

IN THE CIRCUIT COURT OF FAULKNER COUNTY, ARKANSAS
SECOND DIVISION

STATE OF ARKANSAS

FILED

PLAINTIFF

V.

2016 MAR 28 PM 1 47
NO. CR 2015-569

RHONDA WHARTON, CLERK

HUNTER DREXLER

DEFENDANT

BY  DC

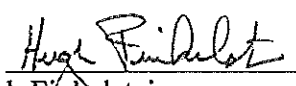
MOTION TO CONTINUE JURY TRIAL

Comes now the State of Arkansas, by and through Deputy Prosecuting Attorney, Hugh Finkelstein, and for its Motion states:

1. A felony information was filed on August 7, 2015, charging the defendant with violating Arkansas Code Annotated sections 5-10-101, Capital Murder (2 counts), 5-12-103, Aggravated Robbery (2 counts), 5-36-103, Theft of Property by Threat (2 counts), and 5-60-101, Abuse of Corpse (2 counts).
2. On October 22, 2015, the Court set this case for a jury trial beginning on April 4, 2015. The time between March 14, 2015 and April 4, 2015 was tolled for speedy trial purposes due to a trial conflict with defense attorney's calendar.
3. While preparing for trial, certain items of evidence were recently submitted to the Arkansas State Crime Lab. The DNA results for those items have not been completed.
4. Also, in preparation for trial, it was discovered that the iPod belonging to the codefendant, Justin Staton, was in the possession of his attorneys. That iPod has been turned over to the Conway Police Department, and more time is needed in order to attempt to access the information contained on the iPod.

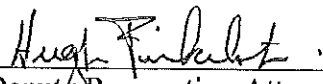
WHEREFORE, for the reasons stated above, the State prays that the Court grant its Motion to Continue Jury Trial.

Respectfully Submitted,
Cody Hiland
Prosecuting Attorney
Twentieth Judicial District
State of Arkansas

By: 
Hugh Finkelstein
Deputy Prosecuting Attorney
P.O. Box 550
Conway, AR 72033

CERTIFICATE OF SERVICE

This is to certify that I have this 28th day of March, 2016, served counsel for the defendant in the foregoing matter a copy of this motion via email.



Deputy Prosecuting Attorney

IN THE CIRCUIT COURT OF FAULKNER COUNTY ARKANSAS
2ND DIVISION

STATE OF ARKANSAS

PLAINTIFF

VS.

CR-15-569

HUNTER DREXLER

DEFENDANT

RESPONSE TO STATE'S MOTION TO CONTINUE

In support, Defendant states:

1. A pre-trial hearing is set for March 29, 2016 at 8:30 a.m. A jury trial is currently set to begin on April 4, 2016. The State has been aware that Mr. Drexler is and has been ready for trial to commence on April 4, 2016. Indeed, Counsel for Defendant has communicated his intention to proceed to trial on the April 4, 2016 date.

2. Continuances are addressed in Rule 27.3 of the Arkansas Rules of Criminal Procedure. It states, "[t]he court shall grant a continuance only upon a showing of good cause and for only for so long as is necessary, taking into account not only the request or consent of the prosecuting attorney or defense counsel, but also the public interest in prompt disposition of the case." *Id.* (emphasis added) A showing of good cause is required.

3 On the even of the pre-trial sent for March 29, 2016, the State indicated by motion that it is requesting that the current jury trial setting be continued. As a basis for this request, the State indicated two (2) reasons. First, that "certain items of evidence were recently submitted to the Arkansas State Crime Lab...and that "DNA results for those items have not been completed." Second, the State discovered that the "iPod belonging to the codefendant, Justin Staton, was in the possession of his attorneys," which has recently been turned over to the

Conway Police Department. The State argues that it needs more time to access the information contained on the iPod.

4. The Defendant requests that the State outline, in detail, what items of evidence that have recently been submitted to the Arkansas State Crime Lab so that the Defendant can argue and the Court can make an appropriate determination as to whether the State can show good cause for its motion to continue. The Defendant is not familiar with any new evidence that has presented to the State. Presumably, the State has had this evidence in its possession when the jury trial was set on October 22, 2015. If so, the State acquiesced in it's obligation to get the testing that it now feels necessary accomplished prior to "recently," whenever that may be.

5. As mentioned, the State relies on its recent acquisition of the iPod that purportedly belongs to co-defendant, Justin Staton. Law enforcement was aware of this iPod on or about July 24, 2015, the date of the alleged incident. In a "supplemental narrative" prepared by Officer Jeremy H. Holliman, of the Conway Police Department, information was provided to the officer that Mr. Staton owned an iPod touch. In a statement given by T.H. (a juvenile), he states that Mr. Staton told him about an iPod that his sister has in his possession and it contained "a lot of evidence" on it. This statement was given on August 21, 2015. On September 15, 2015, Mr. Staton, in a recorded phone call from the Faulkner County Jail, stated that the iPod was in the possession of his defense team. The discovery file that has been prepared in this matter amounts to thirteen-hundred-ninety-four (1394) pages, as of March 28, 2016. There is nothing in this file that indicates that any further investigation was done to track down and/or obtain the iPod. This iPod was clearly not in the possession of Mr. Staton, who has been incarcerated since July 25, 2015. In a hearing on March 22, 2016, the State outlined its reasoning for the iPod and moved

the Court to turn over it over to the prosecution. State's defense team obliged and it was provided. The State has indicated to Drexler's attorney's that it was not likely that the iPod could be accessed as it was password protected. On March 28, 2016, the State had changed it's position that it could be accessed and that the Attorney General's Office may have the software to accomplish the task. The State has not shown good cause to justify a motion to continue for this basis. The State has been in possession of this information since the date of the alleged conduct. Again, as stated above, the State is requesting that the jury trial be moved because of it's own acquiescence.

6. Good cause cannot be shown based upon the reasons relied upon by the State. They are required by Rule 27.3 to outline good cause for their request. Drexler is requesting that a good cause showing be made.

WHEREFORE, premises considered, Drexler is requesting that the Court deny the State's request for continuance; find that a good cause showing has not been made; and that the case proceed to trial on April 4, 2016.

Respectfully submitted,

/s/ Patrick Benca
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Attorneys for Defendant

CERTIFICATE OF SERVICE

I certify that a copy was faxed or mailed to the Office of the Prosecuting Attorney on March 28, 2016.

/s/ Patrick Benca
Patrick J. Benca
John D. Kennedy