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12 Attorneys for Defendant and Petitioner,
13 KEITH ZON DOOLIN

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **IN AND FOR THE COUNTY OF FRESNO**

16 **PEOPLE OF THE STATE OF**
17 **CALIFORNIA,**

18 **Plaintiff and Respondent,**

19 **v.**

20 **KEITH ZON DOOLIN,**

21 **Defendant and Petitioner.**

No. CF96554289

[Cal. Sup. Ct. Nos. S234285, S197391,
S137884, S054489]

Dept.: 54

Hon. Kristi Culver Kapetan, Judge

Death Penalty Case

22 **MOTION FOR DISTRICT ATTORNEY TO PROVIDE: (1) COMPLETE DISCOV-**
23 **ERY, INCLUDING ALL *BRADY* MATERIAL; (2) AN ITEMIZATION OF**
24 **MATERIAL WITHHELD FROM THE DEFENSE UNDER THE ASSERTION OF**
25 **PRIVILEGE SUCH AS WORK-PRODUCT; AND (3) AN *IN CAMERA* ASSESS-**
26 **MENT OF WHETHER SUCH NON-DISCLOSURE WAS WARRANTED**

27 On April 15-16, 2019, Mr. Doolin's habeas counsel conducted their initial review of
28 prosecutorial discovery material produced in the Office of the District Attorney pursuant to
the directive of this Court. (Order on Request for Discovery Pursuant to Penal Code Section
1054.9, Feb. 11, 2019.) There were a total of eight bankers boxes. (See Ex. A [9 photographs

1 of 8 boxes, April 15, 2019], attached hereto.) Of these, four consisted only of transcripts.
2 Some of the remaining four boxes were only partially full – two held various documents in-
3 cluding pleadings, motions, and some discovery; two contained primarily discovery
4 material.¹ There was neither an index for the discovery, nor was the paper discovery bate-
5 stamped; thus, there was no way to determine whether what was provided was the com-
6 plete discovery.

7 In a complex capital case of this size, involving two separate incidents of murder
8 and four separate attempted murders, there would logically be significantly more boxes of
9 discovery furnished than what was provided in the case at hand by the District Attorney.
10 Indeed, a review of the discovery suggests materials were clearly missing. For example,
11 there were no files for some key prosecution witnesses who testified. Moreover, it is evi-
12 dent that files had been removed from some of the boxes as they were partially empty –
13 whether these were claimed work-product material, or items that should have been turned
14 over to the defense, remains uncertain and demands an *in camera* review and assessment
15 by the Court. Yet the defense has not been provided with any designation, either oral or
16 written, as to what has been withheld.

17 Mr. Doolin is entitled to complete discovery including all material beneficial to his
18 defense. (Pen. Code § 1054.9; *In re Steel* (2004) 32 Cal.4th 682; *Brady v. Maryland* (1963)
19 373 U.S. 83.) Accordingly, as provided below, it is requested that the Court direct the Dis-
20 trict Attorney to provide the materials without further delay.

21 **A. Mr. Doolin Is Entitled To All Materials That The Prosecution Provided, Or**
22 **Should Have Provided, At Trial**

23 Postconviction defendants may discover two types of material from the prosecution
24 under Penal Code section 1054.9: (1) discovery that was provided to the defense at trial,
25 and (2) materials that were not previously provided at trial, but to which the defense was
26 entitled. (*In re Steele, supra*, 32 Cal.4th at pp. 695-96.) The prosecution has an ongoing

27
28 ¹ Previously, Respondent stated there were five boxes of discovery. (See People's
Motion To Continue Discovery Hearing, Sept. 26, 2018, at p. 2 ¶¶ 3-4.)

1 duty under *Brady* to provide any information of benefit to the defense. (*Steele*, 32 Cal. 4th
2 at p. 697; *People v. Gonzales* (1990) 51 Cal. 3d 1179, 1260-61 (noting the state's obligation
3 to disclose *Brady* material continues after trial); *Thomas v. Goldsmith* (9th Cir. 1992) 979
4 F.2d 746 (recognizing the state's continuing post-judgment obligation to disclose exculpa-
5 tory information).

6 Moreover, the state's duty to disclose discovery material in its possession is not lim-
7 ited to those documents and items that physically are within the actual possession of the
8 District Attorney's office. The statute requires discovery of any relevant materials "in the
9 possession of the prosecution and law enforcement authorities," a duty extending to any
10 and all law enforcement authorities who were "involved in the investigation or prosecu-
11 tion" of defendant's case. (*Steele*, 32 Cal. 4th at p. 697.) These include all law enforcement
12 agencies, correctional facilities, medical entities, and any other actor or entity involved in
13 defendant's arrest and detention, the investigation and prosecution of defendant's case,
14 and his sentencing. (*Id.* at pp. 696-97 ("The scope of this disclosure obligation extends be-
15 yond the contents of the prosecutor's case file and encompasses the duty to ascertain as
16 well as divulge 'any favorable evidence known to the others *acting on the government's be-*
17 *half . . .*'") (quoting *In re Brown* (1998) 17 Cal. 4th 873, 879 (quoting *Kyles v. Whitley*
18 (1995) 514 U.S. 419, 437) (italics in original).

19 On April 15-16, 2019, the District Attorney gave Mr. Doolin's counsel access to eight
20 bankers boxes of material. (See accompanying Declaration of Pamala Sayasane, May 10,
21 2019.) Of these, there were about two boxes of actual discovery; the remainder consisted
22 mainly of transcripts, pleadings and motions which counsel already had as part of the ap-
23 pellate record. Given that this is a complex capital case involving two separate murder
24 cases and four separate attempted murders, significantly more discovery material was ex-
25 pected. Files were clearly missing.

26 For example, noticeably absent were files on key figures such as Rick Arreola, Justin
27 Swigart, and Robert Murphy. Arreola was the boyfriend of murder victim Peggy Tucker.
28 His testimony implicated the Defendant in the murder by placing him and his car near the

1 scene of Tucker’s murder. He was thus a crucial witness for which there should have been a
2 file. (*See In re Doolin*, CSC No. S197391 [Pet. Claim 3 at pp. 262-65].) As for Swigart, in re-
3 buttal to the defense argument otherwise, he testified for the prosecution that the
4 Defendant always carried guns; the implication was that he was prone to violence. The
5 state did not disclose at trial that Swigart had a history of serious mental illness, including
6 schizoaffective disorder (a form of paranoid schizophrenia), which required sporadic hos-
7 pitalization. He required medication to stabilize his mental state, but was not taking his
8 medication at the time of his trial testimony. According to a postconviction declaration
9 provided by Swigart, the prosecutor told him “*not to say anything about this while I was*
10 *on the stand testifying, and not to volunteer any information about my past mental prob-*
11 *lems unless I was specifically asked about it.*” (*See In re Doolin*, CSC No. S197391 [Pet.
12 Claim 3 at pp. 266-69] italics added.) The absence of a prosecution file on Swigart is thus
13 curious. As for Murphy, he was initially identified by one of the surviving victims, Stepha-
14 nie Kachman, as her attacker. Two weeks after she was shot, she was shown several
15 thousand photos of suspects. She picked Murphy as her assailant, whom she recalled had
16 blue eyes. Months later Defendant was arrested for Kachman’s attack. This time, she was
17 shown a 6-person photo spread that included him, but not Murphy. Despite Defendant
18 having the wrong eye color – he has brown eyes while Murphy’s are blue – Kachman
19 picked him because he most closely resembled Murphy. (*In re Doolin*, CSC No. S197391
20 [Pet. Claim 2 at p. 243].) Given that Murphy was a potential suspect, there should have
21 been a prosecution file on him.²

22 Also, it is known from the defense investigation conducted postconviction that some
23 prosecution witnesses (such as Rick Arreola, Debbie Cruz, Alice Alva) had criminal rec-
24 ords; yet no such information were contained in the discovery material provided for review
25 on April 15-16, 2019. (*In re Doolin*, CSC No. S197391 [Pet. Claim 3 at pp. 262-65, 269-72].)

26
27 ² Additionally, the prosecution misrepresented that Murphy was in custody at the
28 time of the attacks on Marlene Mendibles and Inez Cantu-Espinoza, thus suggesting that
he could not have committed these crimes for which the Defendant was charged and con-
victed. (*In re Doolin*, CSC No. S197391 [Pet. Claim 3 at p. 259].)

Arreola testified that he had been convicted of a crime; however, the prosecution misled the jury to believe it involved only a misdemeanor conviction. In the investigation conducted postconviction, the defense learned that Arreola's actual criminal history included a felony burglary conviction in 1995 and a petty theft conviction in 1996. The prosecution also failed to disclose that Arreola was arrested 8 times in 1995 alone for various crimes including theft, drug possession, and receiving/possessing stolen property. Arreola also had several warrants outstanding for failure to appear, one of which was still pending on the date of his testimony in this case. With respect to the testifying victims, the prosecutor turned over to the defense at trial Ms. Alva's "rap sheet," which reflected only one arrest in 1994. However, it was later learned on postconviction that she had about 10 arrests in 1994 and 1995 alone, including many for drug possession. Similarly, the prosecutor's "rap sheet" on Cruz showed a 1995 conviction for narcotics possession. However, the prosecutor failed to disclose that she had multiple arrests for possession and/or drug use in 1994 and 1995, including a case pending at the time of trial for drug possession. Such disclosure was mandated under *Brady*. Further, as provided by Penal Code section 1054.1:

The prosecuting attorney shall disclose to the defendant or his or her attorney all of the following materials and information, if it is in the possession of the prosecuting attorney or if the prosecuting attorney knows it to be in the possession of the investigating agencies:

- (a) The names and addresses of persons the prosecutor intends to call as witnesses at trial.
- (b) Statements of all defendants.
- (c) All relevant real evidence seized or obtained as a part of the investigation of the offenses charged.
- (d) The existence of a felony conviction of any material witness whose credibility is likely to be critical to the outcome of the trial.
- (e) Any exculpatory evidence.
- (f) Relevant written or recorded statements of witnesses or reports of the statements of witnesses whom the prosecutor intends to call at the trial, including any reports or statements of experts made in conjunction with the case, including the results of physical or mental examinations, scientific tests, experiments, or comparisons which the prosecutor intends to offer in evidence at the trial.

1 However, the District Attorney withheld favorable evidence from the defense at tri-
2 al, and continues to do so. During the April 15-16, 2019 discovery review, present habeas
3 counsel found letters in the prosecution file showing that Defendant's prior appellate-
4 habeas counsel, Mr. Derham, requested the discovery in 2005. Apparently the files were
5 not provided to him. (See Ex. B [request for discovery-*Brady* material to District Attorney
6 by appellate-habeas counsel Robert Derham, 2005; request for same by Federal Public De-
7 fender in 2010], 8 pages, attached hereto.) In 2010, Defendant's subsequent counsel, the
8 Federal Public Defender, came knocking at the District Attorney's door seeking access to
9 the discovery. That request was summarily rejected: "[W]e decline to provide the requested
10 records at this time." (Ex. B, *supra* [Letter from Robert Mangano, District Attorney's Of-
11 fice to Office of the Federal Public Defender, July 2, 2010], italics added.) In a July 8, 2010
12 office memo, Mr. Mangano stated that he rejected the Federal Defender's request because
13 the "materials were made available to [Mr. Derham] by Mr. Cooper" and that "[p]hone
14 calls and letters were made and sent to Mr. Derham, *who stated he believed Mr. Cooper*
15 *did provide him these materials*, but could not confirm this because his complete file was
16 now in possession of the Office of the Federal Defender." (Ex. B, *supra* ["7/8/10 Note to
17 File"], italics added.) However, Mr. Mangano's statement is belied by the record. In a May
18 26, 2010 letter to Mr. Mangano, Mr. Derham wrote: "[A]s I told you and Mr. Cooper on the
19 telephone, I remember talking to Mr. Cooper about his case file. I recall we had an agree-
20 ment that he would send me a copy of it at my expense. *Whether I actually received the file*
21 *I cannot remember, nor can I confirm it by looking to see if it is in my own file because I*
22 *no longer have my case file*; I handed it over to the Federal Public Defender's office when
23 it was appointed to handle the federal habeas." (Ex. B, *supra* [Letter from Robert Derham
24 to Robert Mangano, May 26, 2010], italics added.) Thus, the District Attorney's Office had
25 no record that it provided postconviction discovery to Mr. Derham. Nevertheless, it
26 claimed to have already complied with discovery when it refused the Federal Defender's
27 request in 2010.

28 Additionally, in his memo memorializing the reason he rejected the Federal Defend-

1 er's discovery request, Mr. Mangano wrote: "This conclusion [that postconviction discovery
2 had previously been provided to Mr. Derham] is further supported by the fact that Mr.
3 Derham sought these materials in order to file his state petitions. Soon after the August 10,
4 2005 date, Mr. Derham did in fact file his habeas petition with the California Supreme
5 Court. (Mr. Derham's petitions were denied.)." (Ex. B ["7/8/10 Note to File"].) However, of
6 significance is that the petition filed by Mr. Derham did not include any claim that the
7 prosecution withheld *Brady* material, as discussed herein. Those claims were later raised
8 by Defendant's subsequent federal habeas counsel, Patience Milrod and Michael Levine,
9 after their own investigation uncovered exculpatory material that should have been dis-
10 closed by the prosecution. The claims are pending before the California Supreme Court. (*In*
11 *re Doolin*, CSC No. S197391 [Pet. Claim 3 at pp. 256-72]. Had the District Attorney com-
12 plied with the duty under section 1054.9 and *Brady*, Defendant's prosecutorial misconduct
13 claims could have been raised earlier by Mr. Derham.

14 The law is clear. The prosecution is required by statute and case law to disclose evi-
15 dence to a criminal defendant that is "both favorable to the defendant and material on
16 either guilt or punishment." (*In re Sassounian* (1995) 9 Cal.4th 535, 543; *In re Steele*, 32
17 Cal.4th at p. 695; see also *Brady v. Maryland*, 373 U.S. 83.) That duty is ongoing. (*Steele*,
18 32 Cal. 4th at p. 697; *People v. Gonzales*, 51 Cal. 3d at pp. 1260-61 (noting the State's obli-
19 gation to disclose *Brady* material continues after trial); *Thomas v. Goldsmith*, 979 F.2d
20 746 (recognizing the State's continuing post-judgment obligation to disclose exculpatory
21 information).

22 Accordingly, this Court should direct the District Attorney to conduct a thorough re-
23 view of its files, including running a background check on all of its witnesses, and disclose
24 to Mr. Doolin's counsel all information beneficial to his defense. Moreover, given the scar-
25 city of the discovery material (which essentially covered two bankers boxes), this Court
26 should further direct Respondent to provide a list of all law enforcement or governmental
27 agencies involved in the prosecution of this case, and issue an order directing those entities
28 to grant Mr. Doolin's counsel access to all pertinent case material. As *Steele* states, "section

1 1054.9 clearly permits record reconstruction;” thus, since it appears that the District At-
2 torney’s Office does not have the complete discovery, the defense is entitled to reconstruct
3 the material. (*Steele*, 32 Cal. 4th at p. 697.)

4 **B. Request For *In Camera* Review Of Any Alleged Work Product Material**
5 **Removed From Files**

6 It is evident from present habeas counsels’ review of the discovery material that files
7 had been removed from some of the boxes as they were partially empty. Whether these
8 were work product material, or items that should have been turned over to the defense,
9 remains uncertain. Respondent should provide a list of what was removed, and this Court
10 should conduct an *in camera* review and assessment to determine what, if any, material
11 should be turned over to the defense.

12 It is not automatic that documents or “witness statements procured by an attorney
13 will always reveal the attorney’s thought process” and thus protected under work product.
14 (*Coito v. Superior Court* (2012) 54 Cal.4th 480, 495.) Thus, “the applicability of absolute
15 protection must be determined case by case.” (*Ibid.*) An attorney, or prosecutor in this
16 case, “resisting discovery of a witness statement based on absolute privilege must make a
17 preliminary or foundational showing that disclosure would reveal his or her impressions,
18 conclusions, opinions, or legal research or theories.” (*Id.* at pp. 495-96.)

19 Upon an adequate showing, the trial court should then determine, by making an *in*
20 *camera* inspection if necessary, whether absolute work product protection applies to some
21 or all of the material.” (*Id.* at p. 496.)

22 **CONCLUSION**

23 Accordingly, it is respectfully requested that this Court: (1) issue an order directing
24 the District Attorney to provide all *Brady* information to the defense, including running a
25 background check on all of its witnesses for the relevant time period; (2) allow Mr. Doolin’s
26 counsel to have access to materials in the possession of every governmental agency in-
27 volved in the prosecution of this case so that the complete discovery can be reconstructed;
28 and, (3) conduct an *in camera* review of files withheld from the defense under the claim of

1 work product and determine whether such materials should be made available to counsel
2 as part of the discovery process, with the withheld documents being identified. Denial of
3 such information would result in the deprivation of Mr. Doolin's rights under the Fifth,
4 Sixth, Eighth, and Fourteenth Amendment to the United States Constitutional and analo-
5 gous provisions of the state constitution.

6 Dated: May 13, 2019
7

8 Respectfully submitted

9 ROBERT R. BRYAN
10 PAMALA SAYASANE

11 By:

12 
13 ROBERT R. BRYAN

14 Lead counsel for Defendant and
15 Petitioner, Keith Zon Doolin
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DECLARATION OF PAMALA SAYASANE

I, Pamala Sayasane, declare:

1. I am an attorney licensed to practice in the courts of the State of California and other jurisdictions. I make this declaration based on personal knowledge and facts as I know them to be true based upon available information.

2. On July 22, 2015, I was appointed as second counsel by the California Supreme Court to represent the defendant, Keith Zon Doolin, on habeas corpus and executive clemency proceedings. Lead counsel is Robert R. Bryan. (*People v. Doolin*, CSC No. S054489, Order of Appointment.)

3. Two petitions for writ of habeas corpus are presently pending before the Supreme Court. (*In re Doolin*, CSC Nos. S197391 and S234285.) The claims pending therein are of constitutional significance including Mr. Doolin's innocence, the ineffective assistance of his appointed trial lawyer, prosecutorial misconduct, judicial bias and misconduct, and juror misconduct.

4. On February 11, 2019, this Court issued an order directing Respondent, the Fresno District Attorney, to provide habeas counsel access to the prosecution's discovery files. (Order on Request for Discovery Pursuant to Penal Code Section 1054.9, Feb. 11, 2019.)

5. On April 15-16, 2019, the District Attorney's Office provided a conference room for habeas counsel to review eight bankers boxes of material. Present with counsel during the review was Respondent's representative, paralegal Febe Gonzalez. Of the eight boxes, four consisted only of transcripts; one held mostly pleadings and motions; another contained a mixture of documents, including pleadings and some discovery; two contained primarily discovery material, including witness files and interview tapes. Some of the non-transcript boxes were partially empty. (See Ex. A, attached [photos of discovery boxes].)

6. There was no index for the discovery provided, nor was the paper discovery date-stamped. Thus there was no way to determine whether what was provided was the complete discovery. However, given that this is a complex capital case involving two sepa-

1 rate murders and four separate attempted murders, counsel for Defendant expected signif-
2 icantly more material than what was provided. For example, there were some noticeably
3 absent files on key figures such as Rick Arreola, Justin Swigart, Robert Murphy, etc.

4 7. With respect to *Brady*, the files contained no criminal records for various
5 prosecution witnesses, including the victims. It is known from the defense investigation
6 conducted postconviction that some of these witnesses (e.g., Rick Arreola, Debbie Cruz,
7 Alice Alva) had criminal records, yet no such information were contained in the discovery
8 material provided for review on April 15-16, 2019.

9 8. Moreover, it was evident that files had been removed from some of the boxes,
10 as they were only partially full. Whether or not the missing items were work product, or
11 items that should have been turned over to the defense, remains uncertain without an *in*
12 *camera* review and assessment by the Court. The District Attorney did not identify what
13 had been withheld.

14 I declare under penalty of perjury under the laws of the State of California that the
15 foregoing is true and correct.

16 Executed on this the 13th day of May, 2019 at Brisbane, California.

17
18 Pamala Sayasane
19 PAMALA SAYASANE

20 Second counsel for Defendant
21 and Petitioner, Keith Zon Doolin
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DECLARATION OF SERVICE BY MAIL

I declare that I am over 18 years of age, not a party to the within cause; my business address is 1955 Broadway, Suite 605, San Francisco, California 94109. Today I served a copy of the attached

MOTION FOR DISTRICT ATTORNEY TO PROVIDE: (1) COMPLETE DISCOVERY, INCLUDING ALL *BRADY* MATERIAL; (2) AN ITEMIZATION OF MATERIAL WITHHELD FROM THE DEFENSE UNDER THE ASSERTION OF PRIVILEGE SUCH AS WORK-PRODUCT; AND (3) AN *IN CAMERA* ASSESSMENT OF WHETHER SUCH NON-DISCLOSURE WAS WARRANTED

on the following, by mailing same in an envelope, postage prepaid, and/or email, addressed as follows:

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Deputy Attorney General
2550 Mariposa Mall Room 5090
Fresno, California 93721

Robert Romanacce, Esq.
Fresno District Attorney's Office
2220 Tulare Street #1000
Fresno, California 9372

Keith Zon Doolin, K-13400
San Quentin State Prison
San Quentin, California 94974

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this the 13th day of May, 2019 at San Francisco, California.


ROBERT R. BRYAN

Lead counsel for Defendant and
Petitioner, Keith Zon Doolin



IN THE COURT OF APPEALS OF THE STATE OF CALIFORNIA
ON THE STATE OF CALIFORNIA
APPEAL FROM THE SUPERIOR COURT OF THE COUNTY OF FRESNO
Honorable JAMES C. BARNARD, Judge

Supplement Number 24

THE COURT OF APPEALS OF THE STATE OF CALIFORNIA
CLERK'S OFFICE
1200 J STREET, SUITE 200
FRESNO, CALIFORNIA 93721

Case Number: 9550406
Supplement Number: 24
Pages: 1 through 500

KEITH JOHN DOOLIN
DEFENDANT AND APPELLANT

SUPPLEMENTAL CLERK'S TRANSCRIPT ON APPEAL
CONFIDENTIAL MEDICAL RECORDS

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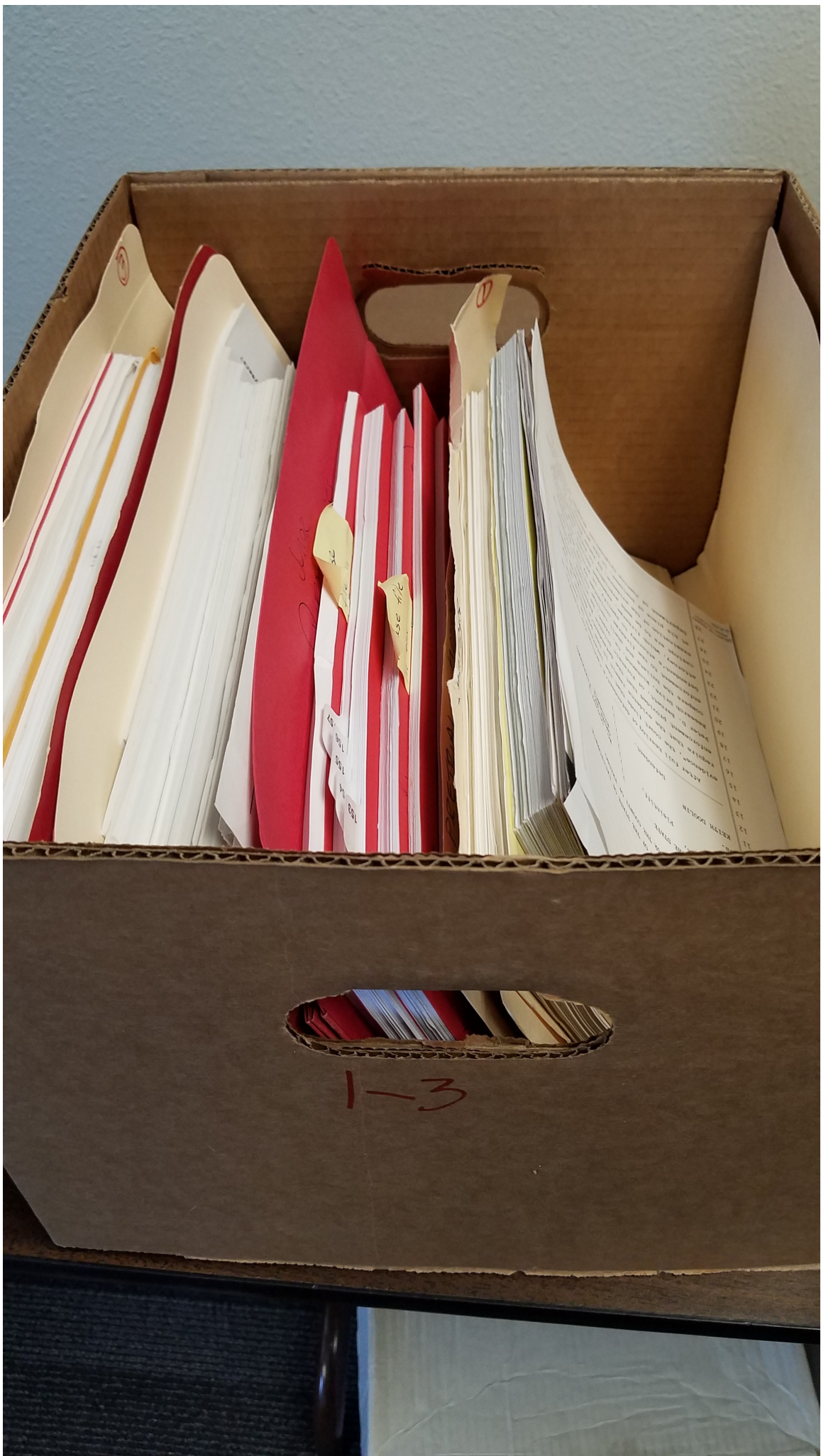
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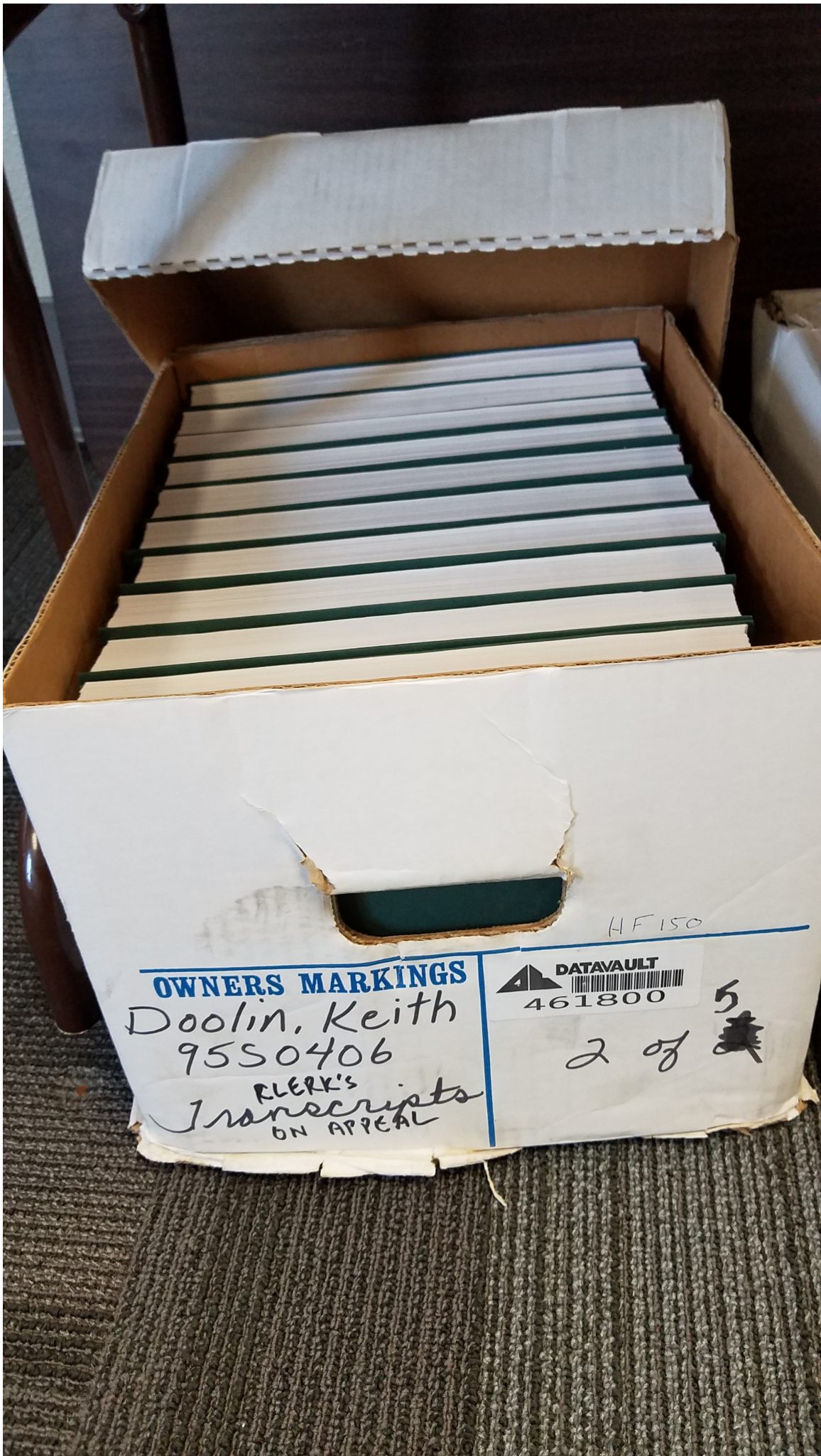
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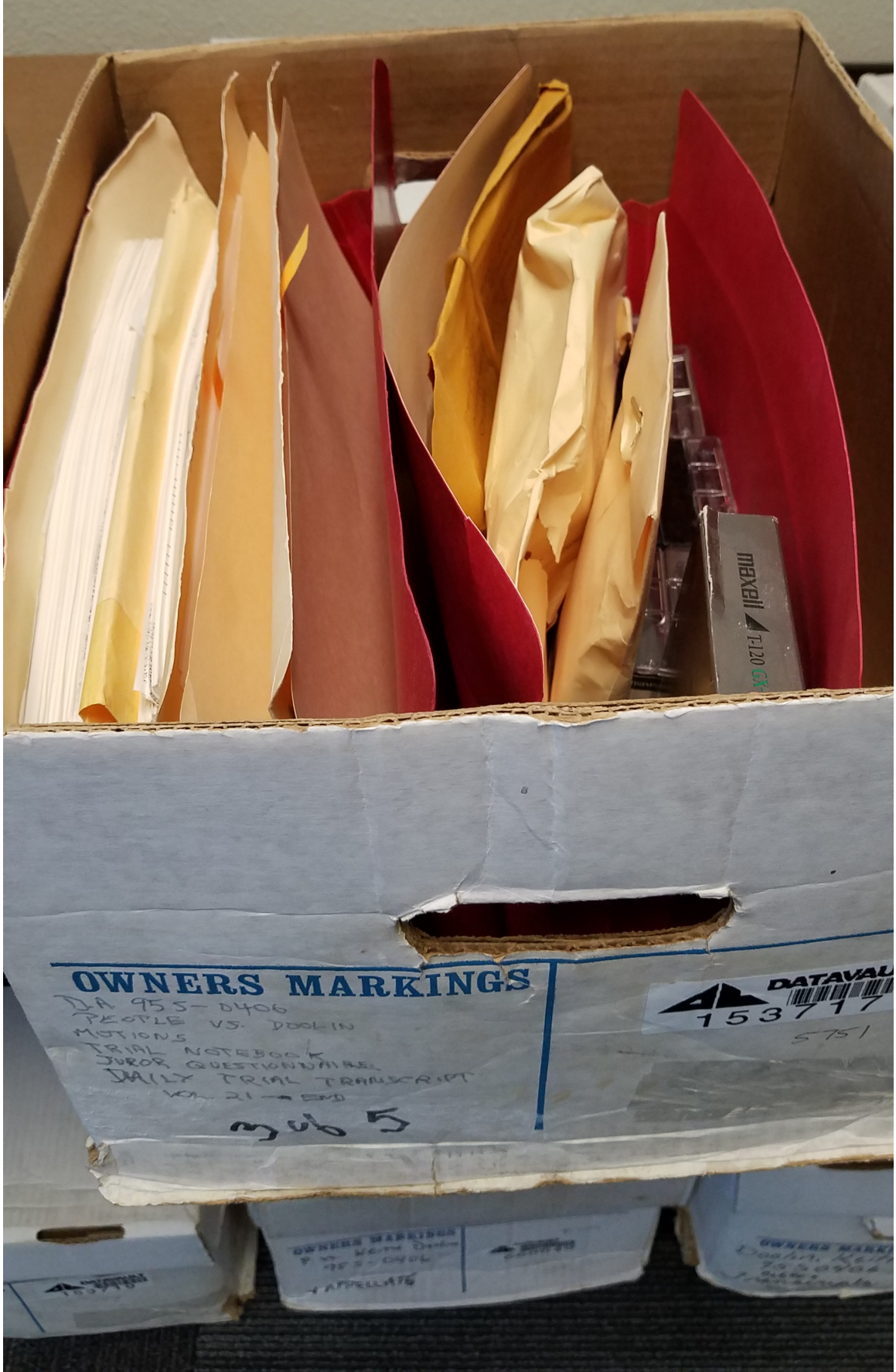


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2 of 5

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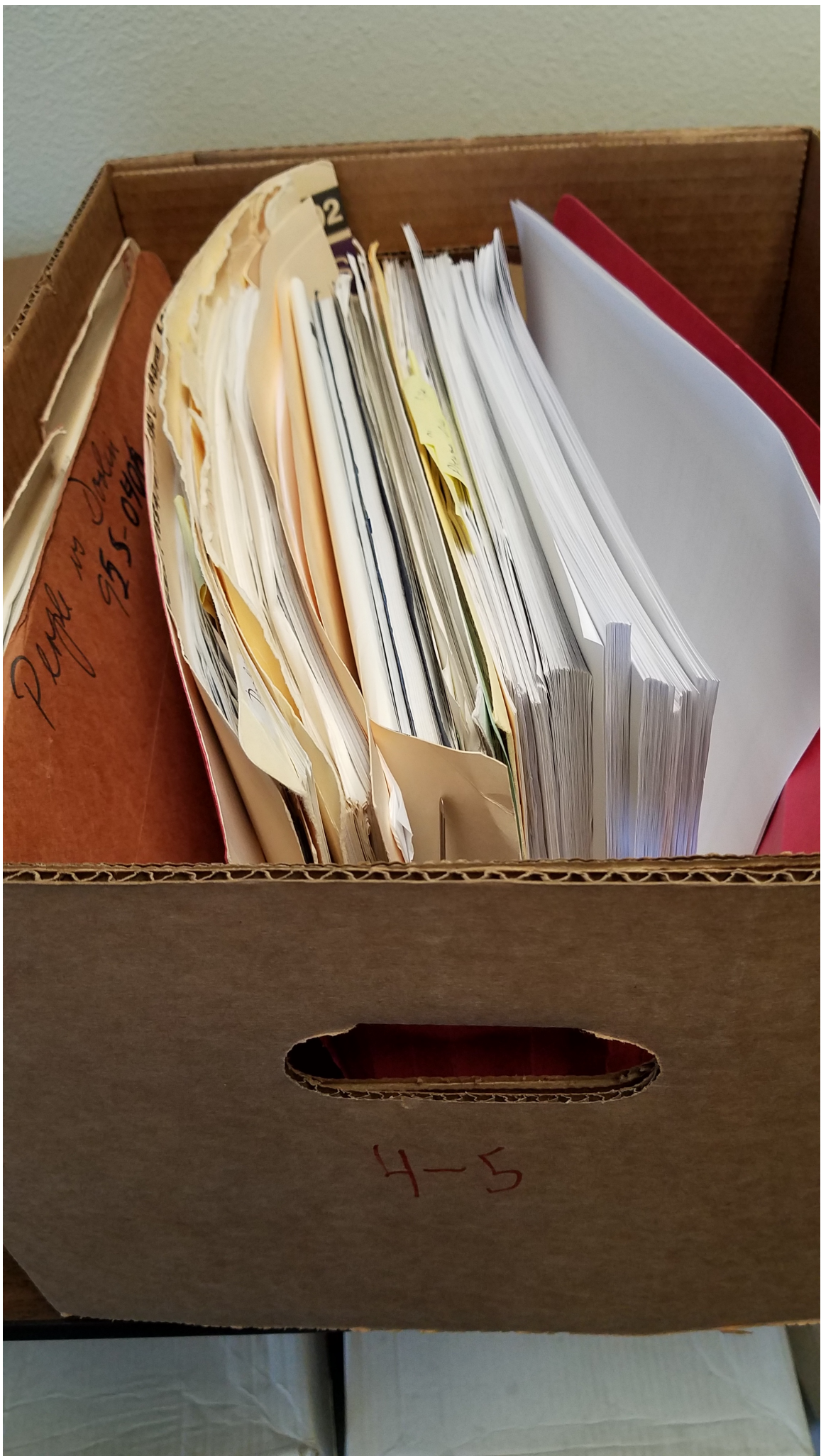


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OWNERS MARKINGS

P. vs. KEITH Doolin
955-0406

→ APPELLATE

T-5222





Office of the District Attorney
Elizabeth A. Egan
District Attorney

TO: 7/8/10 NOTE TO FILE
FROM: ROBERT G. MANGANO
RE: Response to letter from the Office of the Federal Defender
on Keith Doolin (DOB: 1/25/73) - DA 95S414

A letter from the Office of the Federal Defender regarding People v. Doolin (DA 95S414) case was received by our office on April 5, 2010. Some time after that, it was assigned to me to respond to it. The letter from the Federal Defender requested all information from Doolin the case pursuant to Brady v. Maryland (1963) 373 US 83. The letter also cited Government Code sections 6255 and 6257, but this did not appear to be a request pursuant to the California Public Records Act (because Government Code section 6255 is not the provision providing for the production of the records and Government Code section 6257 is no longer in existence).

Upon receipt of the letter from the Federal Defender, I received five (5) boxes from DataVault related to the case and sought to determine if such materials had been previously provided. I spoke to Mr. Dennis Cooper, the DDA who tried the case, and he recalled providing a set of such discovery to the trial attorney, and also another fresh set of discovery to the state appellate attorney, Mr. Robert Derham, who was responsible for state habeas issues for Appellant Doolin. A review of the five (5) boxes, both by myself and Mr. Cooper, did not reveal any specific documentation of such providing such discovery.

Correspondence from Mr. Derham indicated that materials were made available to him by Mr. Cooper (See Robert Derham's July 1, 2005 and August 10, 2005 letters). This conclusion is further supported by the fact that Mr. Derham sought these materials in order to file his state habeas petitions. Soon after the August 10, 2005 date, Mr. Derham did in fact file his habeas petition with the California Supreme Court. (Mr. Derham's petitions were denied.)

Phone calls and letters were made and sent to Mr. Derham, who stated he believed Mr. Cooper did provide him these materials, but could not confirm this because his complete file was now in possession of the Office of the Federal Defender. (See Robert Derham's May 26, 2010 letter.)

Once this was determined, a letter was drafted to the feds explaining this process and conclusions. It was then decided, however, to draft a letter responding to the request of the Office of the Federal Defender under Brady, and, now, the California Public Records Act. This letter was sent out on July 2, 2010 & a copy is below.

RGM



Attorney

Office of the

Elizabeth

District

ATTACHMENT A:

COPY OF LETTER SENT TO THE FEDS ON 7/2/10:

July 2, 2010

Hilary Sheard and Jennifer Mann, Esqs.
Office of the Federal Defender
801 I Street, 3rd Floor
Sacramento, CA 95814

Re: Keith Doolin (DOB: 1/25/73) - DA 95S414

Dear Mses. Sheard and Mann,

Thank you for your recent letter requesting records on the murders of Peggy Ann Tucker and Inez Cantu Espinoza, and attempted murders of Alice Alva, Debbie Cruz, Marlene Mendibles, and Stephanie Kachman.

Pursuant to Williams v. Superior Court (1993) 5 Cal.4th 337, Rivero v. Superior Court (1997) 54 Cal.App.4th 1048 and District Attorney's Office v. Osborne (2009) 129 S.Ct. 2308, we decline to provide the requested records at this time.

Please contact me if I can be of any further assistance.

Thank you,

Robert Mangano

Fresno County District Attorney's Office
2220 Tulare Street
Suite 1000
Fresno CA 93721

ROBERT DERHAM
ATTORNEY AT LAW
400 RED HILL AVENUE
SAN ANSELMO, CA 94960
TEL: 415-485-2945

May 26, 2010

Mr. Robert Mangano, Esq.
Deputy District Attorney
Office of the District Attorney
2220 Tulare Street
Fresno, CA 93721

Re: *People v. Doolin*

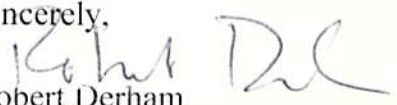
Dear Mr. Mangano:

I received your letter of May 20, 2010, regarding the discovery of the prosecutor's file.

As I told you and Mr. Cooper on the telephone, I remember talking to Mr. Cooper about his case file. I recall we had an agreement that he would send me a copy of it at my expense. Whether I actually received the file I cannot remember, nor can I confirm it by looking to see if it is in my own file because I no longer have my case file; I handed it over to the Federal Public Defender's office when it was appointed to handle the federal habeas.

I hope this helps. Please feel free to call me if you any other questions.

Sincerely,


Robert Derham
Attorney at Law

cc: Office of the Federal Public Defender, Sacramento



Office of the District Attorney
Elizabeth A. Egan
District Attorney

May 20, 2010

To: Mr. Robert Derham, Esq.
400 Red Hill Ave
San Anselmo, CA 94960

Re: People v. Keith Zon Doolin
Superior Court No. F96554289-9
California Supreme Court Nos. S054489, S137884, S116759

Dear Mr. Derham:

I would like to confirm your recollection, to the extent possible, of your receipt of discovery in your appellate representation of Mr. Doolin.

I have enclosed two items to see if they might help refresh your recollection regarding the receipt of discovery. The first enclosure is your July 1, 2005 letter requesting discovery of all items provided to the trial attorney in order for you to competently investigate potential habeas corpus claims. The second attachment is your August 10, 2005 letter confirming the agreement of our office to provide the requested discovery to you.

As your petition for writ of habeas corpus (S137884) was filed on October 11, 2005, it would seem reasonable to conclude that you had received the requested discovery before then.

Based on any deadlines Mr. Doolin may be facing, I would request your prompt response.

Thank you,

Robert Mangano
Deputy District Attorney
Office of the District Attorney, Fresno County
Homicide Division

Enclosures (2)

OFFICE OF THE FEDERAL DEFENDER
EASTERN DISTRICT OF CALIFORNIA
801 I STREET, 3rd FLOOR
SACRAMENTO, CALIFORNIA 95814
(916) 498-6666 Fax: (916) 498-6656

REC'D APR 05 2010

Daniel J. Broderick
Federal Defender

Linda C. Harter
Chief Assistant Defender

April 1, 2010

Route to
Homicide
19955414

Elizabeth A. Egan, District Attorney
Fresno County District Attorney's Office
2220 Tulare Street, Suite 1000
Fresno, CA 93721

RE: Keith Zon Doolin - D.A. No. 95S0406
DOB 01/25/1973

Dear Ms. Egan:

As representatives of Keith Zon Doolin, our office requests that all Fresno County District Attorney files or information generated during and after the investigation, case preparation and trial in the following cases be made available for inspection and copying by our office:

- November 3, 1994, attempted murder of Alice Alva, case no. 94-97699
- December 29, 1994, attempted murder of Debbie Cruz, case no. 94-115840
- July 29, 1995, attempted murder of Marlene Mendibles, case no. 95-66848
- July 29, 1995, murder of Inez Cantu Espinoza, case no. 95-66192
- August 11, 1995, attempted murder of Stephanie Kachman, case no. 95-70873
- September 19, 1995, murder of Peggy Ann Tucker, case no. 95-83319

This request includes any information, regardless of the format in which the information is stored, and therefore includes photographs, audio or video recordings, DVDs, CD-ROMs, microfiche, or any other medium from which information can be retrieved. It includes, but is not limited to, copies of police reports, witness statements, investigative notes and reports, photographs, exhibits, internal and external correspondence and memoranda, pleadings, subpoenas, motions, orders and judgments, press releases and any other type of recorded or stored information pertinent to the above cases.

The inspection can be conducted in Fresno on a mutually agreeable date and we are open to any reasonable arrangement for copying of necessary portions of the files following inspection. Please contact my office at (916) 498-6666 or by email at gamble_minges@fd.org concerning arrangements for the inspection and copying of these files.

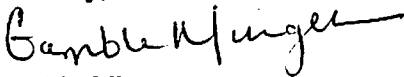
If there are any records that you propose to withhold from inspection and copying, please send me a list identifying the nature of the records, the number of pages or documents, and the reason for withholding, including your legal authority for withholding it. (See Gov. Code., § 6255).

Pursuant to section 6257, if you believe that a reasonably segregable portion of a particular record is exempt from disclosure, please provide the remainder of the particular record and a description of the withheld portion and the reason for withholding including your legal authority for withholding it.

This request is also made pursuant to the authority of *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*, 405 U.S. 150 (1972) and *Kyles v. Whitley*, 514 U.S. 419 (1995), requiring the disclosure of evidence favorable to the accused, whether relevant to guilt or punishment, whether substantive or impeaching, and including evidence known to other agencies or persons acting on the People's behalf, including the police. It should therefore include all material concerning persons other than Mr. Doolin who may have been suspected, investigated or arrested in connection with the above offenses.

I am enclosing a release signed by Mr. Doolin, authorizing you to release to our office any confidential records you may have in your possession. If you have any questions or need further information please contact me at the number above. Thank you for your assistance with this request.

Sincerely,



Gamble Minges
Paralegal to Assistant Federal Defenders
Hilary Sheard and Jennifer Mann

Enclosure

ROBERT DERHAM
ATTORNEY AT LAW
1010 B STREET, SUITE 212
SAN RAFAEL, CA 94901
TEL: 415-485-2945

August 10, 2005

Mr. Dennis Cooper
Office of the District Attorney
2220 Tulare Street, #1000
Fresno, CA 93721

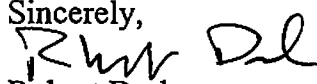
Re: *People v. Keith Zon Doolin*
Superior Court No. 554289-9
California Supreme Court No. S054489 (Automatic Appeal)

Dear Mr. Cooper:

This letter is to confirm our agreement regarding the discovery. In response to my request for discovery under Penal Code section 1054.9, you agreed to copy and send to me all the discovery that you furnished to defense counsel in the above-referenced case. You stated you would not provide any work product. I agreed to accept all the discovery that you furnished to trial counsel without your work product. I also agreed to pay the out-of-pocket cost to copy the material.

You agreed to copy this material in August and asked me to send you a note to remind you. This is that note. I would appreciate getting the material at your earliest convenience.

Thank you.

Sincerely,

Robert Derham
Attorney at Law

cc: Lloyd Carter
Office of the Attorney General

ROBERT DERHAM
ATTORNEY AT LAW
1010 B STREET, SUITE 212
SAN RAFAEL, CA 94901
TEL: 415-485-2945

July 1, 2005

Mr. Dennis Cooper
Office of the District Attorney
2220 Tulare Street, #1000
Fresno, CA 93721

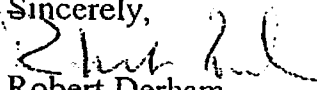
Re: *People v. Keith Zon Doolin*
Superior Court No. 554289-9
California Supreme Court No. S054489 (Automatic Appeal)

Dear Mr. Cooper:

As you know, I represent Keith Doolin in both the automatic appeal and the related habeas corpus proceedings arising out of the judgment of death entered by the Fresno Superior Court on June 18, 1996.

I need to review your file to see what discovery was provided to Mr. Doolin's trial attorney, Rudy Petilla. I have Mr. Petilla's file, and I have reviewed it thoroughly and discussed it with Mr. Petilla. However, without comparing the discovery furnished by the District Attorney's Office to the discovery contained in Mr. Petilla's file itself, I cannot be certain that his file contains everything that was given to him. I cannot competently investigate potential habeas claims without reviewing all of the discovery furnished to trial counsel. I will be in Fresno on July 11 and 12, so that would be a convenient time for me to review the file. If you wish to provide a copy of your discovery file, that would be fine, too. Please let me know as soon as possible whether you wish to accommodate this request.

Sincerely,


Robert Derham
Attorney at Law

cc: Lloyd Carter
Office of the Attorney General

Mary Jameson
California Supreme Court