

STATE OF NEW YORK  
COUNTY COURT : COUNTY OF ERIE

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THE PEOPLE OF THE STATE OF NEW YORK

*Plaintiff*

-vs-

DEMAND FOR DISCOVERY  
AND DEMAND TO PRODUCE  
Ind. No. 00586-2003

JEREMY PERKINS

*Defendant*

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Pursuant to CPL §240.20 demand is hereby made that you disclose within fifteen (15) days or make available to the undersigned the items, which follow below:

1. Any written, recorded or oral statement of the defendant allegedly made, other than in the course of the criminal transaction, to a public servant engaged in law enforcement activity or to a person then acting under his direction or in cooperation with him.

2. (a) Set forth the exact content of all statements allegedly made by the defendant in the presence of law enforcement officials prior to his arrest. If any such statements were committed to writing by Police Officers, provide defense counsel with copies of all police reports, memo book entries, and other notes or memoranda which refer to any such statement(s). If any such statements were committed to writing by other law enforcement officials, provide defense counsel with all reports, notes and memoranda, which refer to any such statements.

(b) State when, where and to whom each such statement was made.

(c) State the names and address (shield and command for law enforcement) of each person present at the making of each statement.

3. Any transcript of testimony relating to the criminal action or proceeding pending against the defendant, given by the defendant before any Grand Jury.

4. Any written report or document, or portion thereof concerning any physical or mental examination or scientific test or experiments relating to this criminal action or proceeding which was made by, or at the request or direction of, a public servant engaged in law enforcement activity or which was made by a person whom the People intend to call as a witness at trial, or which the prosecution intends to introduce at trial. This includes, but is in no way limited to, any fingerprint tests performed in connection with this case; any report or document involving or related to any medical, psychological, and/or psychiatric evidence or evaluation, even if said document or report is not intended to be offered in evidence at trial; and all medical, psychiatric and psychological records reflecting any treatment received by the complainant(s) for any injuries allegedly sustained in this case.

5. Any photograph or drawing relating to the criminal action or proceeding which was made or completed by or made or completed under the direction of a public servant engaged in law enforcement activity, which the prosecutor intends to call as a witness at trial or intends to introduce at trial:

(a) Include any and all photographs taken in connection with any identification procedure in which the defendant was a participant.

(b) Include any and all photographs, shown to any witness in this case, for the purpose of identifying the perpetrator and/or the defendant.

(c) Include any and all photographs, sketches, or drawings, regarding the scene of the crime, and/or any items of property involved in this case.

6. Any photographs, photocopy or other reproduction made by or at the direction of a police officer, peace officer or prosecutor or any property prior to its release pursuant to the provisions of §450.10 of the Penal Law, irrespective of whether the People intend to introduce at trial the property or the photographs, photocopy or other reproduction.

7. Any property allegedly obtained from the defendant.

(a) Specify the exact type of contraband, fruit, instrumentality or weapon recovered.

(b) Specify whether the said property was recovered from the person of the defendant, or from the defendant's residence.

(c) Specify whether the property was recovered by law enforcement officials, or by private citizens who subsequently turned it over to law enforcement officials.

(d) Provide defense counsel with the property voucher(s) of any other written listing, describing property.

8. Any photographic, audio and/or videotapes or other electronic recordings which the prosecutor intends to introduce at trial, irrespective of whether such recording was made during the course of the criminal transaction. This includes, but is not limited to any and all videotaped interviews of the alleged victim by the Erie County District Attorney's Office.

9. Anything required to be disclosed, prior to trial, to the defendant by the prosecution, pursuant to the Constitutions of the United States and the State of New York. This includes, but is not limited to, the following:

(a) All evidence within the custody or knowledge of the District Attorney's Office, which is favorable to the defendant, in accordance with *Brady v. Maryland*, 373 U.S. 83, *United States v. Argus*, 427 U.S. 97, which would include:

(i) Any police or detective reports which include inconsistent statements regarding the incident of statements wherein defendant's name was not mentioned. (*People v. Simmons*, 36 N.Y. 2d 126 (1975); *People v. Ambrose*, 52 A.D. 2d 850 (2<sup>nd</sup> Dept., 1976).)

(ii) Grand Jury testimony or statements to District Attorney which are inconsistent or fail to mention defendant as being involved in this incident. (*People v. Simmons, supra*; *People v. Ambrose, supra*.)

(b) All evidence within the custody or knowledge of the District Attorney's Office, which might tend to adversely affect the credibility of any eyewitnesses that the prosecution intends to call at trial, in accordance with *Giglio v. United States*, 405 U.S. 150. This would include:

(i) Any police or detective reports which include inconsistent statements regarding the incident of statements wherein the defendant's name was not mentioned. (*People v. Simmons*, 36 N.Y. 2d 126 (1975); *People v. Ambrose*, 52 A.D. 2d 850 (2<sup>nd</sup> Dept., 1976).)

(ii) Grand Jury testimony or statements to District Attorney which are inconsistent or fail to mention defendant as being involved in this incident. (*People v. Simmons, supra*; *People v. Ambrose, supra*.)

(iii) Whether any reward was given or any promises or inducements were made in relation to any rendition of the events leading to this Indictment. (*People v. Novoa*, 70 N.Y. 2d 490 (1987).)

10. The approximate date, time and place of each of the alleged offenses and of defendant's arrest.
11. Any and all medical, psychological and psychiatric records of the alleged victims pertaining to this criminal action proceeding.
12. Any and all photographs, videotapes and audiotapes pertaining to this criminal action or proceeding,
13. Any and all photographs, videotapes and audiotapes pertaining to this criminal action or proceeding, irrespective of whether the People intend to introduce at trial the property or the photographs, videotapes and audiotapes and photocopy or other reproduction of same.
14. Examination of any weapons allegedly used by the defendant and/or the codefendants to this criminal action or proceeding.
15. Any written report or document, or portion thereof, concerning a physical examination, a scientific test or experiment, including the most recent record or inspection, or calibration or repair of machines or instruments utilized to perform such scientific tests or experiments and the certification certificate, if any, held by the operator of the machine or instrument, which tests or examinations were made by or at the request or direction of a public servant engaged in law enforcement activity which was made by a person whom the prosecution intends to call as a witness at trial, or which the People intend to introduce at trial.

Pursuant to CPL §§240.20(2) and 240.40, the defendant requests that the prosecutor make a diligent, good faith effort to ascertain the existence of demanded property and to cause such

property to made available for discovery where it exists but is not within the Prosecutor's possession, custody or control, and fulfill his or her "continuing duty to disclose" as mandated by CPL §240.60

DATED: June 4, 2003  
Buffalo, NY

**JOHN R. NUCHERENO, ESQ.**  
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TO: **FRANK J. CLARK, III, ESQ.**  
Erie County District Attorney  
*Attorney for Plaintiff*  
*Office and P.O. Address*  
25 Delaware Avenue  
Buffalo, NY 14202  
**ATTN: KENNETH F. CASE, ESQ.**