

ORIGINAL

IN THE SUPREME COURT OF OHIO

JAMES P. KUHN
APPELLANT,

CASE NO. 2014-0601

v.

KELLY L. KUHN NKA COTTLE,
APPELLEE

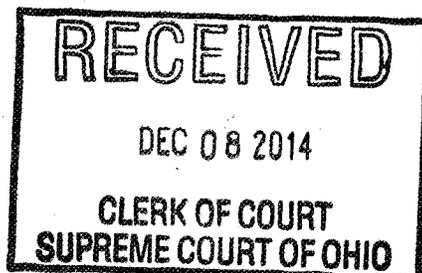
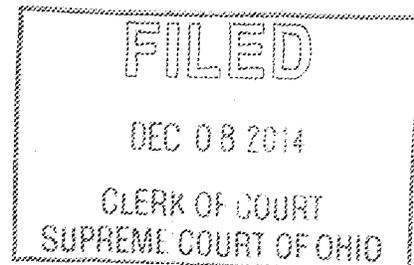
MOTION TO CONTINUE

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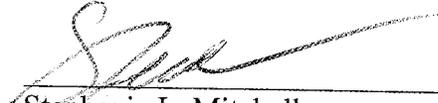
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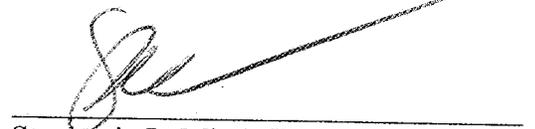
Now comes, Attorney, Stephanie L. Mitchell, counsel for the Appellant, James P. Kuhn, and respectfully requests this Court to continue oral argument previously scheduled in this matter for Wednesday, March 11, 2015 at 9:00 a.m. The reason for this request is that undersigned counsel has previously been scheduled to appear in the Guernsey County Court of Common Pleas in the case of *State of Ohio vs. Deandre M. Crosby*, Case No. 13CR04 for a two week jury trial commencing on March 9, 2015. A copy of the assignment notice scheduling said matter is attached hereto and incorporated by reference herein.

Respectfully submitted,


Stephanie L. Mitchell
TRIBBIE, SCOTT, PLUMMER & PADDEN
COUNSEL FOR APPELLANT,
JAMES P. KUHN

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served a true copy of the foregoing MOTION TO CONTINUE upon Counsel for Defendant-Appellant, Attorney Robert Roe Fox, 388 South Main Street, Suite 402, Akron, Ohio 44311 by regular U.S. Mail; postage prepaid this 3rd day of December 2014.


Stephanie L. Mitchell
TRIBBIE, SCOTT, PLUMMER & PADDEN
COUNSEL FOR APPELLANT,
JAMES P. KUHN

IN THE COURT OF COMMON PLEAS
GUERNSEY COUNTY, OHIO

FILED
COMMON PLEAS COURT

OCT 20 2014

GUERNSEY COUNTY, OHIO
Teresa A. Dankovic, Clerk of Court

STATE OF OHIO,

Plaintiff,

CASE NO. 13-CR-04

vs.

DEONDRE CROSBY,

ENTRY

Defendant.

This case came before the Court on October 20, 2014 in accord with this Court's Entry filed October 17, 2014 on Defendant's Joint Motion to Withdraw/Motion To Continue (filed October 17, 2014) and for appointment of counsel for Defendant in this case.

Defendant appeared, accompanied by Attorney Brian Jones. Prosecuting Attorney Daniel G. Padden and Assistant Prosecuting Attorney Stephanie L. Mitchell appeared on behalf of the State of Ohio.

The Court took judicial notice of receipt of letter dated October 17, 2014 from Dr. Larry Leone advising that "due to the patient's current medical condition, it would not be wise for him to engage in a 10-day trial." Based thereon, the Court GRANTED Attorney Stone's Motion to Withdraw as counsel for Defendant in this case.

Taking judicial notice of Defendant's Joint Motion to Withdraw/Motion to Continue, the Court finds that Attorney Brian Jones is requesting a 60-day continuance of the jury trial in order to adequately prepare as lead counsel in this case.

Following inquiry of Defendant, Defendant (in open Court) requested that Attorney Brian Jones be appointed "Lead Counsel" in this case. At the request of Attorney Jones (and by agreement of Defendant), the Court appointed Attorney Elizabeth Emelia Osorio as Co-Counsel to represent Defendant in this case.

Following review of the "time-line" as set forth in this Court's Entry filed October 14, 2014, the Court GRANTED Defendant's Motion to Continue the Jury Trial scheduled to commence on this date (October 20, 2014), noting that no further continuances of the Jury Trial will be granted.

Based upon the current state of the record, the Court makes the following SCHEDULING ORDERS herein:

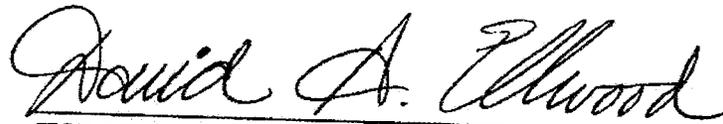
1. Defendant's Motion to Continue is hereby GRANTED, with the Two (2)-Week (10-day) Jury Trial hereby CONTINUED (with date agreed to in open Court by Defendant and counsel) to commence on **March 9, 2015 at 8:30 a.m.** Defendant and counsel are ORDERED to appear on that date and time. The parties/counsel were notified in open Court that no further continuances will be Granted, noting that this is the fifth continuance of the jury trial in this case.

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- A. Trial Briefs, to include jury instructions and any unusual questions of law, are to be submitted to the Court at least fourteen (14) days prior to trial. All trial briefs must have as an attachment (a) a full copy of each case cited; and (b) an affidavit signed by counsel that each case has been shepardized and is still rule of law.
 - B. All pretrial motions, to include motions in limine, shall be filed with the Court at least 30 days prior to date assigned for trial. All pretrial motions must have as an attachment (a) a full copy of each case cited; and (b) an affidavit signed by counsel that each case has been shepardized and is still rule of law.
2. The following oral motions of the State of Ohio (with Prosecuting Attorney to filed brief written motions prior to non-oral hearing) are scheduled for non-oral hearing on **November 3, 2014**, to be based upon the pleadings/information then before the Court. The parties/attorneys need not appear, but should file with the Court any/all pleadings/information/documentation they wish the Court to consider and serve same on opposing parties/attorneys prior to the date of hearing.
 - A. State of Ohio's oral motion that Witness, Jason Lawhon (who testified in co-Defendant, James Whatley's, trial and has since moved to New Jersey) not be required to testify in person in this case, but that his testimony as transcribed from the Whatley case be permitted to be used at trial in this Defendant's case.
 - B. State of Ohio's oral motion that some of the exhibits that were admitted into evidence in co-Defendant, James Whatley's trial and which are currently being held by the Bailiff of this Court, be released to the State of Ohio for use in this case. The Court ORDERED that James Whatley (who is currently not represented by counsel) receive a copy of this entry to permit him to respond to the State's Motion.
3. In accord with *Laffler v. Cooper*, the Court reviewed (in open Court) the State of Ohio's negotiated plea offer as outlined in letter dated October 16, 2014.
4. The parties/counsel were notified in open Court that the "drop-dead date" for notifying the Court whether this case will be proceeding under a negotiated plea or proceeding to Jury Trial is **January 26, 2015**.

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IT IS SO ORDERED.



JUDGE OF THE COMMON PLEAS COURT
GUERNSEY COUNTY, OHIO

DATED: October 20, 2014

cc: Prosecuting Attorney

Brian Jones, 2211 U.S. Highway 23 North, Delaware, OH 43015

Elizabeth Emelia Osorio, 2211 U.S. Highway 23 North, Delaware, OH 43015

Deondre Crosby, Defendant, c/o Guernsey County Jail

James Whatley, #687-463, Ross Correctional Institution

Cathy Hawkins, Assignment Commissioner

Chelsea Simcox, Deputy Jury Commissioner