

GROUNDS FOR GRANTING DISCOVERY

In North Carolina, a defendant in post-conviction proceedings is entitled to discovery as follows:

In the case of a defendant who is represented by counsel in postconviction proceedings in superior court, the defendant's prior trial or appellate counsel shall make available to the defendant's counsel their complete files relating to the case of the defendant. The State, to the extent allowed by law, shall make available to the defendant's counsel the *complete files of all* law enforcement and prosecutorial agencies involved in the investigation of the crimes committed or the prosecution of the defendant. If the State has a reasonable belief that allowing inspection of any portion of the files by counsel for the defendant would not be in the interest of justice, the State may submit for inspection by the court those portions of the files so identified. If upon examination of the files, the court finds that the files could not assist the defendant in investigating, preparing, or presenting a motion for appropriate relief, the court in its discretion may allow the State to withhold that portion of the files.

N.C. Gen. Stat. § 15A-1415(f) (2014) (emphasis added).

Post-conviction counsel for Mr. Carver has never had the opportunity to view the complete files of the State's investigation and prosecution of this case, pursuant to N.C. Gen. Stat. § 15A-1415(f).

The investigation and prosecution of this case was conducted by the Gaston County District Attorney's Office, the Mount Holly Police Department, the Gaston County Police Department, the Belmont Police Department, the Richland County Sheriff's Department, the North Carolina State Bureau of Investigation, the Federal Bureau of Investigation, and the North Carolina State Crime Laboratory.

WHEREFORE, Defendant requests that this Court grant the following relief:

1. Entry of an order granting Defendant's motion to preserve and produce evidence;
2. Entry of an order instructing the Gaston County District Attorney's Office, the Mount Holly Police Department, the Gaston County Police Department, the Belmont Police Department, the Richland County Sheriff's Department, the North Carolina State Bureau of Investigation, the Federal Bureau of Investigation, and the North Carolina State Crime Laboratory to locate and preserve all physical evidence collected, received, analyzed, kept, or maintained by each respective office during the investigation of the case;
3. Entry of an order instructing the Gaston County District Attorney's Office, the Mount Holly Police Department, the Gaston County Police Department, the Belmont Police Department, the Richland County Sheriff's Department, the North Carolina State

Bureau of Investigation, the Federal Bureau of Investigation, and the North Carolina State Crime Laboratory to produce for inspection and copying by the North Carolina Center on Actual Innocence, as counsel for Defendant, a complete copy of each respective department's investigative file including, but not limited to, all notes, files, records, documents, writings, memorandums, recordings or data compilations in any form, in the possession, custody or control of each respective agency, which refer to or relate in any way to the murder of Irina Yarmolenko, including all documents related to Defendant or any of the matters investigated therein;

4. Entry of an order instructing all agencies, officials, officers, agents, employees, attorneys and political subdivisions thereof, involved in the investigation and/or prosecution of the above-captioned case to fully comply within thirty days of the date of the order.

Respectfully submitted, this the 20th day of March, 2017.



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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that the foregoing *Motion to Preserve and Produce Evidence* was filed with the Gaston County Clerk of Court and a copy of the foregoing was served upon the party listed below on the date indicated below, via the United States Postal Service:

Mr. Locke Bell
Gaston County District Attorney
Gaston County Courthouse
325 North Marietta Street, 2nd Floor
Gastonia, NC 28052

This the 20th day of March, 2017.



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