

FILED
At 2:09 o'clock P.M.
JUL 25 2012
MARC HAMLIN, DIST CLERK
Brazos County, Texas
By [Signature] Deputy

No. 10-04337-CRF-85

STATE OF TEXAS § IN THE 85th DISTRICT COURT
 §
V. § OF
 §
STANLEY WAYNE ROBERTSON § BRAZOS COUNTY, TEXAS

DEFENDANT'S MOTION FOR CONTINUANCE

DC FILED
At 1:00 o'clock A.M.
JUL 30 2012
MARC HAMLIN, DIST CLERK
Brazos County, Texas
By [Signature] Deputy

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Stanley Wayne Robertson, he Defendant in the above styled and numbered cause and files his Motion For Continuance and in support thereof would show the Court as follows:

I.

The Defendant is charged by indictment with the offense of capital murder. This case is set to commence jury selection on September 10, 2012. This is the third trial setting for this case.

II.

1. Second chair counsel Frank Blazek's adult daughter has recently been diagnosed with cancer. Blazek has been required to accompany his daughter for medical visits, surgery and radiation on several occasions during the last two months. Her last scheduled radiation session is Monday July 31, 2012. After that time the oncologist will conduct another

examination and decide what further steps may be taken.

2. Lead counsel John Wright has recently been diagnosed with severe aortic stenosis. This is a genetic defect of a major heart valve which is now compromised by calcification of the valve over time. This condition will require open heart surgery. The selection of a surgeon and the scheduling of the surgery is in process at the time this motion is drafted on July 25, 2012. The surgery is not likely to be scheduled for a time earlier than August 31, 2012 because Wright must continue to take daily doses of a blood thinner until that date. The blood thinner is required to prevent complications after the surgical emplacement of a stent in one of Wright's arteries on August 31, 2011. The expected recovery time after heart valve replacement is around six weeks absent any complications of the surgery.
3. The defense team has been diligent in conducting its mitigation investigation but it is still incomplete. The defense team must gather information a range of information about Stanley's many siblings and collateral relatives. This information will be important to demonstrate that Mr. Robertson's mental disabilities are not malingered or exaggerated but instead are either inherited from ancestors or caused by environmental factors shared by the entire family. Mr. Robertson has nine siblings and several maternal aunts and uncles that have information that is critical for the establishment of his

mental health disabilities before the jury.

4. The Robertson defense team have ordered, but do not yet have the court reporter's transcripts of certain critical testimony in the near mirror image Stanley Lamar Griffin capital murder trial that took place in the 361st District Court in Brazos County in June, 2012. The Griffin case had many of the same issues and the state is using the same expert, Tim Proctor to rebut the defense Mental Retardation case and to assert that Robertson actually has a personality disorder, rather than cognitive deficits. These transcripts are needed to properly prepare to cross examine the state's experts on mental retardation and perhaps future dangerousness.
5. The defense team needs to re-locate and further interview Stanley's brother, Tony; he appears to have been avoiding the defense team; he was present for, and likely has crucial information about the prior Omaha offense that would serve to lessen the adverse impact of that conviction in the eyes of the jurors.
6. The Robertson defense team has so far been unable to interview Omaha attorney Karen Shanahan, Stanley's public defender in the prior Omaha case; she has not returned defense counsel's many calls and emails. The defense team needs her input and insight about how and why the Omaha case was reduced from a very serious felony, sexual assault, to a lesser grade

of offense, and how and why Stanley was released for 199 days of time served in exchange for his plea of no contest; the Robertson defense team needs to know what Shanahan learned about the credibility of the Omaha complainant and the strength of the physical evidence against Mr. Robertson.

7. Stanley has a brother living in Miami who is thought to be retarded; the defense team needs to locate and interview him and see if he will release his records of his education and mental health. The data will tend to corroborate the poverty facts and better show the genetic loading on the mental retardation and mental health disabilities.
8. The efforts of the defense team to interview and/or depose the adult children of the victim, Tammy Oliver, and Curtis Oliver have failed so far. If they could be interviewed, they would likely admit that they were trying to extort or at least obtain money from Robertson on the day of the killing, and that was the source of the difficulty. The defense cannot safely go to trial without this information which should be disclosed by the prosecutors under *Brady v. Maryland*, 373 U.S. 83 (1963) and progeny *Strickler v. Greene*, 527 U.S. 263 (1999); *Ex parte Lewis*, 587 S.W.2d 697 (1979).
9. Mr. Robertson's second chair in this case is Huntsville attorney Frank Blazek. Mr. Blazek is appellate counsel for John Thuesen in Case No.

AP-76,375 - John Thuesen v. The State of Texas, Brazos County Trial Court No. 09-02136-CRF-272. This is an appeal of a death sentence pending before the Court of Criminal Appeals. Oral argument is scheduled for September 12, 2012. Blazek intends to devote substantial time to prepare for such argument prior to that time, including a moot court presentation on September 11, 2012.

11. Second Chair Frank Blazek has an active private practice in Huntsville, Texas, which includes numerous criminal clients. Regular court appearances are required to maintain that practice. During the week of July 2, Blazek participated as lead counsel in a jury trial in Madison County, The State of Texas v. Maurice Lavoie, wherein the Defendant was charged with Sexual Assault. The punishment phase in that trial is scheduled to begin on September 4, 2012.

On August 1, 2012, in Polk County, Blazek is scheduled for a punishment hearing in the State of Texas v. Curtis Duncan.

On August 27, 2012, in Walker County Court at Law. Blazek is scheduled for a jury trial in The state of Texas v. Brad Vajdak concerning an allegation of assault. These settings all require preparation time. They cut into the time Mr. Blazek can devote to the Robertson case.

III.

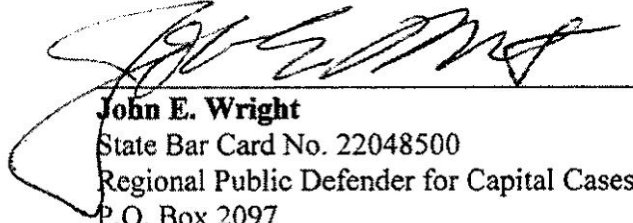
The Defendant requests that the trial of this case be continued until counsel's health issues have been resolved, and the defense team has completed the tasks and gathered the information described above. This motion is not made for purposes of delay, but so that justice may be done.

IV.

The denial of this motion would violate the right of the Defendant to effective assistance of counsel guaranteed by the Sixth and Fourteenth Amendments to the Constitution of the United States. Further, the denial of adequate time to develop defensive evidence violates the Due Process Clauses of the 5th and 14th Amendments and the heightened reliability requirement of the 8th Amendment. Further, denial of this motion would violate Articles 10 and 19 of the Texas Constitution.

WHEREFORE, PREMISES CONSIDERED, the Defendant prays that his motion for continuance be granted.

Respectfully submitted,

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

John E. Wright
State Bar Card No. 22048500
Regional Public Defender for Capital Cases
P.O. Box 2097
Lubbock, Texas 79408
Main Phone: (806) 775-5650
Fax: (806) 775-7954

Attorney for Defendant

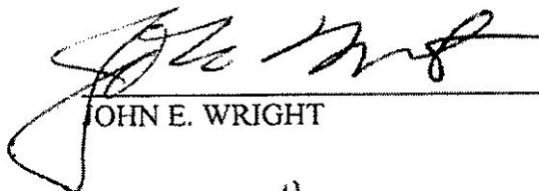
Frank Blazek
State Bar No. 02475500
**SMITHER, MARTIN,
HENDERSON & BLAZEK, P.C.**
1414 11th Street
Huntsville, Texas 77340
(936) 295-2624
(936) 294-9784 [Telecopier]

ATTORNEYS FOR DEFENDANT

VERIFICATION

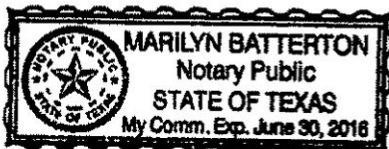
THE STATE OF TEXAS §
 §
COUNTY OF WALKER §


BEFORE ME, the undersigned Notary Public, on this day personally appeared **JOHN E. WRIGHT**, who, being by me duly sworn on oath deposed and said that he is the Attorney for Defendant in the above entitled and numbered cause; that he has read the Motion for Continuance; and that the facts stated therein are true.



JOHN E. WRIGHT

SUBSCRIBED AND SWORN TO BEFORE ME on the 24th day of July, 2012, to certify which witness my hand and official seal.

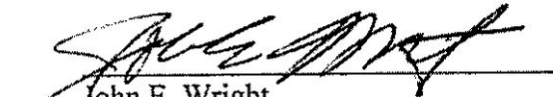




Marilyn Batterton
Notary Public, State of Texas

Certificate of Service

I do hereby certify that a true and correct copy of the above and foregoing *Motion for Continuance* was served upon the attorneys for the State, Jarvis Parsons and Brian Price, 300 E. 26th Street, Suite 310, Bryan, Texas 77803 on this the 25th day of July, 2012.


John E. Wright

CAUSE NO. 10-04337-CRF-85

THE STATE OF TEXAS

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§
§
§
§

IN THE DISTRICT COURT OF

VS.

BRAZOS COUNTY, TEXAS

STANLEY WAYNE ROBERTSON

85TH JUDICIAL DISTRICT

ORDER

BE IT REMEMBERED, that on the ____ day of _____, 2012, came on to be considered the above and foregoing Motion for Continuance. After consideration of the same, it is the opinion of the Court that Defendant's Motion be:

- () GRANTED, and the present cause is hereby continued until _____..
- () DENIED, to which ruling the Defendant excepts.

SIGNED:

JUDGE PRESIDING

DO	RECEIVED
At 9:10	o'clock a M
JUL 30 2012	
MARC HAMLIN, DIST CLERK	
Brazos County, Texas	
By	Deputy

[Handwritten signature]

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V.	§	OF
	§	
STANLEY WAYNE ROBERTSON	§	BRAZOS COUNTY, TEXAS

ORDER

Came on to be considered the motion for continuance of the Defendant.

Upon consideration of the motion and argument of counsel, the motion is hereby

_____ (GRANTED, and the trial of this case is hereby continued to
_____, 20__.)

_____ (DENIED, to which ruling the Defendant excepts.)

SIGNED ON _____, 2012.

JUDGE PRESIDING

