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COMMONWEALTH OF KENTUCKY
PIKE CIRCUIT COURT
DIVISION NO. 1

INDICTMENT NOS. 25-CR-00223
25-CR-00225
25-CR-00227

COMMONWEALTH OF KENTUCKY

PLAINTIFF

v.

ORDER OF CONTINUANCE

MICHAEL K. MCKINNEY III
MICHAEL K. MCKINNEY II
JOSH MULLINS

DEFENDANTS

This matter came before the Court for Pretrial Conference on November 6, 2025.

Appearing for Defendant Michael K. McKinney III (“M.K.”) was Hon. Steven R. Romines, Randy O’Neal and Jacob Romines, for Defendant, Michael K. McKinney II was Hon. Terry D. Jacobs, and for Defendant Josh Mullins was Hon. Whitney Rowe O’Neal. Appearing for the Commonwealth was Hon. Arnold Brent Turner.

Pending before the Court is the Commonwealth’s Motion to Continue the December 1, 2025 trial due to outstanding DNA evidence testing which will not be completed prior to the current trial date. Having reviewed the record, parties’ papers and briefs, having allowed time prior to the hearing for counsels to review copies of *Manning v. Commonwealth*, 701 S.W.3d 478 (Ky. 2024) provided by the Court, and having considered the parties arguments made at the Pretrial Conference, the Court HEREBY GRANTS the Commonwealth’s Motion for Continuance for the following reasons.

The Kentucky Supreme Court in *Manning v. Commonwealth* held that a fourth delay in a complicity to murder and robbery case was for a valid reason because:

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the importance of DNA evidence in modern criminal prosecutions cannot be overstated; the absence of available DNA evidence is the equivalent to having a missing witness. We accordingly cannot fault the trial court for ensuring this evidence was available, despite the incredible length of delay it caused, and hold that the delay associated with this period was valid.

701 S.W.3d 478, 495 (Ky. 2024), *cert. denied sub nom. Manning v. Kentucky*, 145 S. Ct. 1904, 225 L. Ed. 2d 648 (2025). The Court affirmed the Trial Court's continuance even though it resulted trial having been delayed over two years from the date of the indictment. Specifically, the Court found the final delay of over one year in the Manning - case caused solely for the purpose of the lab completing its DNA testing and submitting its final report - was a valid reason.

This Court finds the *Manning v. Commonwealth* case is directly on-point to the continuance requested in this case and further notes this is the first continuance sought by any party. The Court finds that the absence of available DNA evidence would be the equivalent to a missing witness in this case. Moreover, the Commonwealth has been forthcoming since the filing of Defendant's Motion for Speedy Trial that it anticipated evidence testing should be completed by February or March 2026.* Therefore, the Court finds there has not been any proven prejudice to Defendant's ability to prepare his case by allowing time for the Commonwealth to receive outstanding DNA evidence testing from the state crime lab. In fact, the failure to complete testing of the material may cause the Defendant to lose an opportunity to have potential exculpatory evidence at his disposal.

IT IS HEREBY ORDERED that the December 1, 2025 trial is CANCELED; The Court will conduct a Pretrial Conference instead on this date at the hour of 1:00 p.m.

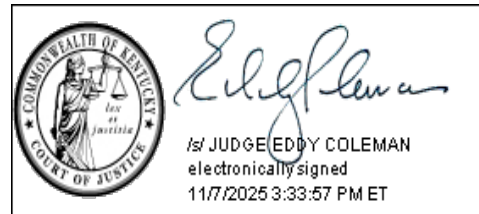
*Commonwealth's response was filed March 27, 2025.

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IT IS FURTHER ORDERED that all other orders contained in the Court's previous Pretrial Scheduling Order entered May 21, 2025 regarding the designated media pool camera, demonstrations, and public attendees, remain in full force and effect for the December 1, 2025 Pretrial Conference ordered herein.



Special Judge

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Order was mailed and/or hand delivered to all parties and/or attorneys of record on this the _____ day of November 2025.

ANNA PINSON SPEARS, CLERK
CLERK, PIKE CIRCUIT COURT

By: D.C.

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