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**IN THE SUPERIOR COURT OF WASHINGTON
FOR OKANOGAN COUNTY**

STATE OF WASHINGTON,)	Case No. 15-1-00202-1
)	
Plaintiff,)	MOTION TO DISMISS ALL CHARGES
)	
JAMES FAIRE,)	
)	
Defendant.)	
)	

COMES NOW, JAMES FAIRE, by and through counsel of record Stephen Pidgeon, Attorney at Law, pursuant to CrR 8.3(c) and moves this court to dismiss all of the charges against James Faire currently pending, due to egregious breaches of constitutionally protected rights of the defendant by the prosecution and for continued acts of prosecutorial misconduct.

EVIDENCE UPON WHICH DEFENDANT RELIES

Faire relies on the following:

1. The interviews of Ruth Brooks, Michael St. Pierre, Richard Finegold, and Boyd McPherson, which have been on this record for more than a year without objection.

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- 1 2. The statement of George Abrantes given to police investigators in June, 2015.
- 2 3. The Declaration of Greg Gilbertson in support of this motion.
- 3 4. The Declaration of Angela Faire in support of this motion.
- 4 5. The files and records herein.

5 **STATEMENT OF APPLICABLE FACTS**

6 Ruth Brooks and George Abrantes both state that prior to the confrontation event that
7 resulted in the death of Debra Long on June 18, 2015, Abrantes gave Ruth Brooks his I-Phone and
8 instructed her to make a video record of the event. Brooks took the phone and took a position in
9 front of the house to make such a video. Boyd McPherson states that he witnessed her holding the
10 phone during the event as though she was making such a video.

11 Faire was arrested on June 18, 2015, after he initiated a phone call to the Okanogan Sheriff’s
12 office to report an ambush and reported his location to them and awaited their arrival.

13 Professor Gilbertson, having reviewed the statements of the eye witnesses, has concluded that
14 Long, Abrantes, St. Pierre, Finegold and Brooks premeditated and executed the abduction of James
15 and Angela Faire in violation of RCW 9A.40.030. All of these parties were complicit in this
16 abduction, in violation of 9A.08.020.

17 George Abrantes, however, premeditated inflicting great bodily harm on James Faire when he
18 purchased 24” of heavy logging chain and a 3” padlock which he affixed to the end of the chain,
19 which at all material times he intended to use on James Faire. The witness statements indicate the
20 following facts in support of this:

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- 1 a. Abrantes had the opportunity to fix the chain and lock on the gate at least 30 minutes
2 before the Faires arrived and did not do so. Instead, the group affixed a “Posted” sign on
3 the right-hand gate, and left the gates open in order to ensure the Faires would be on the
4 property when they confronted them.
- 5 b. Abrantes then prepared a sign in red paint, that read: “You Both are White Trash SCUM!
6 Fuck You Both!!” The investigating officers did not take this sign into evidence but left it
7 at the scene.
- 8 c. Abrantes, when he learned that the Faires had been spotted, immediately grabbed the
9 heavy chain with the lock when he went out the door.
- 10 d. When Faire stepped out of his truck to retrieve his things, Abrantes approached him,
11 swinging the chain.
- 12 e. When Faire secured enough time to retreat, Abrantes unleashed powerful and deadly
13 blows to the truck, attempting to inflict great bodily harm or to murder James Faire.

14 At no time, did any of the other parties – Finegold, Brooks, St. Pierre or Long – advise
15 Abrantes to put the chain down or to stop inflicting death blows to Faires’ truck.

16 Faire started his truck and, being blocked by Debra Long from going forward, began to back
17 up his truck. Debra Long, for one reason or another then squatted down in front of the truck,
18 possibly to avoid the shattering glass of the mirror which was destroyed by Abrantes’ blows.
19 Abrantes directed one powerful blow directly at head level of the driver’s window, which nearly
20 shattered the three-inch padlock and put a significant dent in the steel of the truck’s doorpost at head
21 level.

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1 Faire, ducking to avoid blows of a chain directed at his head through the windshield,
2 managed to back up at least three times. When he turned to look forward, no one was in his view.
3 He then put the truck in forward and pulled forward to escape the certain death intended by George
4 Abrantes.

5 Debra Long was then caught under the wheels and died. Abrantes' attack was the proximate
6 cause of her death, and his actions together with the complicity of the other actors to kidnap the
7 Faires creates liability for First Degree Felony Murder, pursuant to RCW 9A.32.030(1)(c).

8 On June 23, 2015, Abrantes' cell phone was finally taken into evidence. There was no chain
9 of custody for this phone, and the phone was taken by then-prosecutor Karl Sloan. Sloan, on his own
10 recognizance, then returned the phone to Abrantes the following day, alleging that no video was
11 found on the phone. It is believed that the phone did in fact contain a video of the event, that the
12 video was 35 seconds long, and that it was erased. Sloan acted unilaterally, without review or
13 supervision by the court, to deny exculpatory evidence to Faire.

14 However, on March 28, 2018, Stephen Pidgeon, attorney for James Faire, and Professor Greg
15 Gilbertson, the expert witness identified in this case, visited with Detective Kreg Sloan (Karl Sloan's
16 older brother), Gale Walker (evidence custodian for the Okanogan Sheriff's Department) and
17 prosecutor Branden Platter to review certain items of evidence in custody at the Okanogan Sheriff's
18 Department.

19 As is reported by Gilbertson, Kreg Sloan reported that the data from the phone of George
20 Abrantes, the phone of Debra Long, and the I-Pad of Angela Faire had been "dumped" and retained
21 on the department's computer. On March 28, 2018, Kreg Sloan did not report any computer crash,
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1 nor did he even intimate that there was any issue whatsoever with the data dump, yet on April 26,
2 2018, the prosecutor reported that all of the data had been lost pursuant to a “computer crash”. He
3 did not indicate whether the Okanogan County Sheriff’s Department backed up their data.

4 During this review, Prosecutor Platter indicated his theory of the charges he has brought
5 against Faire depended on the timing of the blows of the chain, implying that he has had personal
6 discussions with Abrantes and that he has rehearsed Abrantes’ testimony for trial. It is noteworthy
7 that Prosecutor Platter did not attend the unrecorded interview of Abrantes in March 2017.

8 On April 23, 2018, a status hearing was held, and Faire informed the court that Abrantes had
9 given a notice of relocation in the King County Case, *Faire v. Finegold*, indicating that he had
10 moved to an undisclosed location in Pennsylvania, leaving no forwarding address, and then declared
11 that he could not afford to return to Washington. Prosecutor Platter, however, immediately indicated
12 to the court that he was certain he could and would produce Abrantes at trial.

13 Faire then requested a pretrial interview of Abrantes, as Abrantes had refused to allow his
14 previous interview to be recorded. Prosecutor Platter has refused such an interview, claiming the
15 unrecorded interview (which he did not attend) was sufficient. Faire therefore alleges *ex parte*
16 contact with this witness, and violations of the rule imposed in *Brady v. Maryland*, 373 U.S. 83, 83
17 S.Ct. 1194, 10 L.Ed.2d 215 (1963).

18 “[S]uppression by the prosecution of evidence favorable to an accused upon request violates
19 due process where the evidence is material either to guilt or to punishment, irrespective of the good
20 faith or bad faith of the prosecution.” *Id.* at 87, 83 S.Ct. 1194.

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1 The delivery of the cell phone of Abrantes back to Abrantes is an irretrievable error. As the
2 declaration of Angela Faire indicates, this cell phone also contained numerous text messages
3 between Abrantes and Debra Long, and may also have included photos, in addition to a video of the
4 event which Karl Sloan indicates was not present on the phone. It is a certainty that the video was not
5 present on the phone after Karl Sloan broke custody of the item of evidence, and it is certain that a
6 forensic audit is no longer available to determine if a video ever was present on the phone, given that
7 Sloan unilaterally determined that the evidence was no longer of any value, returned the same to
8 Abrantes, and the phone is now gone.

9 *Ex parte* contact with Abrantes is not the only *ex parte* contact initiated by the prosecutor,
10 and Sloan is not the only offending party. Branden Platter, in his declaration of January 1, 2018
11 provided to this court in support of his motion to amend the information, stated as follows:

12 “Finally, after listening to witness interviews and speaking with Mr. Finegold . . .” Motion
13 and Declaration for Order to Amend Information, page 3, lines 6-7.

14 Here, Prosecutor Platter openly admits to at least one *ex parte* communication with Richard
15 Finegold, a material witness in the case against James Faire. Faire has reason to believe that there are
16 one or more undisclosed interviews of Richard Finegold, Finegold’s attorney Larry Barokas, George
17 Abrantes, and possibly Ruth Brooks, Michael St. Pierre and Karl Sloan. Faire has demanded
18 information concerning these interviews, and as of today, Platter has refused to disclose information
19 on these interviews.

20 In his own declaration, Prosecutor Platter acknowledges that Finegold gave material
21 misinformation to the police in a 9-1-1 call, claiming there was a “break-in” when he knew there was
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1 no break-in; claiming trespass, when Finegold later admitted that he had given permission not only
2 to enter the property, but to enter the residence, including giving Faire a key. Finegold admitted that
3 he gave a false report in his interview, which was recorded. Finegold also gave a false report to
4 Deputy Pekter of the Sheriff's Department on June 17, 2015, claiming that he had only received
5 \$3,000 of the \$9,200 GoFundMe account, when he later admitted to Platter that he had received at
6 least \$5,750 of this account directly. Finegold had no legal right to any of these funds, yet
7 Prosecutor Karl Sloan saw fit to charge Faire with First Degree Theft and to force him to stand at
8 jeopardy over this charge for two-and-a-half years. Prosecutor Platter then amended the charge to
9 Theft in Second Degree although he knew he was without proper venue to do so. Neither Platter nor
10 Sloan ever saw fit to charge Finegold with theft, although he made off with the bulk of this account
11 by his own admission; nor has Platter seen fit to charge Finegold with giving a false report. Nor has
12 Platter or Sloan given any thought to charging Finegold with the conversion of the \$75,000 worth of
13 property that James Faire had stored at the Sourdough location. Snohomish County summarily
14 dismissed the frivolous theft charge brought by Platter against James Faire in January 2018.

15 We have sought "any reports submitted to the Prosecuting Attorney by expert witnesses, if
16 any" since the filing of the Notice of Appearance in this case, yet Prosecutor Platter in a continuous
17 pattern of sandbagging, has refused to disclose the forensic reports from the Washington State Crime
18 Lab, has refused to schedule interviews with material witnesses Jody Pries and Alex Rion (while he
19 now demands that Faire produce summaries of their expected testimony); has refused to allow a
20 recorded interview of the state's chief witness George Abrantes; and is resisting an interview with
21 Okanogan County Sheriff Rogers. Platter has also failed to provide summaries of expected
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1 testimony of all of his proposed witnesses, which demanding that the defendant make such
2 statements immediately available. See Defendant’s Amended Witness List.

3 On April 25, 2018, Prosecutor Platter informed Faire that the data dump of Abrantes’ phone,
4 Long’s phone, and Angela Faire’s I-Pad had been lost because the computer storing the information
5 had “crashed.” While the I-Pad and Long’s phone continue to remain in the custody of the Sheriff’s
6 office (although the chain of custody had been broken long ago), Abrantes’ phone is permanently
7 lost, and Faire is permanently deprived of the exculpatory evidence contained thereon. Prosecutor
8 Platter intends that Faire should believe that the Okanogan Sheriff’s Department has no back-up or
9 does not back-up its critical evidence files, particularly files that contain evidence in respect of the
10 charge of first degree murder.

11 Abrantes’ phone might have been discoverable during the first few months of Faires’
12 incarceration in 2015. Yet, following the departure of attorney Nicholas Blount on August 18, 2015,
13 every single public defender in Okanogan County refused to file a Notice of Appearance on Faire’s
14 behalf in violation of the existing order of the court, the criminal rules and the local rules – let alone
15 undertake any form of defense such as crime scene investigation or a review of the evidence. In
16 short, Faire was deprived of effective assistance of counsel, and counsel in general for five months
17 while he was incarcerated, only to discover two-and-a-half years later that the State could not
18 maintain even one of the charges on which he was held. None of the five charges initially brought by
19 Sloan are pending; and of the four amended charges, Prosecutor Platter has already been required to
20 dismiss the theft charge. Platter’s behavior – given that the state seeks to incarcerate James Faire for
21 life – is unprofessional, unethical, and appears to be done to aid and abet the criminal actions of
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1 George Abrantes, Richard Finegold, Ruth Brooks and Michael St. Pierre, while denying James Faire
2 even the most basic form of due process.

3 **POINTS AND AUTHORITIES**

4 A violation of the rule promulgated in *Brady* and its progeny is a violation of constitutional
5 due process. *See Brady*, 373 U.S. at 87, 83 S.Ct. 1194. In *Brady*, the United States Supreme Court
6 articulated the government's disclosure obligations in a criminal prosecution: “the suppression by the
7 prosecution of evidence favorable to an accused upon request violates due process where the
8 evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the
9 prosecution.” *Brady*, 373 U.S. at 87, 83 S.Ct. 1194. In subsequent years, the Supreme Court
10 expanded the *Brady* rule's reach. Favorable evidence under *Brady* now includes not only exculpatory
11 evidence but also impeachment evidence. *Giglio v. United States*, 405 U.S. 150, 154-55, 92 S.Ct.
12 763, 31 L.Ed.2d 104 (1972). *Brady* obligations extend not only to evidence requested by the defense
13 but also to favorable evidence not specifically requested by the defense. *United States v. Agurs*, 427
14 U.S. 97, 110, 96 S.Ct. 2392, 49 L.Ed.2d 342 (1976). **The government must disclose not only the**
15 **evidence possessed by prosecutors but evidence possessed by law enforcement as well.** *Kyles v.*
16 *Whitley*, 514 U.S. 419, 437, 115 S.Ct. 1555, 131 L.Ed.2d 490 (1995). Karl Sloan knew or should
17 have know that the data was present on the Sheriff’s computer, yet, did not provide the same to the
18 defendant, even when demanded in the Notice of Appearance filed by Stephen Pidgeon in this case
19 in January 2016.

20 “[E]vidence is material only if there is a reasonable probability that, had the evidence been
21 disclosed to the defense, the result of the proceeding would have been different. A `reasonable
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1 probability' is a probability sufficient to undermine confidence in the outcome.” *United States v.*
2 *Bagley*, 473 U.S. 667, 682, 105 S.Ct. 3375, 87 L.Ed.2d 481 (1985).

3 The terms *material* and *prejudicial* are used interchangeably. *United States v. Price*, 566 F.3d
4 900, 911 n. 12 (9th Cir.2009) (quoting *Benn v. Lambert*, 283 F.3d 1040, 1053 n. 9 (9th Cir.2002)).
5 Evidence is *prejudicial* or *material* “if there is a reasonable probability that, had the evidence been
6 disclosed to the defense, the result of the proceeding would have been different.” *Kyles*, 514 U.S. at
7 433-34, 115 S.Ct. 1555 (quoting *Bagley*, 473 U.S. at 682, 105 S.Ct. 3375 (opinion of Blackmun, J.)).
8 A *reasonable probability* is shown if the suppression of the nondisclosed evidence “undermines
9 confidence in the outcome of the trial.” *Id.* at 434, 115 S.Ct. 1555 (quoting *Bagley*, 473 U.S. at 678,
10 105 S.Ct. 3375).

11 Prosecutorial misconduct is established when the defendant shows that the conduct
12 complained of was both improper and prejudicial. *State v. Mak*, 105 Wash.2d 692, 726, 718 P.2d 407
13 (1986); *State v. Luvene*, 127 Wash.2d 690, 701, 903 P.2d 960 (1995). Prosecutor Platter has no
14 intention of giving James Faire a fair trial. Instead, he is withholding evidence he intends to use at
15 trial from the defense prior to trial in order to ambush Faire at trial. He resists all attempts of Faire to
16 obtain both inculpatory evidence and exculpatory evidence in the hands of the state, and has stalled
17 and stonewalled *for months* the defenses demand for discovery. Karl Sloan was ordered by the court
18 in 2017 to facilitate interviews with Alex Rion and Jody Pries – to date, Prosecutor Platter has still
19 failed to facilitate such an interview.

20 The Appellate Court reviews a trial court's decisions as to the admissibility of evidence under
21 an abuse of discretion standard. *E.g.*, *State v. Pirtle*, 127 Wash.2d 628, 648, 904 P.2d 245 (1995),
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1 *cert. denied*, ___ U.S. ___, 116 S.Ct. 2568, 135 L.Ed.2d 1084 (1996); *State v. Powell*, 126 Wash.2d
2 244, 258, 893 P.2d 615 (1995) (this court will not disturb a trial court's rulings on a *motion in limine*
3 or the admissibility of evidence absent an abuse of the court's discretion); *State v. Swan*, 114
4 Wash.2d 613, 658, 790 P.2d 610 (1990) (the admission and exclusion of relevant evidence is within
5 the sound discretion of the trial court and the court's decision will not be reversed absent a manifest
6 abuse of discretion). “The trial court is in the best position to most effectively determine if
7 prosecutorial misconduct prejudiced a defendant's right to a fair trial.” *Luvene*, 127 Wash.2d at 701,
8 903 P.2d 960 (*quoting Lord*, 117 Wash.2d at 887, 822 P.2d 177).

9 Abrantes phone contained at a minimum text messages between him and Debra Long. See
10 Declaration of Angela Faire. These messages likely indicate an intent to harm or confront Faire and
11 his wife; indicate the premeditation of the kidnapping of the same; indicate the intent to acquire a
12 deadly weapon; indicate the intent to stage an event on the property; indicate the intent to demonize
13 Faire; and a host of other items demonstrating *mens rea* (an evil state of mind) on the part of both
14 Abrantes and Long.

15 Abrantes phone contained either a video or pictures of the event, which may have been
16 “erased” but which might have been retrieved by means of a forensic audit.

17 Each of these items would be exculpatory and would readily demonstrate the timing of
18 Abrantes’ vicious attack on Faire and his truck and would end Abrantes’ attempt to distort the timing
19 in an effort to disguise his own criminal and exceedingly violent behavior.

20 Furthermore, copies of the discussions and interviews between the prosecutor and Finegold,
21 Finegold’s attorney, Karl Sloan, and George Abrantes may also prove exculpatory, as they could


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1 reveal that 1) Finegold previously intentionally gave a false report in order to demonize Faire to law
2 enforcement prior to the confrontation event planned by Long; 2) Larry Barokas (Finegold's
3 attorney) may have counseled Prosecutor Platter amounting to improper influence in this case,
4 witness tampering, and may constitute complicity in denying Faire's constitutionally protected rights
5 of due process; 3) Karl Sloan acted unilaterally to deprive Faire of exculpatory evidence and may
6 have entered into an agreement to protect Abrantes from prosecution in exchange for fixed
7 testimony; and 4) Abrantes' testimony may be permanently tainted because of witness tampering.

8 Pursuant to CrR 4.7(h)(7)(i) - *If at any time during the course of the proceedings it is brought*
9 *to the attention of the court that a party has failed to comply with an applicable discovery rule or an*
10 *order issued pursuant thereto, the court may dismiss the action or enter such other order as it deems*
11 *just under the circumstances.*

12 Pursuant to CrR 4.7(h)(7)(ii) - *Willful violation by counsel of an applicable discovery rule or*
13 *an order issued pursuant thereto may subject counsel to appropriate sanctions by the court.* The
14 actions of the prosecutor's office in this case are extraordinary, cumulative, and humiliating to the
15 state and to this court. They are also highly prejudicial to the defendant and represent multiple
16 violations of his right to due process. Given the condition of this case, this court should dismiss this
17 action once and for all, and with prejudice.

18 Dated this 27th day of April 2018.


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STEPHEN PIDGEON, WSBA#25265
Attorney at Law, P.S.

1 **CERTIFICATE OF SERVICE**

2 The undersigned now certifies that the foregoing was served on the following:

3 Branden E. Platter
4 Prosecuting Attorney
5 Okanogan County Prosecuting Attorney’s Office
6 P.O. Box 1130/ 237 Fourth Avenue North
7 Okanogan, WA 98840

8 by personal hand delivery this 30th day of April 2018.

9 
10 _____
11 STEPHEN PIDGEON, WSBA#25265
12 Attorney at Law, P.S.