

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CRIMINAL DIVISION

STATE OF OHIO,	:	
	:	
Plaintiff,	:	
	:	CASE NO: 21 CR 1607
	:	21 CR 451
v.	:	
	:	JUDGE MCINTOSH
ADAM C. COY,	:	
	:	
Defendant.	:	

DEFENDANT’S MOTION FOR CHANGE OF VENUE

Now comes Defendant, by and through counsel, respectfully requests that this Court change the venue for this case in order to ensure that Defendant receives a fair trial before a jury untainted by pre-trial publicity. Defendant will supplement this motion as necessary with what will no doubt be additional voluminous and prejudicial media coverage of his pretrial proceedings.

Defendant requests a hearing on this motion.

Respectfully submitted,

/s/ Mark C. Collins
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MEMORANDUM IN SUPPORT

Ohio Rev. Code Ann. § 2901.12(K) and Ohio R. Crim. P. 18 create procedures for changing venue in order to ensure an impartial trial. A change of venue is necessary in this case because extensive and ongoing pretrial publicity makes it presumptively impossible to seat an impartial jury in this County.

In addition to the Columbus Dispatch and several local newspapers and news outlets covering this case, national newspapers and news media outlets such as The New York Times, The Washington Post, NPR, and USA Today have all reported on Mr. Coy's case. (Please see Exhibit A attached hereto). There is also a petition to convict Mr. Coy, which uses harmful language towards Mr. Coy, circulating on Change.org (Please see Exhibit B attached hereto). Additionally, bodycam footage regarding this case has been posted on multiple platforms including CNN, Youtube, and NBC News and there have been multiple damaging social media posts regarding Mr. Coy and this case (Please see Exhibit C attached hereto). Lastly, there have been various billboards placed around the Columbus area regarding this case (Please see Exhibit D attached hereto), thus, it is Defense Counsel's belief that Mr. Coy is unable to receive a fair trial in Franklin County due to public hostility and bias against him.

The Supreme Court of the United States has held that the defendant's right to an impartial jury was denied by a presumption of prejudice arising from extensive pretrial publicity. *Irvin v. Dowd*, 366 U.S. 717, 725-28 (1961). The Court found a presumption of prejudice despite the sincerity of the jurors who stated that they could be "fair and impartial" to the defendant. *Id.* at 728. In *Irvin*, the viewpoint of the community was revealed by the media's pretrial coverage; the media painted Irvin as a person of especially bad character due to his prior criminal record and status as a parol violator. *Id.* at 725. The Court found that the "force of this continued adverse

publicity caused a sustained excitement and fostered a strong prejudice among the people of Gibson County.” *Id.* at 726. (See also *Sheppard v. Maxwell*, 384 U.S. 333, 352-53(1966)).

Furthermore, the Supreme Court has consistently approved change of venue as a proper alternative for a trial court in order to avoid a denial of fair trial due to pretrial publicity. *State ex rel. Dayton Newspapers, Inc. v. Phillips*, 46 Ohio St.2d 457, 465, 351 N.E.2d 127 (1976). *Irvin v. Dowd*, *supra* (366 U.S. 717); *Sheppard v. Maxwell*, *supra* (384 U.S. 333). Although one way to determine pretrial publicity is to impanel a jury before trial, the Court has granted a change of venue without impaneling a jury where, “A clear and manifest showing that pretrial publicity was so pervasive and prejudicial that an attempt to seat a jury would be a vain act.” *State v. Potter*, 64 Ohio App.3d 549, 553, 582 N.E.2d 30 (3d Dist. 1989). The Court continues by stating that while examining jurors on voir dire is one of the best tests, “it is certainly not required by case law, statute, or rule.” *Id.* at 553-554.

In this case, Defendant, Mr. Coy, continues to face extensive scrutiny for the on-duty shooting. However, the scrutiny is not just from news outlets, but it is also from residents of Franklin County on social media. Similar to *Irvin*, the on-duty shooting has caused sustained excitement that is clearly seen on social media. As seen in attached Exhibit B and Exhibit C, the public has formed an opinion about Mr. Coy and the on-duty shooting. The publicity of this incident is so pervasive it has gone beyond state and national news outlets to the voice of the public via social media. Compiling an impartial jury in Franklin County would be impossible because potential jurors are not only exposed to the extensive news coverage but also to their fellow neighbors’ opinions. Therefore, following the rationale in *Potter*, there is no need to attempt to impanel a jury as it would be in vain due to the pervasive prejudice of this pretrial

publicity. Thus, to achieve an impartial jury this Court should order the Defendant be tried in another county.

However, should the Court deny a change of venue, this motion should be ruled without prejudice. Courts have continually held that should Voire Dire of a large number of prospective jurors reveal that a fair and impartial jury cannot be secured, the motion for change of venue can be renewed and granted. *State v. Tammyhill*, 101 Ohio App. 466, 468, 140 N.E.2d 332 (6th Dist. 1659). Therefore, the Defendant requests this Court leave available an opportunity to renew this motion at the appropriate time.

The self-evident conclusion is that this County has been so saturated with the facts underlying this case that it is impossible for the Defendant to receive a fair trial before a jury composed of impartial persons who learn of the case only through the evidence properly admitted during trial. Therefore, this Court should grant Defendant's Motion for Change of Venue.

Respectfully Submitted,

/s/ Mark C. Collins
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CERTIFICATE OF SERVICE

I hereby certify that on June 30, 2021, I electronically filed the forgoing Motion for Change of Venue with the Clerk of Courts by using the e-Filing system which will send a notice of the electronic filing to the Prosecuting Attorney.

/s/ Mark C. Collins
Mark C. Collins (0061207)