

IN THE SUPERIOR COURT OF GORDON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,

Plaintiff,

v.

JERRY WILLIAM JONES,

Defendant.

Case No. 06-475
FILED

Clerk Superior Ct., Gordon County

DEC 26 2006

Brian Brannon
Clerk

**MOTION FOR CLARIFICATION OF ORDER ON VARIOUS MOTIONS HEARD
DECEMBER 11, 2006**

The Defendant, Jerry William Jones, by and through undersigned counsel, hereby moves this Court to clarify its Order on Various Motions Heard December 11, 2006, entered by the Court on December 15, 2006, as further explained herein.

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In Section 5 of the Court's Order on Various Motions Heard December 11, 2006 (the "Order"), with regard to Defendant's Motion No. 115 concerning the in camera inspection of the State's file, the Court states as follows: "The State having represented to the Court and the Defendant that all possible exculpatory information required to be disclosed has been disclosed and, the Defendant's Counsel's agreement to rely on the State's representation, Defendant's Motion is moot." This is not precisely correct.

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As the Court well knows, upon request the Court is required to conduct an in camera review of the entire State file to assure that

all Brady-type information has been disclosed to the defense. Tribble v. State, 248 Ga. 274 (1981); McNeal v. State, 263 Ga.App. 397 (1993). Here, Defendant's agreement not to insist on an in camera inspection for Brady type material related to the sentencing issues in this case was based upon the representation by the State that it has provided to the defense its entire file, not upon the representation of the State that it has disclosed "all possible exculpatory information required to be disclosed."

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In not insisting upon an in camera review the Defendant's counsel did not intend to rely upon the State's determination of what might be "possible exculpatory information," because the State might not always be able to recognize what the defense or the Court might consider "possible exculpatory information." Instead, the defense would insist upon an in camera review if the entire file had not been made available to the defense.

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However, it was the representation of counsel for the State that the entire file had been made available to the defense, and in this circumstance an in camera review by the Court of the same file that had already been made available to the defense would serve no purpose.

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It is this representation by the State—that the entire file has been provided to the defense—not the representation that the

State had revealed what it has determined to be "possible exculpatory information" which caused counsel for the Defendant to concede that in camera review was not necessary and Defendant's motion therefore moot.

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Accordingly, lest there be a misunderstanding as to the basis for the Defendant's agreement that an in camera inspection is not required, the Defendant respectfully requests that the Court modify its Order so as to make clear that the Defendant's agreement not to insist on in camera review is based solely upon the representation by the State that its entire file has been made available to the Defendant.

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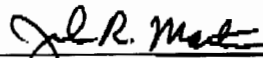
If in fact the entire file has not been provided the Defendant, then the Defendant insists upon the in camera inspection to which he is legally entitled.

WHEREFORE, the Defendant requests that the Court clarify its Order as requested herein or in the alternative conduct an in camera inspection of the entire State file if it has not already been provided to the Defendant.

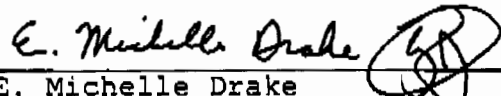
[signatures on next page]

This 21st day of December, 2006.

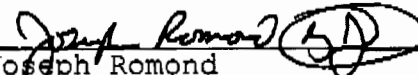
Respectfully Submitted,



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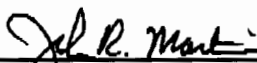
Counsel for Mr. Jerry William Jones

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Motion for Clarification Order on Various Motions Heard December 11, 2006** has been served via U. S. Mail addressed to T. Joseph Campbell, District Attorney, Gordon County Division, P. O. Box 1478, Calhoun, Georgia, 30703-1478.

This 21st-day of December, 2006.

Respectfully Submitted,



John R. Martin