

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY
CRC14-00216CFAES

STATE OF FLORIDA

V.

CURTIS J. REEVES

**STATE'S MOTION TO COMPEL ADDITIONAL
DISCOVERY RELATING TO DEFENSE EXPERT MICHAEL KNOX**

COMES NOW, BERNIE McCABE, State Attorney for the Sixth Judicial Circuit in and for Pasco County, Florida, by and through the undersigned Assistant State Attorney, hereby respectfully request this Honorable Court to enter an order compelling the Defendant to immediately provide to the State the below-identified material and as good cause would show:

1. On September 11, 2015 the Defendant filed his Notice of Reciprocal Discovery listing in paragraph B. expert witnesses he expects to call, including Michael Knox. Fla. R. Crim. P. 3.220(d)(1)(A). The notice failed to identify a report or a statement by Michael Knox. The notice also failed to identify the results of physical or mental examinations and of scientific tests, experiments, or comparisons. Fla. R. Crim. P. 3.220(d)(1)(B)(ii). Further, the notice failed to identify any tangible papers or objects the defendant intends to use in any hearing or trial. Fla. R. Crim. P. 3.220(d)(1)(B)(iii).
2. As has become the practice in Florida since Kidder v. State, 117 So.3d 1166 (Fla. 2nd DCA 2013), criminal defense attorneys are frequently asking defense expert witnesses not to complete reports. The State does not anticipate a report or statement from Michael Knox. The fact that no "report" will be forthcoming from him does not relieve the Defendant from providing the results of any physical or mental examination and of any scientific test, experiments, or comparisons that would normally be summarized in his "report".
3. The State knows through defense pleadings that Knox & Associates were provided the following non-work product: Police reports, photographs, video footage, architectural drawings of the interior of Cobb Theater, Report-Video Timeline, Medical Examiner Case Report, FDLE Ballistic report and various depositions of State witnesses taken by the defense.
4. The Defendant obtained a court order to enter Cobb Theater to conduct his own examination of the crime scene. The State reasonable believes that Bruce E. Koenig or another representative from Bek Tek was present along with Michael Knox, Knox & Associates, Forensic Consulting or another representative from Knox & Associates and

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Dr. Philip Hayden. The State reasonable believes that the purpose was to conduct an on-site evaluation to record visual information of the theater, including the evaluation of equipment that cannot be removed from the theater (Infra-red cameras & DVRs). The State also reasonable believes that photographs, measurements, notes, sketches and videos were made and will be used by these experts to support their opinions or to create demonstrative aids the experts will use to explain their testimony to the court or to the jury.

5. The State reasonable believes that various material issues relating to the shooting event are being examined by defense experts Bruce Koenig, (Video expert), Michael Knox (Crime Scene Expert), Vernard Adams, M.D. (Forensic Pathologist), Dr. Philip Hayden (Use of force expert) and Michael Foley, M.D. (Forensic Radiologist). The State reasonable believes that the expertise of each defense expert is sufficiently interwoven that the work of one expert can be used by one or more of the other defense experts in an attempt to support their respective conclusions and/or opinions or to general explain a particular concept or issue to the trier of fact.
6. Michael Knox & Associates has the capability of providing Firearms, Ballistics & Shooting Reconstruction and Crime Scene Analysis & Reconstruction services to the
7. The following components of Firearms, Ballistics & Shooting Reconstruction involve the application of valid scientific principles and methods: trajectory reconstruction, wound dynamics, gunshot residue & range of fire (distance determination), photogrammetry and 3D computer modeling & animation.
8. The following components of Crime Scene Analysis and Reconstruction involve the application of valid scientific principles and methods: Crime scene mapping, 3D computer modeling & animation and photogrammetry.
9. The State anticipates Michael Knox will be called by the Defendant as an expert in Forensic Crime Scene Analysis. Prior to his testimony at any future hearing or trial in the above-styled cause, the State desires to take his deposition in order to learn the opinion(s) he is prepared to offer in support of the defense of the defendant and to determine if a Daubert hearing is necessary. Components of the two above-identified disciplines will include the use of applying valid scientific principles and methods to the facts and data gathered during the on-site investigation or analysis of materials provided for review. The below-described material is necessary for the State to make a preliminary assessment of whether the reasoning and/or the methodology underlying his testimony is scientifically valid and whether that reasoning or methodology properly can be applied to the facts in this case. As a Forensic Crime Scene expert, he will certainly rely on various documents, results of examinations, scientific tests, experiments and comparisons he generated to support his opinion(s). Such documents would not contain legal research, opinions, theories or conclusions of the defense attorney or members of his legal staff, but the expert's specific findings or observations he obtained in formulating his ultimate opinion.
10. On a showing of materiality, the court may require such other discovery to the parties as

justice may require. Fla. R. Crim. P. 3.220(f).

11. In this case, the forensic analysis of the crime scene at Cobb Theater will involve the use of scientific principles and methods. The validity of the underlying principles and methodology underlying the expert's testimony is for the court to determine prior to the admission of the expert's testimony. The below-described materials are material in determining whether the expert used valid principles and methods and had sufficient facts and data in arriving at his opinions or in the tangible items that he created for the Defendant.
12. Justice requires that the below-described material be provided to the State by the Defendant prior to the taking of the discovery deposition of defense expert Michael Knox.
 - a. Current C.V. for Michael Knox and all other Knox & Associates personnel who in any way provided any services of any kind regarding the work requested by the Defendant.
 - b. Knox & Associates Standard Operating Procedure manual – relating to work performed at the Defendant's request, to include but not limited to SOP or best practice regarding:
 - i. Photography
 - ii. Scene mapping with laser mapping equipment
 - iii. Scale diagramming
 - iv. Photogrammetry
 - v. Laser trajectory reconstruction
 - vi. Determination of shooting distance
 - vii. Shooter & witness perspective
 - viii. Wound dynamics
 - ix. Event timing analysis
 - x. Crime scene recreation
 - xi. Photographs with infrared-sensitive camera to reveal presence of gunshot residue
 - xii. Lighting analysis
 - xiii. Three-Dimensional computer modeling
 - xiv. Rendering photorealistic images from 3D computer modeling
 - xv. Using video surveillance footage to aid in reconstructing sequence and timing of shooting event
 - xvi. Analysis of use of force
 - xvii. Shooting incident dynamics
 - xviii. Showing what the jury as to what the shooter perceived
 - xix. Explaining the threat
 - xx. Educating the jury as to what really happens during a shooting
 - c. List of all software and respective versions used in performing any work or

analysis of items of any kind, specifically used to perform any of the work requested by the Defendant.

- d. All material, including but not limited to reports, photographs, letters, correspondence, emails, submissions, sketches, diagrams and videos Michael Knox received from Bruce E. Koenig, Bek Tec (Video expert), Dr. Vernard I. Adams (Forensic pathologist) and Dr. Philip Hayden (Use of Force expert)
- e. All material, including but not limited to reports, photographs, videos, letters, correspondence, emails, submissions, sketches, diagrams, crime scene mapping Michael Knox sent to Bruce E. Koenig, Beck Tec (Video expert), Dr. Vernard I. Adams (Forensic pathologist) and Dr. Philip Hayden (Use of Force expert)
- f. All defense deposition transcripts provided Michael Knox to include but not limited to: Angela Hamilton, Anthony Colello, Elaine Ajamian, Garry Houston, Gladys Perez, Luis Perez, Mary Houston, Nerida Abreu, Robert Kerr, Sylvia Keer and Vincent Redfern
- g. Any and all written or tapped statements of individuals who have information that is relevant to the State or the defense that was provided to Michael Knox.
- h. All bench notes made and/or created contemporaneous with the performance of the analysis, to include but not limited to:
 - i. Lead in notes listing to include but not limited to: Date received; ID of item received – subject to analysis; Source of item; initial review of item – model, SN; Description – what item purported to be, condition of item when received, chain of custody within company
 - ii. Initial Analysis, Examination of any items submitted by the Defendant or Data Collection, listing or documentation in any form to include but not limited to: notes of any kind created in conjunction with any work required by the Defendant, photographs, sketches, diagrams, video, calibration of any equipment used, items collected, data collected, software used, employee who did the actual work
 - iii. Software log listing to include but not limited to: three-dimensional mapping, photogrammetry software, determining trajectory and wound dynamics, three-dimensional computer modeling software, two-dimensional diagraming software, employee(s) who did actual work
 - iv. Experimentation or Testing Documentation, to include but not limited to: test firing of any firearm, type of ammunition used, testing to determine the duration of the shooting; comparison results, test results, experiment results of any kind requested by the Defendant
 - v. Demonstrative aids created
- i. All still frames created from video files, regardless of the source

- j. All still frames or video sequels or individual event files that were highlighted, zoomed, or slowed, regardless of the source
 - k. All photorealistic images from 3D computer modeling, to include from the perspective of a witness or the victim or attempting to show lighting in the theater at the time of the shooting
 - l. All presentations and scene reenactments regarding the shooting or any other presentations requested by the Defendant
 - m. All 3D computer modeling and animation video(s) depicting any aspect of the shooting event
 - n. All presentation and/or crime scene reconstruction or diagrams created 3D laser mapping equipment and/or photogrammetry software from facts and data collected during the on-site evaluation or from material provided by the Defendant
 - o. All video recreations depicting the duration of the shooting
 - p. All scale diagrams depicting any aspect of the shooting that was requested by the Defendant
 - q. All forensic mannequins, replica firearms or other demonstrative exhibits that will be used as an aid by any expert while testifying.
13. In order to be able to take a meaningful, economical discovery deposition of Michael Knox, the State is requesting the Defendant to provide to the State the opportunity to inspect, copy, test and photograph any tangible papers or objects that the defendant intends to use at any hearing or trial, including but not limited to the above-described items the State reasonably believes is specific and unique to defense expert Michael Knox. Fla. R. Crim. P. 3.220 (d)(1)(B).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the *State's Motion To Compel Additional Discovery Relating to Defense Expert Michael Knox* was furnished to Richard Escobar, Esq., Escobar & Associates, P.A., 2917 West Kennedy Blvd., Ste 100, Tampa, FL 33609, Attorney for the Defendant by U.S. Mail / Hand / Facsimile this 16th day of October, 2015.

BERNIE McCABE, State Attorney
Sixth Judicial Circuit of Florida

