

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL
CIRCUIT, IN AND FOR DUVAL COUNTY, FLORIDA

STATE OF FLORIDA

CASE NO.: 2012CF011572AMA

vs.

MICHAEL DUNN
_____ /

MOTION TO SEQUESTER JURY

Defendant, through undersigned counsel, moves this Honorable Court to enter an Order directing that the jury selected and sworn to try this cause be fully sequestered during the entire trial, including but not limited to, jury selection. Sequestration involves all necessary methods to see that jury is not exposed to community or media influence, including chaperoning and over night accommodations. In addition, pursuant to Florida Rule of Judicial Administration 2.451, undersigned counsel requests the removal of all electronic devices during jury selection and throughout the trial. As grounds for this motion, defendant states the following, each of which are independent lawful grounds for this motion requiring sequestration:

1. The defendant was indicted on first degree murder and attempted first degree murder.
2. The defendant is entitled upon motion to sequester the jury during the course of the trial on a capital based offense.

3. This case has been extensively covered and attended by local and national media outlets, to an extraordinary degree, even if an untainted jury is able to be selected from Duval County, it would be highly unlikely, and almost impossible, that the jury selected could avoid prejudicial contact with other residents familiar with this case. It is highly unlikely that said jury could avoid prejudicial contact with news and media outlet coverage as well if not sequestered. Both residents of Duval county, along with the extraordinary media coverage on this case, make

the jury highly susceptible to predisposed opinions and/or bias about this case. The defendant can not get a fair trial by an impartial jury in Duval County due to the nature of said extensive, prejudicial, and inflammatory pretrial publicity in this case.

The media in this case, and other sources including officers of the Court, have published information in this case that would be inadmissible at trial, including but not limited to written letters by the defendant and his family, and biased opinions regarding those letters. There has also been extensive interviews with the alleged victims and the families of said victims, which only compounded the negative pretrial publicity for the instant motion. This case received an extraordinary amount of media exposure in recent days, leading up to jury selection and jury trial, including but not limited to the massive and extended media coverage over the past year. Undersigned counsel has previously requested that this Court take judicial notice of the extensive publicity in the recent media motions hearing, and this Court has commented on such in previous hearings. Furthermore, the publicity has been repeated on television, internet and social media each and every time any kind of hearing in this case was held, regardless of the nature hearing. Such repetitive media coverage undermines the effectiveness of the rules protecting the defendant from unfair bias and prejudice, thus making it almost impossible to have a fair trial with an impartial jury. Ultimately, this denies the defendant due process of law under the United States and Florida Constitutions, respectively.

4. The pretrial publicity has been reflective and reported in a manner that suggests a prosecution bias in building a case against the defendant. The national and local media coverage, including the internet and social media commentary, have been both hostile, prejudicial and constant, even to the point of inflammatory rhetoric against the defendant.

5. This Court has both recognized and addressed the extraordinary publicity associated with this case. Based upon said publicity and media attention arising from this case, the Court must recognize the need to sequester any possible venire and jury selected for an impartial panel to be seated in this cause.

6. The Jacksonville community involvement in this case, including outside community involvement, and the hostility, bias and prejudice against the defendant have created an environment in which a juror who is not sequestered would find it most difficult, if not highly improbable, to render a lawful verdict based solely on the evidence presented at trial.

7. This Court is fully aware that this trial will be attended and broadcast extensively, as evidenced by the previous pretrial coverage. The extraordinary media coverage will be so extensive that if an impartial jury is actually selected in Duval County, it is highly unlikely that said jury could avoid exposure to the extraordinary media coverage and publicity in this cause.

8. This Court giving cautionary instructions or directions can not prevent exposure to the prejudicial media publicity, nor cure any exposure to extraordinary prejudicial media coverage to not sequester the jury. See Livingston v. State, 458 So. 2d 235, (Fla. 1984) and Johnson v. Waynewright, 498 So. 2d 938, (Fla. 1986).

Failure to sequester the venire and a jury in this cause would be contrary to the U.S. Constitution, The State of Florida Constitution, Florida Rules of Criminal Procedure and Florida Law.

WHEREFORE, the defendant respectfully requests and prays that this Honorable Court enter an Order sequestering the venire and any impartial jury selected during the entire course of this case, and removal of all electronic devices from jurors, with directions to the Jacksonville Sheriff Office to coordinate and oversee said sequestration.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Facsimile/E-Mail/E-file this January 22, 2014, to the Office of the State Attorney, 220 Bay Street, Jacksonville, Florida, 32202-3429.

Respectfully submitted,

/s/ Cory Strolla
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