

IN THE SUPERIOR COURT OF FULTON COUNTY  
STATE OF GEORGIA

STATE OF GEORGIA :  
 :  
v. : INDICTMENT 23SC188947  
 :  
JENNA LYNN ELLIS :  
 :

MOTION TO AMEND JENNA ELLIS'S  
DISCOVERY DUE DATE IN  
THIS COURT'S "CASE SPECIFIC SCHEDULING ORDER,  
SECTION (1), DISCOVERY," ISSUED ON SEPTEMBER 14, 2023

JENNA LYNN ELLIS, through undersigned counsel, moves this Court to amend its *Case Specific Scheduling Order*, Section (1) Discovery ("CSSO"), issued on September 14, 2023, by setting the defendant's discovery deadline at a date **to be determined** after the State fulfills its discovery obligations by this Court's due date of October 6, 2023, *and* after the defense has had reasonable and sufficient time to review the State's discovery – estimated by the State to comprise eight terabytes of digital data<sup>1</sup> – conduct its own fact investigation of the State's case, assemble the

---

<sup>1</sup> A "byte" is a unit of digital information composed of eight "bits" of binary data (itself composed of 1s and 0s). A byte is the smallest unit of memory in digital storage. A "terabyte"—"tera" comes from the Greek word for "monster"—equals one trillion bytes. The typical page of a Word document is about 2,000 bytes (or 2 kilobytes ("KB")). Thus, a terabyte consists of about 540,000,000 pages, if all the data was in Word format (as opposed to video, audio, photographs, and the like). Eight terabytes equals eight trillion bytes, which, if in Word format, equals around 4,320,000,000 pages (that's four billion, 320 million pages, just to use round numbers).

discovery relevant to the defense against the specific allegations, by which point the defense will know what “books, papers, documents, photographs, tangible objects, audio and visual tapes, films and recordings, or copies or portions thereof” are discoverable by the State, as well as to arrange for the State “to inspect and photograph buildings or places, which are within the possession, custody, or control of the defendant and which the defendant intends to introduce as evidence in the defense’s case-in-chief or rebuttal at the trial.” O.C.G.A § 17-16-4(b)(1) & (2). Each side is also obligated by the Criminal Discovery Act to produce witness statements “[n]o later than ten days prior to trial or at such time as the court permits, or at the time of any post-indictment pretrial evidentiary hearing other than a bond hearing . . . .” O.G.C.A. § 17-16-7.

A well-settled principle of criminal law is that the burden of proof never shifts to the defendant and the defendant is under no obligation to introduce any evidence in her behalf. As a practical matter, however, many defendants do introduce evidence in their case to rebut the State’s evidence against them. The myriad decisions as to what potential defense evidence may defeat the State’s case cannot be made based merely on a review of the indictment, which is all Ms. Ellis will have before her when the due date

arrives for conveying reciprocal discovery to the State. While she and her counsel are hard at work analyzing the indictment for a variety of issues to be raised in pre-trial motions, assembling potential defense evidence based only upon a review of this 98-page indictment and without a review of even one byte of the State's evidence, let alone eight trillion bytes, all within the next 21 days, is impossible.<sup>2</sup>

Defense counsel for Ms. Ellis have practiced in many courts of this State and in federal court for 32 years each, even before the Criminal Discovery Act became Georgia law. They have always complied with the Criminal Discovery Act and intend to do so in this case. They endeavor to comply with Court orders regarding discovery and have never had evidence excluded for "prejudice and bad faith" pursuant to O.C.G.A. § 17-16-6.

To achieve the ends of justice by providing due process to Ms. Ellis, she respectfully requests that the Court amend its CSSO by suspending the October 6, 2023, due date for defense discovery, allowing any such discovery to be conveyed to the State on a date to be determined and after

---

<sup>2</sup> Counsel entered this case on August 17, 2023, less than one month ago. The State has been working on the case for two-and-a-half years.

a reasonable and sufficient time has permitted her to review the State's discovery, conduct her own investigation, and assemble her defense. At that time, she will convey to the State every discoverable item owed to the State in compliance with the Criminal Discovery Act.

September 14, 2023.

/s/ Franklin J. Hogue  
FRANKLIN J. HOGUE  
Attorney for Defendant  
State Bar Number 360030  
Hogue Griffin



/s/ Laura D. Hogue  
LAURA D. HOGUE  
Attorney for Defendant  
State Bar Number 786090



**Certificate of Service**

I hereby certify that I filed the foregoing document with the Clerk of Court using Odyssey Efile Georgia electronic filing system and that I will send notification of such filing to all parties of record by separate email in accordance with the Court's *Standing Case Management Order for Criminal Cases*.

September 14, 2023.

/s/ Franklin J. Hogue

FRANKLIN J. HOGUE