEBB, ATTORNEY

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IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE
PLAINTIFF



VS.

NO. 5033 & 5034

GARY WAYNE SUTTON
DEFENDANT

MOTION FOR JURY INSTRUCTION ON REBUTTAL EVIDENCE

COMES the Defendant, Gary Wayne Sutton, through counsel, and respectfully requests that the Court instruct the jury that any evidence offered by the prosecution during its rebuttal case cannot be considered as substantive evidence and that the only purpose for which the jury may consider such evidence is for the purpose of impeaching the testimony of witnesses offered by the Defendant during his evidence.

RESPECTFULLY SUBMITTED this the 15 day of October, 1992.

DAVID W. WEBB
Co-Counsel for Defendant

JAMES W. GREENLEE
Co-Counsel for Defendant

ATTORNEY'S CERTIFICATE

I, James W. Greenlee, attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the Attorney General's Office, 3rd Floor, Courthouse, Sevierville, Tennessee, 37862 by HAND-DELIVERY

THIS the 15 day of October, 1992.

JAMES W. GREENLEE

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE
PLAINTIFF

VS.

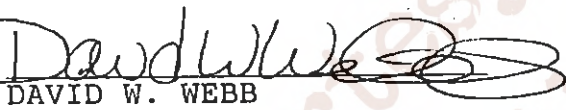
GARY WAYNE SUTTON
DEFENDANT

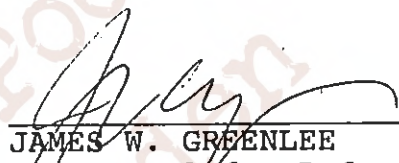
CIRCUIT COURT FILED	
HOUR _____	M _____
DATE: OCT 15 1992	NO. 5033 & 5034
<i>James W. Greenlee</i>	
CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

MOTION FOR JURY INSTRUCTIONS

COMES the Defendant, Gary Wayne Sutton, through counsel, and respectfully requests that the Court hold a jury-out hearing to fully discuss all jury instructions at both the guilt and if necessary, the penalty phase of this trial.

RESPECTFULLY SUBMITTED this the 15 day of OCTOBER, 1992

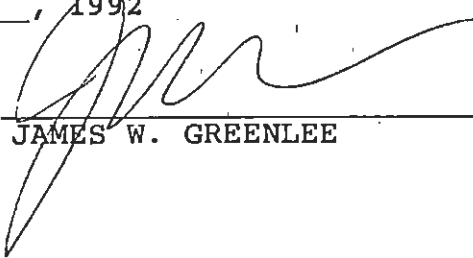

DAVID W. WEBB
Co-Counsel for Defendant


JAMES W. GREENLEE
Co-Counsel for Defendant

ATTORNEY'S CERTIFICATE

I, James W. Greenlee, attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the Attorney General's Office, 3rd Floor, Courthouse, Sevierville, Tennessee by HAND-DELIVERY

THIS the 15 day of OCTOBER, 1992


JAMES W. GREENLEE

IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE
 STATE OF TENNESSEE
 PLAINTIFF
 VS.
 GARY W. SUTTON
 DEFENDANT

FILED
 HOUR _____ M
 DATE: OCT 15 1992
 NO. 5033, 5034
 CIRCUIT COURT CLERK
 SEVIER COUNTY, TENN.

MOTION IN LIMINE

COMES the Defendant, Gary W. Sutton, through counsel, and moves this Honorable Court to rule in limine that the pictures taken of the victim and videotape taken of the murder crime scene are inadmissible in this cause and in support would show the Court as follows:

1. That both the pictures and videotape are very graphic representations of the victim.
2. That the probative value of these pictures and videotape is certainly outweighed by their prejudicial effect and therefore their admission into evidence would be a violation of the Defendant's rights under the United States and Tennessee Constitutions.

Respectfully submitted this the 15 day of OCTOBER, 1992.

GARY W. SUTTON, DEFENDANT

BY: David W. Webb
 DAVID W. WEBB, ATTORNEY
 JAMES W. GREENLEE, ATTORNEY
 FOR DEFENDANT

ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by ~~US MAIL~~ HAND DELIVERY.

THIS the 15 day of OCTOBER, 1992.

David W. Webb
 DAVID W. WEBB, ATTORNEY

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IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE

STATE OF TENNESSEE
PLAINTIFF
VS.
GARY W. SUTTON
DEFENDANT

CIRCUIT COURT
FILED
HOUR _____
DATE: OCT 15 1992
NO. 5033, 5034

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CIRCUIT COURT CLERK
SEVIER COUNTY, TENN.
MOTION IN LIMINE

COMES the Defendant, Gary W. Sutton, by and through counsel, and moves this Honorable Court to issue an Order in Limine prohibiting the State from attempting to enter into evidence any prior bad acts of the accused as substantive evidence during the prosecution of this case in chief.

Respectfully submitted this the 15 day of OCTOBER, 1992.

GARY W. SUTTON, DEFENDANT

BY: David W. Webb
DAVID W. WEBB, ATTORNEY
JAMES W. GREENLEE, ATTORNEY
FOR DEFENDANT

ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by ~~U.S. MAIL~~ HAND DELIVERY.

THIS the 15 day of OCTOBER, 1992.

David W. Webb
DAVID W. WEBB, ATTORNEY

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IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE
STATE OF TENNESSEE FILED*

PLAINTIFF

VS.

GARY W. SUTTON

DEFENDANT

DATE: OCT 15 1992

NO. 5033, 5034

MOTION IN LIMINE

COMES the Defendant, Gary W. Sutton, by and through counsel, and moves this Honorable Court to (a) instruct the District Attorney General, his staff, or any of the State's witnesses in this cause, not to allude to, refer to, or in any way bring before the jury, whether as a panel or a jury selected to try this cause, any of the matters stated in the numbered paragraphs below, and avers that to allow such testimony would be prejudicial to the rights of the Defendant in this cause and violation of the Constitution and the Laws of the United States and a violation of the Constitution and the Laws of the State of Tennessee; (b) to instruct the District Attorney General not to refer to, or allude to such matters without first approaching the Bench and making known to the Court and the attorneys for the Defendant, outside the presence and hearing of the jury, that he intends to offer such proof, this permitting the jury to be retired and the evidence and objections heard, and the Court to rule on the admissibility of such evidence before it is placed before the jury, thus preventing prejudicial error no subsequent instruction could cure, and (c) or rule upon these matters prior to trial. The Defendant requests this instruction and ruling concerning the following matters:

1. That the Defendant has been arrested for any criminal offense or investigation of a possible criminal offense.

2. That the Defendant has been charged with or

convicted of any criminal offenses.

3. Any reputation evidence concerning the Defendant in this case until it is first determined outside the presence of the jury if the witnesses testifying has had an adequate opportunity to gain such evidence and information.

4. Any oral or written statements from the Defendant made in connection with this case.

5. Any "prior bad acts" of the Defendant as substantive evidence during the prosecution's case in chief.

6. Any alleged acts of the Defendant not charged in this Indictment and any alleged acts of the Defendant which may be alleged to have occurred outside of Sevier County, Tennessee.

7. Any photographs that have little or no probative value due to their highly prejudicial and inflammatory effect, which would deny the Defendant his Constitutional right to a fair trial.

8. Any photographs of the victim's body where it was found in Sevier County that explicitly show the nature of the victim's injuries where said injuries can be described and shown equally well by the autopsy protocol and the testimony of Dr. Bass, M.D., Forensic Pathologist, and where the probative value of said photographs would be little or none due to their highly prejudicial nature an effect on the jury that would deny the Defendant his Constitutional right to a fair trial.

9. Any evidence calculated to elicit passion and inflame the jury such as testimony from the victim's family or friends, or circumstances surrounding the death of the victim which are not particularly probative in the prosecutor's attempt to prove the elements of the first degree murder.

10. Any evidence or testimony regarding the association of the Defendant, Gary W. Sutton, and the separately

indicted co-defendant, James Dellinger, before the time of this alleged offense.

Respectfully submitted this the 15 day of OCTOBER, 1992.

GARY W. SUTTON, DEFENDANT

BY: David W. Webb
DAVID W. WEBB, ATTORNEY
JAMES W. GREENLEE, ATTORNEY
FOR DEFENDANT

ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by ~~XXXXXXXXXX~~ HAND DELIVERY.

THIS the 15 day of OCTOBER, 1992.

David W. Webb
DAVID W. WEBB, ATTORNEY

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IN THE CIRCUIT COURT FOR SEVIER COUNTY, TENNESSEE
STATE OF TENNESSEE

PLAINTIFF

VS.

GARY W. SUTTON

DEFENDANT

CIRCUIT COURT FILED	
HOUR _____	_____ M
DATE: OCT 15 1992 NO. 5033, 5034	
<i>Shirley A. Henderson</i> CIRCUIT COURT CLERK SEVIER COUNTY, TENN.	

MOTION IN LIMINE

COMES the Defendant, Gary W. Sutton, by and through counsel, and moves this Honorable Court to issue an Order in Limine on the admissibility of certain out-of-court statements and the testimony of certain witnesses.

Respectfully submitted this the 15 day of October, 1992.

GARY W. SUTTON, DEFENDANT

BY: *David W. Webb*

DAVID W. WEBB, ATTORNEY
JAMES W. GREENLEE, ATTORNEY
FOR DEFENDANT

ATTORNEY'S CERTIFICATE

I, David W. Webb, Attorney, do certify that I have this date sent a true and exact copy of the foregoing Motion to the State of Tennessee, District Attorney General, Third Floor, County Courthouse, Sevierville, TN. 37862 and to Mr. Ed Miller, Public Defender, P.O. Box 416, Dandridge, TN. 37725-0416 by ~~US MAIL~~ HAND DELIVERY.

THIS the 15 day of Oct, 1992.

David W. Webb

DAVID W. WEBB, ATTORNEY

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