STATE OF VERMONT
VERMONT SUPREME COURT
MAY TERM, 2016

Order Promulgating Amendments to Rule 16 of the Vermont Rules of Criminal Procedure

Pursuant to the Vermont Constitution, Chapter II, Section 37, and 12 V.S.A. § 1, it is hereby ordered:

1. That Rule 16 of the Vermont Rules of Criminal Procedure be amended as follows (new matter underlined):

RULE 16. DISCOVERY BY DEFENDANT

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(d) **Matters Not Subject to Disclosure.**

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(3) *Victim's Residential Address or Place of Employment.* Disclosure shall not be required of a victim's residential address or place of employment unless the court finds, based upon a preponderance of the evidence, that nondisclosure of the information will prejudice the defendant.

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Reporter's Notes—2016 Amendment

New subdivision 16(d)(3) provides that the prosecuting attorney is not required to disclose to the defendant information as to the residential address or place of employment of the victim, unless the court finds, based upon a preponderance of the evidence, that nondisclosure of the information will prejudice the defendant. The amendment serves to implement the provisions of 13 V.S.A. § 5310, while expressly reserving the court's authority to order that the state disclose the information where necessary to preserve a defendant's due process and confrontation guarantees. In contrast to Vermont Rule 16, Federal Rule 16 makes no provision for disclosure of the addresses or places of employment of witnesses; the Jencks Act, 18 U.S.C. § 3500, provides for disclosure of certain prior statements of witnesses to the defendant after they have testified, for purposes of cross-examination.

2. That this Rule, as amended, is prescribed and promulgated to become effective July 11, 2016. The Reporter's Notes are advisory.

3. That the Chief Justice is authorized to report these amendments to the General Assembly in accordance with the provisions of 12 V.S.A. § 1, as amended.

Dated in Chambers at Montpelier, Vermont this 10th day of May, 2016.

Paul L. Reiber, Chief Justice

John A. Dooley, III, Associate Justice

Marilyn S. Skoglund, Associate Justice

Beth Robinson, Associate Justice

Harold E. Eaton, Jr., Associate Justice