

IN THE IOWA DISTRICT COURT FOR POWESHIEK COUNTY

STATE OF IOWA,  v.  CRISTHIAN BAHENA RIVERA, Defendant.	Plaintiff.  Defendant.	NO. FECR010822  STATE'S RESPONSE TO DEFENDANT'S MOTION TO CONTINUE AND FURTHER DISCOVERY REQUEST
--	------------------------------	--

COMES NOW the State of Iowa, by and through Scott D. Brown, Assistant Attorney General; and Bart Klaver, Poweshiek County Attorney, and for its Resistance to Defendant's Motion to Continue states:

1. The defendant has filed a Motion to Continue Sentencing on the basis of information claimed to have been obtained on July 13, 2021. Within the motion is a discovery request which the State will respond to along with additional allegations contained in the motion.

2. The motion filed requests a continuance of the hearing scheduled for July 15, 2021, and makes a further discovery request. The motion is a confusing assortment of irrelevant and immaterial information and baseless allegations of Brady violations. The State has committed no Brady violation since there was never any evidence that Mollie had been taken by any person for purposes of being sexually trafficked. The first the State learned of any information concerning that issue was when Arnie Maki came forward with his statement relating to Gavin Jones on May 26, 2021.

3. All of the information alleged as a basis for a continuance of the motion and sentencing hearing is directly contrary to the defendant's statements to police and his testimony at trial. Importantly, the defendant never mentions a secondary location – the so called "trap house" – as being a location Mollie was taken. The defendant testified that he was forced to drive two masked men to a location where Mollie was confronted by one of the masked men, assaulted, placed in the trunk of his car, and driven to the corn field where she was later found. The defendant never mentions unmasked men or any person that would fit the description of a 50-year-old male being involved in Mollie's abduction or

anything about a "trap house." The defendant's testimony and statements to police are contrary to the "secondary location" version. In order for the "secondary location" version to be accurate, Mollie would have had to be kept in that location at least long enough for searchers to get close since that is what is described by Maki relating information from Jones. No credible information provided by anyone, including the defendant, would suggest that Mollie was taken anywhere other than to the corn field where she was ultimately found on August 21, 2018. Mollie being kept in a secondary location for a period of time makes no sense given what the defendant told police on August 20 and 21, 2018, testified to a trial, and the other testimony and evidence established at trial.

4. The defense further claims that the State did not provide access to the videotaped statement of Lyndsey Voss. That is false. In an email dated May 28, 2021, the undersigned informed the defense that if they wanted a copy of Voss's videotaped statement it could be provided to them within a week. There was no request for the video until an email was sent by Chad Freese on July 6, 2021. Regardless, there are no material differences between the videotaped statement and the written summary of Voss's statement produced on May 28 to the defense.

5. The Court has indicated it will grant the continuance of the motion and sentencing hearings scheduled for July 15, 2021. The Court will hold a hearing on July 15, 2021, at 9:30 a.m. on the request made by the defendant relating to further discovery. The State resists the defendant's request.

6. Concerning the discovery request contained in paragraph 15 of the Motion to Continue, the defendant is attempting to compel information from the State for "any sex trafficking investigation involving James Lowe or any other residents of Poweshiek County or adjoining counties, any pending investigations of James Lowe during the period that Mollie Tibbetts went missing and present, and any pending investigations involving 'Inmate 2'" who is Gavin Jones.

7. The defendant is requesting discovery from the State that they could have pursued prior to the verdict in this case. Remember, on May 26, 2021 the defendant was alerted to the substance of the claims concerning the new information that is the subject of the defendant's motions for new trial prior to the conclusion of the case. The defense

dismissed that information since it was inconsistent with their client's testimony. The information relating to others involved in Mollie's death remains inconsistent with their client's testimony. The defense also declined the State's offer to send agents to Mt. Pleasant to pursue the same information and delay the trial to accommodate further investigation. Apparently, they now regret that decision. The information they now claim forms the basis for their new trial motions is not newly discovered. The decision to decline further pursuit of the other information brought to the State and the defense's attention through Arnie Maki and Lyndsey Voss and any information that is related to it is more properly addressed in post-conviction relief on the grounds of ineffective assistance of counsel. *State v. Trane*, 934 N.W.2d 447, 464 (Iowa 2019)

8. On the merits, the defense's request for further discovery is overbroad, vague, and without reasonable time or date limitation. The request also appears to relate to at least one pending case under investigation. As demonstrated by the information provided in their latest motion filed on July 13, 2021, the "defense team" has the ability to do their own investigation. They may make requests to the Court to compel records if they determine they are relevant to their claims as set forth in their motion and there is no other way to obtain access to them. In other words, the State is not required to do an investigation or produce records on unrelated cases or investigations requested by the defense because they want it. The request is unreasonable and is a "fishing expedition" on unrelated matters without relevance or material connection to the present case.

WHEREFORE, the State of Iowa resists the defendant's request for further discovery in its entirety.

THOMAS J. MILLER  
Attorney General of Iowa

/s/ Scott Brown

Scott Brown  
Assistant Attorney General  
1305 E Walnut St  
Hoover Bldg - 2nd Fl  
Des Moines IA 50319  
515-281-3648 – phone  
515-281-8894 – fax  
[Scott.Brown@ag.iowa.gov](mailto:Scott.Brown@ag.iowa.gov)

/s/ Bart Klaver

---

Bart Klaver  
Poweshiek County Attorney  
4802 Barnes City Rd  
PO Box 455  
Montezuma IA 50171  
(641) 623-5135 – phone  
(641) 623-2820 – fax  
[klaver\\_coatty@poweshiekcounty.org](mailto:klaver_coatty@poweshiekcounty.org)

Original Filed.

Copies served via EDMS.