
IN THE THIRD JUDICIAL DISTRICT COURT
SALT LAKE COUNTY, STATE OF UTAH
SALT LAKE DEPARTMENT

STATE OF UTAH,

Plaintiff,

v.

MARK LEONARD SHURTLEFF,

Defendant.

RULING AND ORDER

Case No. 141907720

Judge Elizabeth A. Hruby-Mills

Before the Court are three motions. First, on June 24, 2016 Defendant filed ‘Mr. Shurtleff’s Motion to Dismiss for Brady/Giglio and Speedy Trial Violations and Memorandum in Support’ (“Brady Motion”). Plaintiff did not file a response, but filed a request for evidentiary hearing.¹ On July 15, 2016, Defendant filed ‘Reply Memorandum in Support of Motion to Dismiss for *Brady/Giglio* and Speedy Trial Violations and Response to State’s Requests for Evidentiary Hearing.’ On July 18, 2016, Defendant submitted the Brady Motion for decision.

Second, on July 1, 2016, Defendant filed ‘Motion and Memorandum in Support of Motion to Dismiss Counts 1, 2, and 5 in the Amended Information (Gif Counts)’ (“Gift Count Motion”). Plaintiff did not file a response, but filed a request for evidentiary hearing.² On July 18, 2016, Defendant submitted the Gift Count Motion for decision.

Third, on July 18, 2016, Plaintiff filed ‘State of Utah Motion to Dismiss Amended Information’ (“State Motion”). Defendant filed a response on July 18, 2016.³ Having considered the papers, oral argument, relevant law, and for good cause, the Court now rules as follows.

Defendant and Plaintiff have each submitted motions to dismiss (Brady Motion and State Motion) the Amended Information. *See* Utah R. Crim. P. 25; Utah Code Ann. § 77-2-4 (West).

¹ On June 24, 2016, Plaintiff filed ‘State of Utah’s Request for an Evidentiary Hearing on Defendant’s Motion to Dismiss for Brady/Giglio and Speedy Trial Violations.’ This Court entered a Minute Entry Order on June 28, 2016 requiring Plaintiff to file a response to the Brady Motion no later than July 8, 2016. On July 8, 2016, Plaintiff filed a renewed request for evidentiary hearing with regard to the Brady Motion and new request for evidentiary hearing with regard to the Gift Count Motion. [Response: State of Utah’s Renewed Request for an Evidentiary Hearing ..., filed July 8, 2016]. By Minute Entry Order filed July 15, 2016, this Court ordered Plaintiff to file an opposition or other pleading responsive to the substance of the Brady Motion immediately. To date, Plaintiff has not filed a response to the Brady Motion.

² *See supra* note 1.

³ Defendant does not oppose the State Motion, but instead asserts that the Court should base a decision to dismiss the Amended Information on Defendant’s Brady Motion. Defendant requested a telephone conference, held July 22, 2016, to assert a request that the Court proceed on the Brady Motion rather than the State Motion.

As an initial matter, the Court notes that the Gift Count Motion seeks dismissal only of certain counts within the Amended Information. The remaining motions present various and somewhat overlapping bases in support of a dismissal of the Amended Information.

The State has presented argument in support of voluntary dismissal and made clear a belief that the charges in this case should no longer be pursued. The reasons for dismissal include an ongoing cooperation agreement between the State and the Defendant as well as prospective concerns regarding speedy trial and that the State will not be able to deliver potentially exculpatory material to Defendant in time for trial.⁴ Because the State requests voluntary dismissal, the Court grants the State Motion and finds it unnecessary to determine Defendant's motions. As such, the hearing now set for August 2, 2016 is no longer necessary and is canceled.

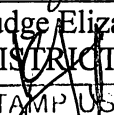
ORDER

Based on the foregoing, it is HEREBY ORDERED that the State Motion is GRANTED. Accordingly, the Amended Information in this case is dismissed without prejudice. This Ruling and Order is the order of the court and no further order is necessary on this issue.

DATED this 27th day of July, 2016.

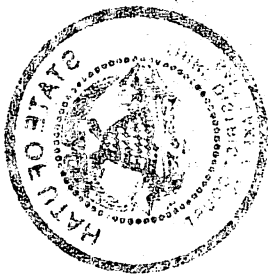
BY THE COURT

Elizabeth A. Hruby-Mills

Judge Elizabeth A. Hruby-Mills
DISTRICT COURT JUDGE
BY  STAMP USED AT DISTRICT COURT



⁴ The Court does not now determine the merits of the speedy trial and exculpatory material issues.



CERTIFICATE OF NOTIFICATION

I certify that a copy of the attached document was sent to the following people for case 141907720 by the method and on the date specified.

MANUAL EMAIL: SAMUEL ALBA salba@scmlaw.com

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07/27/2016

/s/ KATIE JOHNSON

Date: _____

Deputy Court Clerk