

CR-2018-07544-E

STATE OF TEXAS	§	IN THE COUNTY
	§	
VS.	§	CRIMINAL COURT NO. 5
	§	
JASON VANDYKE	§	DENTON COUNTY, TEXAS

STATE'S FIRST MOTION FOR CONTINUANCE

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, the State of Texas by and through her Assistant District Attorney, Robert Frey, and files this Motion for Continuance, and in support thereof would respectfully show the Court the following:

I.

The above entitled and numbered case is set for a Jury Trial Announcement on January 22, 2019 and Jury Trial on January 29, 2019.

II.

Defendant was arrested for this charge on September 14, 2018. The complaint and information in this case were filed on December 14, 2018. On December 17, 2018, Defendant filed a Motion for Speedy Trial. The Defendant subsequently failed to appear at a December 21, 2018 bond hearing, and an alias capias warrant was issued by this Court on the same day. The Defendant remained at-large until January 8, 2019. A new bond was set at a hearing on January 11, 2019. The Defendant was able to bond out of Denton County jail on January 15, 2019, and remains out on bond as of the filing of this motion.

II.

The State requests this continuance pursuant to Articles 29.03 and 29.04. This is the State's first request for a continuance in this matter. The State requests additional time to procure evidence and witnesses. The request for continuance is not made for purposes of delay or harassment, but so that justice may be done.

III.

On January 18, 2019, the State was informed of additional evidence that may exist in this case, including body camera footage involving officer contact with both the Defendant and potential witnesses, which was not provided to the District Attorney's office by the arresting agency. Attorneys for the State have not received, have not been able to review, and have not been able to provide copies of said evidence to Defendant's attorney. There is no way at present to know whether any such evidence might be mitigating or exculpatory and as such require disclosure under *Brady v. Maryland*, 373 U.S. 83 (1963); Article 39.14 of the Texas Code of Criminal Procedure; or other similar laws requiring disclosure of materials in the possession of the State to defense prior to

trial. The State was further informed by the arresting agency in this case that said additional evidence would not be able to be made available until sometime during the week of January 20, 2019 at the earliest.

IV.

The State conferred regarding this motion for continuance with Defendant's attorney of record, Dominick Marsala, who informed the State that the Defendant was opposed to the State's motion.

V.

WHEREFORE, PREMISES CONSIDERED, the State prays the Court grant the State's Motion for Continuance of jury trial setting and that this case be reset for a new date in accordance with the court's availability.

Respectfully submitted,



Robert Frey  
Assistant Criminal District Attorney  
Denton County, Texas  
SBN 24091269  
robert.frey@dentoncounty.com

STATE OF TEXAS

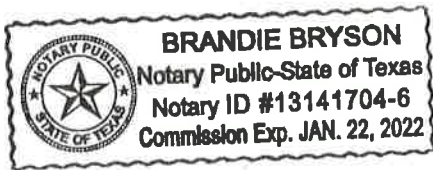
COUNTY OF DENTON

BEFORE ME, the undersigned authority on this day personally appeared Robert Frey, who, after being duly sworn, upon oath, stated that he is the Assistant District Attorney in the above referenced matter, that he has read the foregoing Motion for Continuance and that every statement contained therein is true and correct within the best of his knowledge.

  
Robert Frey  
Assistant Criminal District Attorney  
Denton County, Texas  
SBN 24091269


SUBSCRIBED AND SWORN TO BEFORE ME, on this the 18<sup>th</sup> day of January, 2019.

  
Notary Public, State of Texas



Certificate of Service

I hereby certify that a true and correct copy of the foregoing motion was served, in compliance with the Statewide Rules Governing Electronic Filing in Criminal Cases, on the Defendant's attorney on this the 18<sup>th</sup> day of January, 2019.

  
Robert Frey  
Assistant Criminal District Attorney