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COUNSEL FOR STATE

**MONTANA FIFTH JUDICIAL DISTRICT COURT
 MADISON COUNTY**

STATE OF MONTANA, Plaintiff, v. JESSE MICHAEL BOYD, BETHANY GRACE BOYD, CARTER NORMAN PHILLIPS, ERIC ANTHONY TRENT, Defendant(s).	Cause No(s). DC-29-2022-23 DC-29-2022-24 DC-29-2022-22 DC-29-2022-26 STATE'S FIRST MOTION TO COMPEL AND BRIEF IN SUPPORT
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MOTION

COMES NOW the State of Montana, by and through Assistant Attorney General Thorin A. Geist and Madison County Attorney David Buchler, and hereby move the District Court for an *Order to Compel*:

1. Requiring the immediate identification of contact information for all witnesses that the Defendants intent to call at trial, including those who will be called in support of their affirmative defense.
2. Requiring the immediate production of all papers, documents, photographs, and all other tangible objects that the Defendants may use at trial.

The undersigned has attempted to contact counsel for the Defendants and presumes that this *First Motion to Compel* is **opposed**.

BRIEF IN SUPPORT

1. On November 28, 2022, the State of Montana filed a *Motion for Leave to File Information and Affidavit in Support* (hereinafter “MFL”) seeking to charge Defendants, Jesse Michael Boyd, Bethany Grace Boyd, and Carter Norman Phillips with Assault with a Weapon, a felony in violation of §§ 45-5-213(1)(a) and (2)(a), MCA. *MFL* at pp. 1-4 (Ct. Doc. #1¹). Defendant Eric Anthony Trent with Accountability for Assault with a Weapon, a felony in violation of §§ 45-5-213(1)(a) and (2)(a), 45-2-301 and 302. *MFL* at pp. 1-4 (Ct. Doc. #1).
2. On November 28, 2022, the District Court reviewed the *MFL* and determined that there was sufficient probable cause to support the charges against each of the Defendants. *Or.* at p. 1 (Ct. Doc. #2). The

¹ Each of the cases have been consolidated and the document numbers are referenced as they appear in *State of Montana v. Jesse Michael Boyd*, DC-22-23.

State's *Information* was filed the same day. *Info.* at pp. 1-2 (Ct. Doc. #3). *Minutes* at p.1 (Ct. Doc. #38).

3. On January 23, 2023, the Defendants appeared before the District Court and plead not guilty to the charged offenses.
4. On February 22, 2023, the Defendants provided their *Defendant's Disclosures*, attached hereto as **Exhibit 1**², identifying: (1) 81 lay witnesses who they intend to call in support of their affirmative defense of Justifiable Use of Force; and (2) various pieces of physical evidence.

II. Discussion.

- a. **The Defendants should be ordered to immediately provide contact information for all witnesses that the Defendants intent to call at trial, including those who will be called in support of their affirmative defense.**

The Defendants discovery obligations are set forth in § 46-15-323, MCA, and in pertinent part provide:

(2) Within 30 days after the arraignment or at a later time as the court may for good cause permit, the defendant shall provide the prosecutor with a written notice of the defendant's intention to introduce evidence at trial of good character or the defenses of alibi, compulsion, entrapment, justifiable use of force, or mistaken identity.

...

(4) The notice must specify for each defense the names and addresses of the persons, other than the defendant, whom the

² The disclosures were not filed with the District Court.

defendant may call as witnesses in support of the defense, together with all written reports or statements made by them, including all reports and statements concerning the results of physical examinations, scientific tests, experiments, or comparisons, except that the defendant need not include a privileged report or statement unless the defendant intends to use the privileged report or statement, or the witness who made it, at trial.

...

(6) Within 30 days after the arraignment or at a later time as the court may for good cause permit, the defendant shall make available to the prosecutor for testing, examination, or reproduction:

(a) the names, addresses, and statements of all persons, other than the defendant, whom the defendant may call as witnesses in the defense case in chief, together with their statements.

§ 46-15-323(2),(4), (6), MCA.

Montana law also provides that a party fails to comply with its discovery obligation, the District Court may impose an sanction that it finds just under the circumstances, including but not limited to:

(1) ordering disclosure of the information not previously disclosed;

...

(3) holding a witness, party, or counsel in contempt for an intentional violation;

(4) precluding a party from calling a witness, offering evidence, or raising a defense not disclosed; or

§ 46-15-329, MCA.

On February 22, 2023, the Defendants provided notice of their intent to rely on the affirmative defense of Justifiable Use of Force in Defense of Person (§ 45-3-102, MCA) in accord with § 46-15-323(2), MCA. The Defendants

identified 81 witnesses who will purportedly be called to testify in support of their affirmative defense. Of these witnesses, 9 were present or were involved in the investigation resulting therefrom.³ The 72 remaining witnesses⁴, including bizarrely a legal entity, a family, and a business⁵, were also identified but without the requisite contact information required by § 46-15-323(2) and (4), MCA. The State advised the Defendants of their error on February 23, 2023, and the Defendants have not remedied their error. As such, the Defendants should be ordered to immediately provide contact information and statements for all witnesses that the Defendants intent to call at trial, including those who will be called in support of their affirmative defense, pursuant to §§ § 46-15-323(2), (4), (6) and 46-15-329, MCA.

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³ (1) Sheriff Duncan Hedges; (2) Deputy Tim Jurgonski; (3) Deputy Daniel Wyatt; (4) Deputy Alex Winn; (5) Deputy Leah Cox; (6) Officer Brent Fisher; (7) Warden Robbie Pohle; (8) 911 Dispatcher #1; (9) 911 Dispatcher #2).

⁴ (1) Michael Montford; (2) Dave Laclair; (3) Tracy Montford; (4) Joseph Thornock; (5) Nathan Nutter; (6) Bradley Garland; (7) John Christian; (8) Dexter Baker; (9) Stephanie Miller; (10) Dallin Kemp; (11) Jake Thornock; (12) John Thornock; (13) Former Deputy Chris Tenny; (14) Christine Keltner; (15) Jennifer Martens; (16) Trooper Amanda Villa; (17) Robert Baty; (18) Stephanie Merrell; (19) Steve Christian; (20) Linda Stewart; (21) Patricia Nichols; (22) Joyce Michelle; (23) Thomas Gough; (24) John Lawrence Green; (25) Glenn Elder; (26) Cheryl Elder; (27) Bo Collins; (28) Helen Collins; (29) Wanda Bies; (30) David Hoyer; (31) Autumn Hoyer; (32) Paul Straszewski; (33) Julie Straszewski; (34) Cassidy Straszewski; (35) John W. Conner; (36) Daniel Omstead; (37) Francis Murphy; (38) Patricia Murphy; (39) Vickie L. Wrigley; (40) William Hammond; (41) David LaClair; (42) Steven Shiffley; (43) Rachel Holden; (44) Germain Holden; (45) Samuel Robert Broadus; (46) Thomas Hardeman; (47) Paula Hardeman; (48) Samuel Chicol; (49) Harold Chicol; (50) Pamela Sue Chicol; (51) Richard Devito, Jr.; (52) Donald Limes; (53) Charlene Limes; (54) Ronald W. Yates; (55) Richard V. Spielman; (56) Marvin Cutshaw; (57) Laney Cutshaw; (58) Rhonda Cutshaw; (59) Daniel Stewart; (60) Peter J Darus; (61) Deanna G. Darus; (62) Josef Najah; (63) David Hoyer; (64) Autumn Hoyer; (65) Brandon Brooks; (66) Gregory Brooks; (67) Jessa Ann Brooks (68) Thomas Wehrfritz; (69) Martin Wehrfritz.

⁵ (70) Ohrt Family Trust; (71) Shirley Family; (72) Kenyon Noble Lumber Bozeman.

- b. The Defendants should be ordered to immediately produce all papers, documents, photographs, and all other tangible objects that the Defendants may use at trial.**

(6) Within 30 days after the arraignment or at a later time as the court may for good cause permit, the defendant shall make available to the prosecutor for testing, examination, or reproduction:

...

(c) all papers, documents, photographs, and other tangible objects that the defendant may use at trial.

§ 46-14-323(6), MCA.

On February 22, 2023, the Defendants identified the following papers, documents, photographs, and other tangible evidence:

1. Defendants have several photos of the scene.
2. Defendants will introduce Jesse Boyd's broken eyeglasses as evidence.
3. Defendants will introduce photographs and video taken at the scene, including photos showing the driving and parking situation on US 287.
4. Defendants will introduce all known cellular phone data regarding the incident.
5. Defendants will introduce Apple watch data regarding the incident.

Defendant's Disclosure at p.3.

Despite identifying the existence of such evidence, it has not yet been provided to the State. As such, the Defendants should be ordered to immediately provide all papers, documents, photographs, and all other tangible objects that the Defendants may use at trial pursuant to §§ 46-14-323(6) and 46-15-329, MCA.

III. Conclusion.

Based on the foregoing, the State of Montana respectfully requests that the District Court issue an *Order to Compel*:

1. Requiring the immediate identification of addresses of all witnesses that the Defendants intent to call at trial, including those who will be called in support of their affirmative defense. pursuant to § 46-15-323, MCA.
2. Requiring the immediate production of the production of all papers, documents, photographs, and all other tangible objects that the Defendants may use at trial pursuant to § 46-15-323, MCA.

DATED this 27 day of February, 2023.

By: 

THORIN A. GEIST

DAVID BUCHLER

Attorney for the State of Montana

EXHIBIT 1

Geist, Thorin

From: John Pierce <jpierce@johnpiercelaw.com>
Sent: Wednesday, February 22, 2023 8:28 PM
To: Geist, Thorin
Subject: [EXTERNAL] Defendant disclosures

Thorin, please see attached disclosures as required, thank you.

Alexander L. Roots
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21550 Oxnard Street
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Attorneys for Defendants

**MONTANA FIFTH JUDICIAL DISTRICT COURT,
MADISON COUNTY**

STATE OF MONTANA,)	Cause Nos. DC-29-2022-022
)	DC-29-2022-023
Plaintiff,)	DC-29-2022-024
vs.)	DC-29-2022-026
JESSE MICHAEL BOYD, BETHANY GRACE BOYD,)	
CARTER NORMAN PHILLIPS, and ERIC ANTOHONY)	
TRENT,)	
Defendants.)	DEFENDANTS' DISCLOSURES

Defendants Jesse M. Boyd ("Boyd"), Carter N. Phillips ("Phillips"), Bethany Boyd ("Bethany"), and Eric Trent ("Trent"), by and through their counsel of record, hereby provide the following disclosures pursuant to [46-15-323, MCA](#).

(2) Defendants assert the defense of justifiable use of force.

(3) Defendants assert **no** mental disease or disorder.

Defense witness list.

Michael Montford
Dave Laclair

Tracy Montford
Joseph Thornock
Nathan Nutter
Bradly Garland
John Christian
Dexter Baker
Stephanie Miller
Dallin Kemp
Jake Thornock
John Thornock
Robbie Pohle, game Warden
Daniel Wyatt, deputy
Alex Winn, sergeant/ deputy
Chris Tenny, ex deputy
Leah cox, deputy
Tim Jurgonski, deputy/ SAR
Duncan Hedges, currently Sheriff
Christine Keltner, sheriff's department
Jennifer Martens, DEC clerk
Amanda Villa , highway patrol
911 dispatcher #1
911 dispatcher #2
Officer Fisher, Ennis police
Robert Baty
Stephanie Merrell
Steve Christian
Linda Stewart
Patricia Nichols
Joyce Michelle
Thomas Gough
John Lawrence Green
Glenn Elder
Cheryl Elder
Bo Collins
Helen Collins
Wanda Bies
David Hoyer
Autumn Hoyer
Ohrt Family Trust
Paul Straszewski
Julie Straszewski
Cassidy Straszewski
John W Conner
Daniel Omstead
Francis Murphy
Patricia Murphy
Vickie L Wrigley
Shirley Family
William Hammond
David LaClair
Steven Shiffley
Rachel Holden

Germain Holden
Samuel Robert Broaddus
Thomas Hardeman
Paula Hardeman
Samuel Chicol
Harold Chicol
Pamela Sue Chicol
Richard Devito, Jr
Donald Limes
Charlene Limes
Ronald W Yates
Richard V Spielman
Marvin Cutshaw
Laney Cutshaw
Rhonda Cutshaw
Daniel Stewart
Peter J Darus
Deanna G Darus
Josef Najah
David Hoyer
Autumn Hoyer
Brandon Brooks
Gregory Brooks
Jessa Ann Brooks
Thomas Wehrfritz
Martin Wehrfritz
Kenyon Noble lumber Bozeman

(6) Expert witnesses. (Note that defendants are in the process of finalizing their expert witnesses. Defendants may call a use-of-force expert, whose name is TBA). Defendants may also call Gary Marbut of the Montana Shooting Sports Association as an expert regarding Montana gun laws and self-defense statutes.

(c) Defendants have several photos of the scene. Additionally, defendants will use all of the photos and videos provided by the State.

(7) The defendant's obligation under this section extends to material and information within the possession or control of the defendant, defense counsel, and defense counsel's staff or investigators.

EXHIBITS

Defendants will use all of the evidence provided by the State in discovery, including bodycam, dashcam, 9-1-1 call and other recordings and images.

Defendants will introduce Jesse Boyd's broken eyeglasses as evidence.

Defendants will introduce photographs and video taken at the scene, including photos showing the driving and parking situation on US 287

Defendants will introduce all known cellular phone data regarding the incident.

Defendants will introduce Apple watch data regarding the incident.

Defendants will offer or introduce all police reports gathered by investigators in the case.

Defendants may utilize any exhibits on the prosecution's exhibit list as their own exhibits.

Defendants may call any witness on the prosecution's witness list as their own witnesses.

Sincerely,

John Pierce

Respectfully,

Roger Roots
Partner-John Pierce Law
21550 Oxnard Street
3rd Floor PMB #172
Woodland Hills, CA 91367



JOHN PIERCE LAW

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CERTIFICATE OF SERVICE

I, Thorin Aidan Geist, hereby certify that I have served true and accurate copies of the foregoing Motion - Motion to Compel to the following on 02-27-2023:

Alexander Louis Roots (Attorney)
27 N Tracy Ave
P.O. Box 1
Bozeman MT 59771
Representing: Jesse Michael Boyd
Service Method: eService

David A. Buchler (Govt Attorney)
P.O. Box 73
100 W. Wallace Street
Virginia City MT 59755
Representing: State of Montana
Service Method: eService

John M. Pierce (Attorney)
21550 Oxnard Street, 3rd Floor PMB #172
Woodland Hills 91367
Representing: Jesse Michael Boyd
Service Method: Email

Electronically signed by Maggie Sowisdral on behalf of Thorin Aidan Geist
Dated: 02-27-2023