

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 DR. PHILIP P. HAYDEN**

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 Dr. Philip P. Hayden. Fla. R. Crim. P. 3.220(d)(1)(A). The notice failed to identify a report or a statement by Dr. Philip P. Hayden. 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 Dr. Philip P. Hayden. The fact that no "report" will be forthcoming from him does not relieve the Defendant from providing the results of any physical or mental examinations and of any scientific test, experiments, or comparisons that would normally be summarized in his "report".
3. The State knows through defense pleadings that Dr. Philip P. Hayden was provided with the following non-work product: a complete copy of police reports and photographs from the Pasco County Sheriff's Office, video footage of the shooting, the Defendant's Tampa Police Department and Bush Gardens personnel files and various State witness defense deposition transcripts.
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

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another representative from Bek Tek was present along with Michael Knox, Knox & Associates, Forensic Consulting or another representative from Knox & Associates and 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, including Dr. Philip P. Hayden will use to explain their testimony to the court or to the jury.

5. The State reasonable believes that 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. The State anticipates Dr. Philip P. Hayden; retired FBI Special Agent will be called by the Defendant as an expert in police use of force.
7. 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).
8. The State anticipates the defense will attempt to use Dr. Philip Hayden to explain general concepts of self-defense to the trier of fact and/or to render opinion that touch upon the ultimate issue in this case; self-defense.
9. 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 Dr. Philip Hayden.
 - a. Current C.V. for Dr. Philip Hayden and all other individuals who in any way provided any services of any kind regarding the work requested by the Defendant.
 - b. All material, including but not limited to reports, photographs, letters, correspondence, emails, submissions, sketches, diagrams, videos, crime scene mapping Dr. Philip Hayden received from Michael Knox, Knox & Associates (Forensic Consulting), Dr. Vernard I. Adams (Forensic pathologist) and/or Bruce Koenig (Video Expert)
 - c. All material, including but not limited to reports, photographs, videos, letters, correspondence, emails, submissions, sketches, diagrams Dr. Philip Hayden sent to Michael Knox, Knox & Associates (Forensic Consulting), Dr. Vernard I. Adams (Forensic pathologist) and/or Bruce Koenig (Video Expert)

- d. 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 Dr. Philip Hayden.
- e. All defense deposition transcripts provided Dr. Philip Hayden to include but not limited to: Angela Hamilton, Anthony Colello, Elaine Ajamian, Garry Houston, Gladys Perez, Luis Perez, Mary Houston, Robert Kerr, Sylvia Keer and Vincent Redfern, Det. Alan Hamilton, Dep. Aaron Smith,, Nicole Oulson, and Det. Willian Proctor

10. Further, in order to be able to take a meaningful, economical discovery deposition of Dr. Philip Hayden, the State is requesting the Defendant to provide to the State 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 Dr. Philip Hayden 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 Dr. Philip Hayden* 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