Electronically filed

NO. 25-CR-00223 PIKE CIRCUIT COURT

CRIMINAL DIVISION

HON. JUDGE EDDY COLEMAN

COMMONWEALTH OF KENTUCKY PLAINTIFF

V. **DEFENDANT'S OBJECTION TO DELAY AND RENEWED REASSERTION OF RIGHT TO A 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 in objection to the Commonwealth's motion to continue the trial.

The Commonwealth has already claimed that the existing evidence creates a strong case against the Defendant, and therefore a continuance is unnecessary.

1. "*Obviously, the Commonwealth cannot be ready for trial until all forensic testing is completed…*" reads the Commonwealth's recent motion. (Motion filed 10/20/25, Page 1). However, there is nothing 'obvious' about this claim. The Commonwealth did not wait for the completion of all testing before indicting the Defendant for murder, arresting and imprisoning him, and asking for and holding his bond at five-million-dollars. Indeed, the Commonwealth has repeatedly argued that the evidence tested to date is more than sufficient to convict.

2. "*It is the Commonwealth's position that all the evidence in the case strongly implicates Defendant M.K. McKinney in the murder of Amber Spradlin*," reads the Commonwealth's argument against reducing MK's five-million dollar bond. (Response filed 10/23/24, Page 11). The Court relied on this when ruling to keep the bond at five-million, writing "*The Commonwealth alleges that the DNA results and other evidence now available would support their indictment of the Defendant's guilt.*" (Order entered 10/28/24, Page 2). The prosecution also took this position to the Kentucky Court of Appeals, "*asserting that there is a strong evidentiary case against [MK], including DNA results…*" (Order filed 3/31/25, Page 3).
3. The Commonwealth has claimed, again and again, that it has *strong* evidence to make its case. Both Circuit and Appellate courts have ruled on the basis of the Commonwealth's confidence, holding the Defendant's bond at five-million-dollars, full cash. The time for posturing is over. The time and opportunity to downplay the "strength" of their evidence has long passed; the Commonwealth has repeatedly claimed to have "Five Million Dollar Evidence". It is time to put those claims to the test. The Defendant should be allowed face at trial as scheduled.

The current dilemma is not an unexpected complication, but a foreseen and accepted consequence of the Commonwealth's deliberate choices.

1. The Defense predicted the Commonwealth's current concerns when arguing—and appealing—the issue of bond, as noted in the Court of Appeals' Order affirming the Circuit Court. (Filed 3/31/25, Page 3). At the time bond was heard, Defense counsel warned that given the ongoing wait for lab results, a speedy trial motion would be necessary if the Defendant remained incarcerated. Nevertheless, the Commonwealth

successfully argued that the bond must remain in place based on the **STRENGTH OF THE EXISTING EVIDENCE**.

2. When the Commonwealth first expressed reservations about the prospect of a speedy trial (Response filed 3/27/25), the Defense reasserted the speedy trial right, but offered to revisit the issue of pretrial detention if the Commonwealth became aware of the weaknesses in the case. (Response filed 4/10/25, Page 3). But the Commonwealth instead chose to continue the Defendant's incarceration as the trial date approached.
3. The issue of KSP's laboratory backlog has been known throughout this entire case—prior to the Defendant's indictment, prior to the Defendant's bond hearing, and prior to the Defendant's motion for a speedy trial. If the Commonwealth believed its case hinged on further results from the lab, it must account for that possibility *before* the Defendant invoked his Constitutional right to a speedy trial—or even *after*, by re-examining its pretrial approach as suggested by the Defense in April. But now, mere weeks from trial, it is too late. The Commonwealth must prove its case at trial.

Deficiencies in the investigative process cannot be attributed to the Defendant.

1. "*It's hard to imagine a more valid reason for delaying the trial than to allow completion of critical DNA testing*" states the Commonwealth's motion. However, no imagination is necessary—a more valid reason is provided in the Commonwealth's cited case, *McDonald v. Commonwealth*, 569 S.W.2d 137 (Ky. 1978). In that case, the Defendant actively participated in the delay of his own trial, making and joining several motions to continue the case. Meanwhile, McKinney has repeatedly and stringently asserted his right to be fairly tried without denial or delay. The denial of this right, over the incarcerated Defendant's objection, simply to continue trawling various items for DNA in the hopes

of improving it's case after the Commonwealth has already staked its prosecution on Amber's nail swab, is not a valid reason for delay.

2. MK voluntarily drove to a Kentucky State Police post in Morehead to provide a sample of his own DNA for testing just three days after Amber's body was found. That was *beyond* the extent of his obligation in this matter; he actually went out of his way to spare law enforcement the drive. In retrospect, this voluntariness is unsurprising, because MK's own DNA wasn't found anywhere of importance on the crime scene.[1] Regardless, MK should not continue to suffer the indignity of this two-and-a-half year-old accusation while the crime lab continues to trudge through irrelevant scraps of evidence at a snail's pace. None of this is his fault.

Both the delay itself and the reason for the delay would prejudice the Defendant.

1. "*There is always the possibility that some of the test results could be exculpatory to one or more of the Defendants,*" writes the Commonwealth, asserting that it would be to the Defendant's benefit to see completed testing. However, it is the Defense's position that the **existing** test results are exculpatory. Further testing is not only pointless but prejudicial. Roy Kidd is not a Defendant, and the Commonwealth has no incentive to further investigate him; however, if the requested delay for testing reveals only Roy Kidd's blood and not MK's, it is assumed the Commonwealth will agree to dismiss due to these exculpatory finding. If they will not agree to rely on exculpatory test results, this delay is nothing more than a one-sided attempt to strengthen a weak prosecution.

[1] The Y-STR results upon which the Commonwealth's case is built are not specific to MK, but could also indicate genetic material of his father, Dr. Michael McKinney II; given that Amber was at his house and on his couch, contact transfer from surfaces previously touched by the any male McKinney is likely. Surveillance video from Seasons also shows Amber coming into physical contact with Dr. McKinney's brother earlier that same night which could also account for the YSTR transfer.

2. Roy's shirt was absolutely covered in blood, some of it undoubtedly from his drunken belligerent stumbles, yet **only a single scrap of this bloodied shirt** was tested for DNA. The same is true for his belt—the lab focused on a single patch of dried blood on a belt with blood all over it. There is no indication that the Commonwealth is seeking additional testing of the items which would implicate Roy Kidd.
3. The Commonwealth's statement as to the possibility of exculpatory evidence is worth examining—because even *if* the tests returned the most explosively exculpatory results, would the Commonwealth comit to relying on them? If Roy and Amber's DNA was found mixed in one of the McKinney house's drain wells, would the Commonwealth dismiss the charges against MK, or would that evidence just be ignored and disregarded?
4. Long before anyone was indicted for the murder of Amber Spradlin, MK's trial in the community began—a trial-by-Facebook. A multifaceted media campaign, organized around a Facebook group claiming to seek "Justice For Amber", targeted the McKinneys from the early days of the investigation, funding billboards, documentaries, podcasts, and more.[2] There are thirty-thousand members of this group, and they are fond of dehumanization; the Defendants are "cockroaches," "freaks," "trash," and MK himself is "the murdering Satan" to this impassioned group. Members of the group demand hangings, executions, and life without parole. (See Attachments 1, 2, 3). They are fundamentally opposed to due process, fair trial by jury, and the presumption of innocence. "Justice for Amber" remains absolutist in its attempts to prejudice the entire

[2] The lead organizer of this campaign, Debbie Hall, happens to be a longtime friend of Roy Kidd. Her theory of the case, which is also the Commonwealth's, categorically excludes Roy from all suspicion. Indeed, Debbie has been publicly defending Roy for years now. (See Attachments 4, 5, 6). The group might be called more accurately "Justice for Amber—*Unless Roy did it*!"

Eastern Kentucky community against MK, and it clearly complicates attempts to find unbiased jurors. The media campaign was so pervasive and successful that there was no dispute that the jury pool in Floyd County was already tainted. A delay would only allow further escalation of this one-sided media "war" and more time to attempt to taint a Pike County jury pool (See Attachment 6).

5. Finally, the Defendant remains incarcerated, as a young man who presents no risk of flight or danger. To allow the Commonwealth to delay his trial to pursue more evidence while he sits in jail is offensive to the Sixth Amendment. If the existing evidence is good enough to keep him in custody, it is good enough to try the case. **This is the third time that Michael McKinney III has asserted in writing his right to a speedy trial and he should be tried without further delay.**

Respectfully submitted,

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