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NO. 24-CR-000326

FLOYD CIRCUIT COURT
CRIMINAL DIVISION
JUDGE COLEMAN

COMMONWEALTH OF KENTUCKY

PLAINTIFF

V. DEFENDANT’S RESPONSE TO THE COMMONWEALTH
REASSERTING HIS RIGHT TO SPEEDY TRIAL

MICHAEL K. MCKINNEY III

DEFENDANT

*** **

Comes now the Defendant, Michael K. McKinney III, by and through counsel, Steven R. Romines, and respectfully files this response to the Commonwealth’s. In support of this motion, the Defendant states as follows:

Barker v. Wingo, 407 U. S. 514 , 533 , 92 S. Ct. 2182 , 33 L. Ed. 2d 101 (1972), cited and analyzed by the Commonwealth, is the seminal case on this issue, and involves numerous delays in the prosecution of a man accused of murder in Kentucky. However, not all of the facts are analogous, since Barker obtained pretrial release by posting a \$5,000 bond. Here, the Defendant’s bond differs from Barker’s by a factor of one-thousand, and he is, as such, unable to post it. Such circumstances were of high concern to the *Barker* Court:

“We have discussed previously the societal disadvantages of lengthy pretrial incarceration, but obviously the disadvantages for the accused who cannot obtain his release are even more serious. The time spent in jail awaiting trial has a detrimental impact on the individual. It often means loss of a job; it disrupts family life; and it enforces idleness. Most jails offer little or no recreational or rehabilitative programs. The time spent in jail is simply dead time. Moreover, if a defendant is locked up, he is hindered in his ability to gather evidence, contact witnesses, or otherwise prepare his defense. **Imposing those consequences on anyone who has not yet been convicted is serious.** It is especially unfortunate to

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impose them on those persons who are ultimately found to be innocent.” *Id.* at 533. Emphasis added.

Such prejudice is particularly intense in the matter at hand. The Commonwealth's theory of the case is that MK—who had little personal history with Amber Spradlin—simply snapped and killed her because he has “dark thoughts” and is “cuckoo.” Regardless of the truth of these allegations at the time someone killed Amber, worsening the Defendant's mental health before trial is massively prejudicial. MK has already spent many months in isolation—*without access to basic distractions like books or television*—for a crime of which he is **still presumed innocent**. If the Commonwealth’s theory is insanity, it helps them to drive the Defendant insane first. As the Commonwealth’s case on point states, lengthy exposure to the conditions of pretrial detention “has a destructive effect on human character”. *Id.* at 520.¹ Every day, week, month, and potential *year* alone in a cell is actual, intense, and debilitating prejudice against the Defendant.

Defendant’s counsel stated, at a hearing held for a Motion to Reduce Bond, that a failure to secure release on home incarceration would necessitate a speedy trial. In the Order denying the bond motion, the Court wrote, “The Commonwealth alleges that the DNA results and other evidence **now** available would support their indictment of the Defendant’s guilt.” (Emphasis added). The **current** DNA evidence, argued the Commonwealth, was strong enough to hold up a five-million-dollar bond. But now the Commonwealth argues that the weaknesses of these results are so likely to be revealed by further testing that it is in the Defendant's “best interest” to

¹ SCOTUS is here citing the testimony of James V. Bennett, Director, Bureau of Prisons, Hearings on Federal Bail Procedures before the Subcommittee on Constitutional Rights and the Subcommittee on Improvements in Judicial Machinery of the Senate Committee on the Judiciary, 88th Cong., 2d Sess., 46 (1964).

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spend more time incarcerated. Counsel questions the implications of this argument, particularly the notion that it is “more likely to be true” that further testing will *help* the Defendant, rather than prejudice him. If the Commonwealth has become aware of the weaknesses in the current DNA evidence, or has reason to believe it is more likely that further results might implicate another individual in Amber’s murder, Defendant’s counsel is amenable to revisiting the issue of pretrial detention. But so long as MK remains in a cell, the Defense **strenuously** objects to the Commonwealth’s proposed timeline and reasoning for the delay. Dysfunction at the KSP lab is not the Defendant’s fault—indeed, MK voluntarily provided samples of his own DNA mere days after Amber’s death. Test results from those samples were deemed sufficient to justify his pretrial incarceration; now it is time to determine how conclusive those results really are. Michael McKinney III is entitled to the due process of law and a trial on the merits.

WHEREFORE, the Defendant respectfully reasserts his right to a speedy trial.

Respectfully submitted,

ROMINES WEIS & YOUNG PSC

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CERTIFICATE

It is hereby certified that a copy of the foregoing was electronically filed this the 10th day of April.

/s/Steven R. Romines
 STEVEN R. ROMINES