

FILED
JUL 14 2021

22ND JUDICIAL CIRCUIT
CIRCUIT CLERK'S OFFICE
BY _____ DEPUTY

STATE OF MISSOURI)
) SS
CITY OF ST. LOUIS)

**MISSOURI CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT
(City of St. Louis)**

STATE OF MISSOURI)
)
Plaintiff,)
) No. 2022-CR02036-01
v.)
) Division No. 18
Brandon Campbell,)
)
)
Defendants.)

ORDER

Defendant was indicted in this case February 23, 2021. On April 20, 2021, Defense Counsel filed a supplemental request for discovery. An Assistant Circuit Attorney provided some items on April 23, 2021 before he stopped working at the Circuit Attorney's Office.

On May 17, Defense Counsel filed a motion to compel discovery or for sanction. On that same day, Kimberly Arshi was entered on this case for the Circuit Attorney's Office, even though she had already begun maternity leave and would not be expected to respond to anything for about three months. Further, the Court is aware, like most working in the Twenty-Second Circuit, that Ms. Arshi remains on maternity leave to this date. Thus, even if Ms. Arshi was eventually going to be assigned to this case for trial, in the Court's view, someone from the Circuit Attorney's Office must be assigned while she is on leave to deal with issues like the ones present here. Otherwise, she is not really on leave.

Defense Counsel noticed her motion to compel for May 27, 2021. On that date, Defense Counsel appeared prepared to argue the motion, but no one from the Circuit Attorney's Office appeared.

The Court entered an order on June 4, 2021 setting the motion to compel for a hearing for the second time. The motion was set for June 15, 2021. In its order setting the motion for a hearing, the Court noted "[t]his [wa]s the second setting for this motion. The first time this motion was set no one from the State appeared. Therefore, a representative from the Circuit Attorney's Office is ordered to appear and to be prepared to respond to Defendant's motion. If no one appears, the allegations in the motion will be deemed admitted and the motion will be granted."

On June 15, 2021, no one from the Circuit Attorney's Office appeared. As a result, the Court entered an order, which stated: "Case called for hearing on Defendant's motion to compel discovery, filed by defense counsel on May 17, 2021. Defense counsel Chelsea Harris, appeared

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via webex as requested. No representative from the Circuit Attorney's Office appeared as was previously ordered by this Court in an Order filed June 4, 2021. Pursuant to the Court's Order issued on June 4, 2021, the Defendant's motion to compel is hereby granted and the allegations of the motion are deemed admitted. The State, by Circuit Attorney Kimberly Gardner, is hereby ordered to produce all materials requested in the Defendant's supplemental motion for discovery and Defendant's motion to compel discovery. This discovery must be disclosed to defense counsel no later than June 23, 2021.

There has been no response from the Circuit Attorney's Office and no discovery has been turned over as of today's date.

On June 30, 2021, Defense Counsel filed a motion to dismiss the case for willful violations of the rules of discovery.

The Court entered an order to show cause why the case should not be dismissed on July 6, 2021 and set it for a hearing on July 12, 2021 at 1:30 p.m. After entering that order, the Court told its sheriff, Deputy Damon Clark, to deliver a copy of that order to the Circuit Attorney's office.

At the July 12 hearing, Defense Counsel was present. No representative from the Circuit Attorney's office appeared. The Court went on the record and Defense Counsel argued her motion. She also introduced into evidence, Exhibit A, which was a copy of an email from Defense Counsel to Kimberly Gardner dated May 28, 2021. In that email, Defense Counsel asked Ms. Gardner who she should contact on that case, noting it was assigned to Kim Arshi, who was on maternity leave. Defense Counsel noted she never received a response to that email.

The Court took Defense Counsel's motion under submission because it wanted to follow up with Deputy Clark regarding who he gave the order to show cause to in the Circuit Attorney's Office to be completely certain they received proper notice.

Deputy Clark was not immediately available because he is in the hospital. Thus, the Court asked Deputy Yosef Yasharahla, who often works with and assists Deputy Clark, if he knew about the order. Deputy Yasharahla knew exactly what the Court was asking about and stated he told Deputy Clark exactly what to do. Further, Deputy Yasharahla immediately walked up to the fourth floor and verified that the secretary at the Circuit Attorney's Office was given a copy of the order by Deputy Clark on or about July 6, 2021.

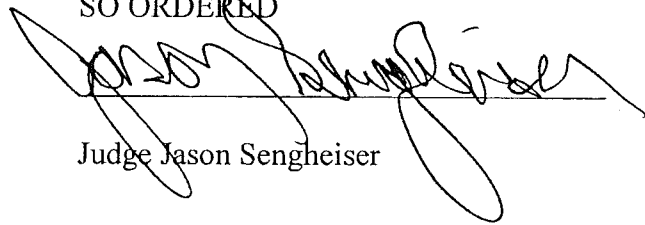
Thus, it is clear to the Court that the Circuit Attorney's office received notice of the hearing on the order to show cause yet they still did not have anyone present for the hearing.

The Court does not take this action without significant consideration for the implications it may have for public safety. Although presumed innocent, Defendant has been charged with the most serious of crimes. While the Court has a role to play in protecting public safety, that role must be balanced with adherence to the law and the protection of the rights of the Defendant. The Circuit Attorney's Office is ultimately the party responsible for protecting public safety by charging and then prosecuting those it believes commit crimes. In a case like this where the Circuit Attorney's Office has essentially abandoned its duty to prosecute those it charges with crimes, the Court must

impartially enforce the law and any resultant threat to public safety is the responsibility of the Circuit Attorney's Office.

As a result, the Court will hereby grant Defendant's motion to dismiss this case without prejudice.

SO ORDERED

A handwritten signature in black ink, appearing to read "Jason Sengheiser", is written over a horizontal line. The signature is stylized and cursive.

Judge Jason Sengheiser

Date: 7/14/21