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Sedgwick County Conflict Office

Fax Cover Sheet

Please deliver ASAP to: Court Clerk

Name of Agency: Franklin County Criminal Court

FAX Number: (785) 242-5970

Date: 3-31-15

Total No. pages including cover: 4

SENT FROM

ATTORNEY TIMOTHY A. FRIEDEN
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NAME OF SENDER: TIMOTHY A. FRIEDEN

Comments: Defendant's Response to State's Filings #35-42, to be filed Under Seal.

Doc# 293

FILED UNDER SEAL

IN THE DISTRICT COURT OF FRANKLIN COUNTY, KANSAS

THE STATE OF KANSAS,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 13 CR 104
Kyle Flack,)	
)	
Defendant.)	

DEFENDANT'S REPSONSE TO STATE'S FILINGS #35-42.

COMES NOW the Defendant Kyle Flack and in response to the states filings #35-42. Defendant states as follows:

1. Defendant reserves the right to file his own proposed instructions, procedures and questionnaire. Defenses asserts the State's proposed process, instructions and questionnaire is designed to socially absolve and morally disengage prospective jurors of personal responsibility of convicting and then sentencing Kyle Flack to death. Defense is researching and investigating the psychological circumstances and law regarding these issues and said investigation is incomplete. The jury selection process is set to begin in July with the mailing of notices. Those individuals are set to appear in August. Jury selection and trial is set to start in September. Addressing these issues at this point is premature.

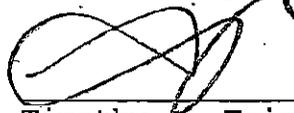
2. The presumptive sentence for a conviction of capital murder is life without the possibility of parole. Only if

aggravating factors are proven beyond a reasonable doubt and then those aggravators are not outweighed by mitigating factors which are weighed by each juror based upon that juror's individual moral assessment and the jury unanimously find this will a sentence of death be imposed. A system that in any manner whatsoever lowers the bar psychologically for the jurors making it more acceptable to arrive at a conviction and then a death verdict violates the 5th, 6th and 8th amendments of the U.S. Constitution as well as the Kansas Constitution.

3. Defense objects to State's Filing #42. The state makes a 4th request to do consumable DNA testing. This time the state proposes to consume 22 specified items. Defense objects to any DNA testing which will fully consume a sample. Defense request this Court to instruct the State that it may not conduct any destructive testing. Destructive testing will deny Kyle Flack Federal and State due process and will impair the ability of counsel to provide Kyle flack with a constitutional defense

WHEREFORE defendant, Kyle Flack request this court deny motion in State's filing #42 and reserve its final determination on any and all proposed instructions, procedures and if any a questionnaire to jurors or prospective jurors.

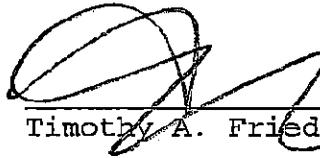
Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing
Response to States filings #35 -42 was fax delivered to the Franklin
County Attorney Office this 31st day of March, 2015.



Timothy A. Frieden