

STATE OF MAINE
CUMBERLAND, ss

SUPERIOR COURT
Docket No.: CR-15-7258

APR 20 2016

STATE OF MAINE

Plaintiff,

v.

STEVE M. RICCI

Defendant

ORDER

This matter came before the court on Defendant's motion for change of venue pursuant to M.R.U. Crim. P. 21(b)(1). For the following reasons, Defendant's motion to denied without prejudice.

The Defendant is charged with two counts of Criminal Threatening with a Dangerous Weapon, a class C offense. The Defendant is a resident of Portland, and according to counsel has an extensive criminal record, much of which has been well covered by various print, digital, and television media outlets. Counsel further asserts that this media coverage, both in its breadth and regularity over a course of years has had the effect of vilifying him to Cumberland County residents such that prejudice to him should be presumed and a change of venue ordered.

Defendant offered six exhibits during the brief hearing on his motion, which are exemplars of various examples of the media coverage dedicated to Defendant's historical alleged transgressions. However, affirmative Google searches for "Steven Ricci Portland, Maine" (Exh. 1) does not represent the type of passive but extensive

and pervasive media coverage about the pending charges that the rule regarding change of venue because of pre-trial publicity envisions. First, none of the exhibits pertain to Defendant's current charge. Second, the fortuity that a Defendant has historically been the subject of media coverage for other alleged offenses that might be learned through active investigation is not enough, standing alone, to constitute presumed prejudice. Moreover, the modern reality that online newspaper readers may post their opinions under the "reader comments" section does not fundamentally alter the analysis at least as it pertains to whether this constitutes "presumed prejudice."

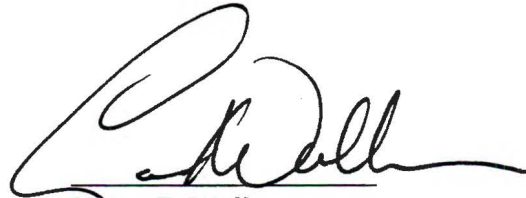
Counsel suggested that there has been one published news article about Defendant's current charge. Although that article was not admitted into evidence, even accepting it as true, that is not enough to constitute the type of invidious pre-trial coverage upon which a court could reasonably presume prejudice to the Defendant. There is a valuable and important intellectual distinction between pre-trial publicity for the current charge and historical publicity that the Defendant may have been subjected to in the near or distant past regarding unrelated charges.

The court therefore denies Defendant's motion without prejudice, recognizing that if it comes to pass that it is not possible to select an impartial jury, actual prejudice will have been demonstrated and a change of venue warranted. The focus of determining actual prejudice, of course, is "the impartiality of the available panel members," and not whether jurors are ignorant of the facts and issues involved. *State v. Chesnel*, 1999 ME 120, P6, 734 A.2d 1131, 1134.

Defendant's motion for change of venue is denied without prejudice.

The Clerk is directed to enter this Order on the unified criminal docket by reference pursuant to Maine Rule of Unified Criminal Procedure 53(a).

Date: April 25, 2016



Lance E. Walker
Justice, Superior Court

STATE OF MAINE
vs
STEVEN M RICCI
915 BRIGHTON AVE
PORTLAND ME 04102

CRIMINAL DOCKET
CUMBERLAND, ss.
Docket No CUMCD-CR-2015-07258

DOCKET RECORD

DOB: 03/02/1964
Attorney: MARK BULLOCK
DEGRINNEY LAW OFFICES
1266 CONGRESS STREET
PORTLAND ME 04102
APPOINTED 12/11/2015

State's Attorney: STEPHANIE ANDERSON

Filing Document: CRIMINAL COMPLAINT
Filing Date: 12/11/2015

Major Case Type: FELONY (CLASS A,B,C)

Charge (s)

1 CRIMINAL THREATENING W/ DANGEROUS WPN 12/10/2015 PORTLAND
Seq 7975 17-A 209(1) Class C
LACHANCE / POR

2 CRIMINAL THREATENING W/ DANGEROUS WPN 12/10/2015 PORTLAND
Seq 7975 17-A 209(1) Class C
LACHANCE / POR

Docket Events:

12/11/2015 FILING DOCUMENT - CRIMINAL COMPLAINT FILED ON 12/11/2015

12/11/2015 Charge(s): 1,2
HEARING - INITIAL APPEARANCE SCHEDULED FOR 12/11/2015 at 01:00 p.m. in Room No. 1

NOTICE TO PARTIES/COUNSEL

12/14/2015 Charge(s): 1,2
HEARING - INITIAL APPEARANCE HELD ON 12/11/2015
PAUL E EGGERT , JUDGE
DA: WILLIAM BARRY
Defendant Present in Court

FTR #1

12/14/2015 Charge(s): 1,2
PLEA - NO ANSWER ENTERED BY DEFENDANT ON 12/11/2015

12/14/2015 BAIL BOND - CASH BAIL BOND SET BY COURT ON 12/11/2015
PAUL E EGGERT , JUDGE
\$10,000. W/ CONDS.

12/14/2015 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 02/24/2016 at 08:30 a.m. in Room No. 7

12/14/2015 TRIAL - JURY TRIAL SCHEDULED FOR 04/11/2016 at 08:30 a.m. in Room No. 11

NOTICE TO PARTIES/COUNSEL

12/14/2015 Party(s): STEVEN M RICCI
ATTORNEY - APPOINTED ORDERED ON 12/11/2015

Attorney: MARK BULLOCK
01/08/2016 Charge(s): 1,2
SUPPLEMENTAL FILING - INDICTMENT FILED ON 01/07/2016

01/08/2016 Charge(s): 1,2
HEARING - ARRAIGNMENT SCHEDULED FOR 01/11/2016 at 01:00 p.m. in Room No. 1

01/08/2016 Charge(s): 1,2
HEARING - ARRAIGNMENT NOTICE SENT ON 01/08/2016

01/13/2016 Charge(s): 1,2
HEARING - ARRAIGNMENT HELD ON 01/11/2016
PAUL A FRITZSCHE , JUSTICE
Attorney: MARK BULLOCK
DA: JENNIFER ACKERMAN
Defendant Present in Court

DEFENDANT INFORMED OF CHARGES. FTR #1

01/13/2016 Charge(s): 1,2
PLEA - NOT GUILTY ENTERED BY DEFENDANT ON 01/11/2016

01/13/2016 BAIL BOND - CASH BAIL BOND CONTINUED AS SET ON 01/11/2016
PAUL A FRITZSCHE , JUSTICE

01/27/2016 MOTION - MOTION TO AMEND BAIL FILED BY DEFENDANT ON 01/27/2016

Attorney: MARK BULLOCK
01/27/2016 HEARING - MOTION TO AMEND BAIL SCHEDULED FOR 02/02/2016 at 01:00 p.m. in Room No. 1

NOTICE TO PARTIES/COUNSEL
01/27/2016 HEARING - MOTION TO AMEND BAIL NOTICE SENT ON 01/27/2016

02/02/2016 HEARING - MOTION TO AMEND BAIL HELD ON 02/02/2016
PAUL A FRITZSCHE , JUSTICE
Attorney: MARK BULLOCK
DA: JULIA SHERIDAN
Defendant Present in Court

FTR CR#1
02/02/2016 MOTION - MOTION TO AMEND BAIL DENIED ON 02/02/2016
PAUL A FRITZSCHE , JUSTICE
COPY TO PARTIES/COUNSEL

02/03/2016 MOTION - MOTION FOR MENTAL EXAMINATION FILED BY DEFENDANT ON 02/02/2016

Attorney: MARK BULLOCK
02/03/2016 MOTION - MOTION FOR MENTAL EXAMINATION GRANTED ON 02/02/2016
PAUL A FRITZSCHE , JUSTICE
COPY SENT TO STATE FORENSIC SERVICE

02/03/2016 PSYCHIATRIC EXAM - ORDER MENTAL EXAM-INSANITY ENTERED ON 02/02/2016
PAUL A FRITZSCHE , JUSTICE

02/03/2016 PSYCHIATRIC EXAM - ORDER MENTAL EXAM-OTHER ISSUES ENTERED ON 02/02/2016
PAUL A FRITZSCHE , JUSTICE
MENTAL STATE DURING THE TIME OF THE ALLEGED CRIME, SPECIFICALLY THE DEFENDANT'S KNOWLEDGE
AND INTENT OF HIS ACTIONS DURING THE OFFENDING PERIOD.

02/19/2016 LETTER - FROM NON-PARTY FILED ON 02/18/2016

LETTER FROM STATE FORENSIC INFORMING PARTIES THAT AN EXAM IS SET FOR 3-9-16 @ 8:30 A.M.

02/24/2016 HEARING - DISPOSITIONAL CONFERENCE HELD ON 02/24/2016

NANCY MILLS , JUSTICE
Attorney: MARK BULLOCK
DA: JULIA SHERIDAN

CASE CONTINUED. ATTY. WAITING FOR A FORENSIC REPORT.

02/25/2016 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 03/23/2016 at 08:30 a.m. in Room No. 7

03/23/2016 HEARING - DISPOSITIONAL CONFERENCE HELD ON 03/23/2016

PAUL A FRITZSCHE , JUSTICE
Attorney: MARK BULLOCK
DA: JULIA SHERIDAN

CONF HELD. PARTIES ARE TRYING TO FIND PLACEMENT FOR DEFENDANT. AGREEMENT FOR CASE TO BE
CONTINUED 1 MONTH. ALL NEW DATES GIVEN: DISPO 4-27, MOTIONS 5-3 & JS 5-9.

03/23/2016 TRIAL - JURY TRIAL CONTINUED ON 03/23/2016

03/23/2016 Charge(s): 1,2

HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 04/27/2016 at 08:30 a.m. in Room No. 7

03/23/2016 Charge(s): 1,2

TRIAL - JURY TRIAL SCHEDULED FOR 05/09/2016 at 08:30 a.m. in Room No. 11

NOTICE TO PARTIES/COUNSEL

03/25/2016 MOTION - MOTION TO SUPPRESS EVIDENCE FILED BY DEFENDANT ON 03/24/2016

Attorney: MARK BULLOCK

03/25/2016 MOTION - MOTION TO CHANGE VENUE FILED BY DEFENDANT ON 03/24/2016

Attorney: MARK BULLOCK

03/29/2016 HEARING - MOTION TO CHANGE VENUE SCHEDULED FOR 04/14/2016 at 01:00 p.m. in Room No. 1

NOTICE TO PARTIES/COUNSEL

03/29/2016 HEARING - MOTION TO CHANGE VENUE NOTICE SENT ON 03/29/2016

04/06/2016 Charge(s): 1,2

MOTION - MOTION TO COMPEL FILED BY DEFENDANT ON 04/05/2016

Attorney: MARK BULLOCK
MOTION TO COMPEL DISCOVERY

04/14/2016 HEARING - MOTION TO CHANGE VENUE HELD ON 04/14/2016

LANCE WALKER , JUDGE
Attorney: MARK BULLOCK
DA: DEBORAH CHMIELEWSKI

DEFENDANT'S EXHIBIT 1-6 ADMITTED WITHOUT OBJECTION. STATE'S EXHIBIT 1 MARKED AND RETURNED.
MOTION UNDER ADVISEMENT.

FTR 1

04/15/2016 MOTION - MOTION TO CHANGE VENUE UNDER ADVISEMENT ON 04/14/2016

LANCE WALKER , JUDGE

04/25/2016 PSYCHIATRIC EXAM - ORDER MENTAL EXAM-INSANITY REPORT FILED ON 04/25/2016

04/26/2016 ORDER - COURT ORDER FILED ON 04/26/2016

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Printed on: 04/26/2016

LANCE WALKER , JUDGE

DEFENDANT'S MOTION FOR CHANGE OF VENUE IS DENIED WITHOUT PREJUDICE.

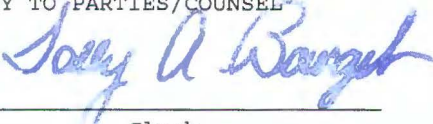
04/26/2016 MOTION - MOTION TO CHANGE VENUE DENIED ON 04/26/2016

LANCE WALKER , JUDGE

COPY TO PARTIES/COUNSEL

A TRUE COPY

ATTEST:



Clerk