

STATE OF MAINE  
YORK, SS

SUPERIOR COURT  
ALFRED  
CRIMINAL DOCKET  
ALFSC-CR-2015-1068  
ALFSC-CR-15-1106

STATE OF MAINE, )  
                  PLAINTIFF )  
                                  ) )  
VS.                              ) )  
                                  ) )  
                                  ) )  
TREVOR L. SANBORN, )  
                  DEFENDANT )

O R D E R

On January 26, 2016, the Court, after hearing, granted Defendant's Motion to Dismiss. The dismissals in both docket numbers, ALFSC-CR-2015-1068 and ALFSC-CR-2015-1106, were with prejudice. The State of Maine filed a Motion to Reconsider and Request for Written Findings of Fact bearing no date, but received by the Clerk's Office on February 10, 2016 at 3:36 p.m. Defendant filed his Reply to State's Motion to Reconsider and Request for Written Findings of Fact dated February 18, 2016, and received by the Clerk's Office on February 18, 2016, at 3:45 p.m.

After carefully reviewing the State's Motion to Reconsider, as well as Defendant's Reply, or opposition, to the State's Motion to Reconsider, the Court issues the following Order: State's Motion to Reconsider is Denied.


With respect to the State's Request for Written Findings of Fact, the Court responds as follows:

After reviewing the contents of the Court's files in docket numbers ALFSC-CR-2015-1068 and ALFSC-CR-2015-1106, and in light of the arguments presented by both the State and Defense on December 15, 2015, and on January 26, 2016, the Court finds that the State has not provided discovery in a timely manner. The State relied heavily on representations made to it by the Warden Service regarding Defendant's reasonable and timely discovery requests, but it is clear that the State did not provide all discovery. It is regrettable, from a practice of law point of view, invoking the late Chief Justice Vincent McKusick's oft-repeated call for comity that the State essentially "stonewalled" Defendant's discovery requests.

*2/23/16 Docketed  
& copies to parties*

The State's long delay in providing Defendant with the name of the secret law enforcement operative is unexplicable. The State's refusal to provide the name of the law enforcement official delayed this case to the prejudice of the Defendant. It appears that the State maintained a position of not doing due diligence in responding to Defendant's multiple requests for discovery, resulting in needless delay and additional litigation costs. Early on, the State could have, and should have, inquired of the Warden Service regarding the notes prepared by the secret unnamed law enforcement operative, but that did not happen, thus depriving Defendant of important discovery. The State neglected to ascertain, in a timely way, what evidence existed and, thus, failed to determine in a timely way, if it were discoverable. From the record, the Court finds that the State did not make timely reasonable efforts to determine what materials were within the State's control, including within the control of the Warden Service and its agents. Further, the State did not adequately respond to clear and specific defense requests for information. The State, in its reliance of the Warden Service and its apparent quest to shield the identity of the secret law enforcement operative, resulted in a nine month failure by the State to comply with reasonable, and repeated, defense requests for discovery. It is troubling that the State did not adequately respond to Defendant's discovery requests over a nine month period.

It is always fitting to remember that: "The State while charged with rigorously enforcing the laws 'has a duty to not only secure appropriate convictions, but an ever higher duty to see that justice is done.' In his role as the State's representative in criminal matters, the prosecutor, therefore, must not only attempt to win cases, but must see that justice is done." Walker v. State, 624 P.2d 687 (Utah 1981). The road towards justice begins with full and timely disclosure of discovery. Regrettably, that did not happen in this case.

Dated: February 22, 2016   
Michael P. Cantara  
Judge  
Maine District Court