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By Facsimile

Re: **State of Delaware v. John C. Johnson**
ID # 9908026980

Submitted: April 27, 2001
Decided: May 1, 2001

On Defendant's "Motion to Compel Discovery." DENIED.

Dear Counsel:

Pending before this Court in the above capital murder case is Defendant's April 22, 2001 Motion to Compel. In that motion, Defendant seeks an order requiring "the State to provide the defense with the names and addresses of those person[s] interviewed by the police who either saw or overheard the events immediately preceding and following the [fatal] shooting" of Theodore Smallwood (the victim).¹ Defendant states that he needs this information since he will be relying on a "justification" defense at trial.² This Court has also considered the

¹Defendant's Motion at 1.

² 11 *Del. C.* § 464.

State's April 27, 2001 Response thereto. For the reasons set forth below, Defendant's motion is **DENIED**.

Defendant contends that this request is "not a so-called 'fishing expedition' on the part of [] Defendant" as it is "necessary for the defendant to interview the above-referenced witnesses in order to thoroughly prepare for the impending trial" ³ The State contends that "[t]he information requested by the defense . . . is discoverable only under either Rule 16 or *Brady*. . . [and that] [t]he information requested does not fall within either category." ⁴ The State also contends that "[n]ot only is it not discoverable under Rule 16, the statements or state witnesses is specifically excluded under Superior Court Criminal Rule 16(a)2." ⁵

As the State asserts in its Response, Defendant has not alleged any rule, statute or case supportive of his Motion to Compel. The information Defendant requests, specifically the "names and addresses of those persons interviewed by the police who either saw or overheard the events immediately preceding and following the shooting," is not discoverable under Super. Ct. Crim. R. 16. ⁶ No showing has otherwise been made by Defendant that the names and addresses of the above persons are discoverable materials pursuant to *Brady v. Maryland*. ⁷

For the reasons set forth above, Defendant's April 22, 2001 Motion to Compel is **DENIED**.

IT IS SO ORDERED.

³ Defendant's Motion at ¶ 10 - 11.

⁴ State's Response at 1.

⁵ *Id.*

⁶ Super. Ct. Crim. R. 16(a)(2) states in pertinent part: "Information not subject to disclosure. Except as to scientific or medical reports, this subdivision does not authorize the discovery or inspection of reports, memoranda, or other internal defense documents . . . or of statements made by the defendant, or by state or defense witnesses, or by prospective state or defense witnesses, to the defendant, the defendant's agents or attorneys."

⁷ 373 U.S. 83 (1963).

Very truly yours,

cc: Prothonotary