



information from the State, subject to some limitations. On June 4, 2019, Respondent issued a discovery order in DeCarlo’s case stating that DeCarlo’s motion “should be GRANTED for the same reasons set forth in Cause No. 20170D02096 [Heredia’s case].”

We reviewed the order that Respondent issued in Heredia’s case in *In re State*, No. 08-19-00151-CR, 2020 WL 5105215, at \*2 (Tex.App.--El Paso Aug. 31, 2020, orig. proceeding) (to be published) (detailing order in relevant part). This Court rejected the State’s argument that a criminal defendant could only discover a State expert witness’ name and contact information and nothing more under TEX.CODE CRIM.PROC.ANN. art. 39.14(b), and held that: (1) material relied on by the expert witness was discoverable under TEX.CODE CRIM.PROC.ANN. art. 39.14(a), and (2) the specific order issued by Respondent could not and did not require the State to create new records that did not already exist. *See In re State*, 2020 WL 5105215, at \*9-10.

We again confirm in this companion mandamus action that Respondent did not abuse his discretion by allowing this discovery, again with the caveat that we do not construe this order as requiring the State to create new documents that are not already in existence, as such an order requiring the creation of new documents would likely be an abuse of discretion. *See id.*

For these reasons, this petition for a writ of mandamus is hereby denied.

JEFF ALLEY, Justice

January 15, 2021

Before Rodriguez, C.J., Palafox, and Alley, JJ.

(Do Not Publish)