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CAUSE NO. 1457957

THE STATE OF TEXAS

v.

VERNON BROOKS

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§

IN THE DISTRICT COURT  
OF HARRIS COUNTY TEXAS  
248TH JUDICIAL DISTRICT

**FILED**

Chris Daniel  
Clerk

SEP 24 2015

**MOTION TO DISMISS DUE TO PROSECUTORIAL MISCONDUCT**

To the Honorable Judge Cabaniss:

Time: \_\_\_\_\_  
Harris County, Texas  
By \_\_\_\_\_  
Deputy

COMES NOW, Defendant, Vernon Brooks, by and through his attorney, Paul Morgan, and respectfully requests, pursuant to the due process clause of the Fourteenth Amendment, and the Sixth Amendment to the United States Constitution, as well as the provisions of Article V, Section 12 of the Texas Constitution, and Article I, Sections 19, 115, 13, and 10 of the Texas Constitution, that this Court dismiss this case due to prosecutorial misconduct.

Specifically, ADA Sarah Mickelson has misled this court under oath [see attached A, p. 10 & 13] and her fellow prosecutors by intentionally concealing impeachment evidence under *Giglio v. United States* and *Brady v. Maryland* that the key witnesses in this case were actually paid informants for the FBI whose cash payments she approved. [See attached B]. This information was only revealed to defense counsel yesterday, September 23, 2015, by ADA David Overhuls, despite the fact that ADA Mickelson approved the funds back on February 25, 2015. Even though she had knowledge of these payments, ADA Mickelson told Defense Counsel that there was no outstanding discovery on April 22, 2015. [See attached C]. Defense Counsel filed a motion to continue this case on June 26, 2015. ADA Mickelson opposed this continuance, knowing fully that this information was not disclosed. [See attached D]. ADA Mickelson tried to make this case go to trial without disclosing this Brady material.

Finding this information was not an easy task. First, Defense Counsel filed a Brady motion back on June 23, 2015. The state did not produce this information pursuant to this Brady request. Defense Counsel eventually discovered this information when his investigator interviewed Stella Preece and Rose Henderson in late July. At this point, David Overhuls was the prosecutor on the case and was unaware of that these payments had been made. Defense Counsel had to assist David Overhuls in discovering this information. [See attached E]. In addition, Defense Counsel had to submit two separate requests, a public information act request to Baytown Police Department, and Freedom of Information Act to the Federal Government. Still, this information was not produced. David Overhuls finally came across this information when he interviewed Keith Koncir, who had requested the funds from the Federal Bureau of Investigation, and failed to disclose this information to David Overhuls. On September 23, 2015, David Overhuls served Defense Counsel with these receipts plus a Brady notice. On that same day, Defense Counsel notified Michael Trent and Lana Gordon of this Brady notice, which was the first they had ever heard of this evidence.

As this investigation has been compromised beyond repair, and despite the new prosecutor's best efforts to live up to his obligations to disclose evidence, this case is a corrupt example of bought and paid for prosecutions of citizens, this case should be dismissed as neither this Court nor her fellow prosecutors can determine how much false evidence has already been put forth in this and the co-defendant's cases.

For these reasons the accused asks that this Court dismiss this matter or set it for an evidentiary hearing so that Ms. Mickelson and her agent, SA Koncir, may be brought under oath to before the court and show why they should be subject to sanctions, disbarment, or criminal prosecution for perjury, official oppression and obstruction of justice.

Respectfully submitted,

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I, PAUL MORGAN hereby certify that a true and correct copy of the foregoing Request for Discovery has been delivered to the Harris County District Attorney's Office via hand delivery on Sept 21, 2015.



PAUL MORGAN