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8 IN THE DISTRICT COURT OF THE ELEVENTH JUDICIAL DISTRICT OF
THE STATE OF MONTANA, IN AND FOR THE COUNTY OF FLATHEAD

9
10 STATE OF MONTANA,) Cause No. DC-13-465 (C)
11)
Plaintiff,)
12 vs.) RESPONSE TO MOTION TO RESET THE
CORY ROBERT FRANKLIN,) OMNIBUS HEARING; AND GRANT
13 Defendant.) RELIEF FOR ANY DEFENSE MOTION
14) WAIVER

15 * * * * *

16 Comes now Kenneth R. Park, Deputy Flathead County Attorney, and hereby respectfully
17 submits this Response in opposition to the Defendant's Motion. The State will be in opposition of
18 any continuance in this case, and is prepared to proceed to trial in the July term.

19
20 **46-15-322, M.C.A. Disclosure by prosecution.** (1) Upon
21 request, the prosecutor shall make available to the defendant for
22 examination and reproduction the following material and information
23 within the prosecutor's possession or control:
24 (a) the names, addresses, and statements of all persons whom the
25 prosecutor may call as witnesses in the case in chief;
26 (b) all written or oral statements of the defendant and of any person
27 who will be tried with the defendant;
(c) all written reports or statements of experts who have personally
examined the defendant or any evidence in the particular case, together
with the results of physical examinations, scientific tests, experiments,
or comparisons;

1 (d) all papers, documents, photographs, or tangible objects that the
2 prosecutor may use at trial or that were obtained from or purportedly
3 belong to the defendant; and

4 (e) all material or information that tends to mitigate or negate the
5 defendant's guilt as to the offense charged or that would tend to reduce
6 the defendant's potential sentence.

7 (2) At the same time, the prosecutor shall inform the defendant of, and
8 make available to the defendant for examination and reproduction, any
9 written or recorded material or information within the prosecutor's
10 control regarding:

11 (a) whether there has been any electronic surveillance of any
12 conversations to which the defendant was a party;

13 (b) whether an investigative subpoena has been executed in connection
14 with the case; and

15 (c) whether the case has involved an informant and, if so, the
16 informant's identity if the defendant is entitled to know either or both
17 of these facts under Rule 502 of the Montana Rules of Evidence and
18 46-15-324(3).

19 (3) The prosecutor may impose reasonable conditions, including an
20 appropriate stipulation concerning chain of custody, to protect physical
21 evidence produced under subsection (1)(d).

22 (4) The prosecutor's obligation of disclosure extends to material and
23 information in the possession or control of members of the prosecutor's
24 staff and of any other persons who have participated in the
25 investigation or evaluation of the case.

26 (5) Upon motion showing that the defendant has substantial need in
27 the preparation of the case for additional material or information not
otherwise provided for and that the defendant is unable, without undue
hardship, to obtain the substantial equivalent by other means, the court,
in its discretion, may order any person to make it available to the
defendant. The court may, upon the request of any person affected by
the order, vacate or modify the order if compliance would be
unreasonable or oppressive. The prosecutor may not be required to
prepare or disclose summaries of witnesses' testimony.

(6) The prosecutor shall furnish to the defendant no later than 5 days
before trial or at a later time as the court may for good cause permit,
together with their statements, a list of the names and addresses of all
persons whom the prosecutor intends to call as rebuttal witnesses to
evidence of good character or the defenses of alibi, compulsion,
entrapment, justifiable use of force, or mistaken identity or the defense
that the defendant did not have a particular state of mind that is an
element of the offense charged.

1 The State has sent, or made available, discovery to counsel for the Defendant in this case as
2 required by the above statute. The remaining requests have been, or will be, provided as received by
3 the State in accordance with the discovery requirements of the prosecution. The State will fulfill the
4 legal requests of counsel for the Defendant

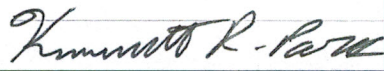
5 On the same day that this motion was filed, counsel for the defendant sent a list of demands
6 to the State including information that is confidential, or not required to be disclosed. This
7 information includes requests for the criminal history of co-defendants, confidential informant
8 agreements, federal arrest warrants, and prior bad act information, which has been provided. The
9 State has complied with all case law and State law in this matter. If new information arises prior to
10 trial it will be provided to counsel for the Defendant as it becomes available. The Defendant in this
11 case has had the services of two different competent attorneys, and terminated their services, prior to
12 the entry of Mr. Baldwin. He has had an omnibus hearing in this matter on January 15, 2014 in
13 which Sean Hinchey indicated there were no more motions to be filed by the Defendant in this case.
14 Now, Mr. Baldwin wishes to have another omnibus hearing set, and the ability to file voluminous
15 motions, and is attempting to use illegal requests for information, requested on the same day as this
16 motion was filed, as the basis for this request. The fact that the Defendant has terminated the services
17 of two competent attorneys after going through the omnibus hearing does not constitute good cause
18 for the Court to grant another omnibus hearing or relief for the Defendant to file baseless untimely
motions.

19 The trial in this case is approximately two months away. There is no reason counsel for the
20 Defendant cannot be prepared for trial in that time frame. If there are specific requests for interviews
21 needed to assist him in preparation for trial, those arrangements will be made as they are requested.
22 Counsel for the Defendant also filed a waiver of speedy trial along with this motion. The defendant
23 waived his right to a speedy trial already when he requested a continuance out of the March 2014
24 trial term. This motion itself is untimely since the passing of the Omnibus hearing in this matter. A
25 motion for continuance of the jury trial has not been filed, but is anticipated. The State will oppose
26 that motion if it is filed.

1 Therefore, the State would respectfully request this honorable Court take judicial notice that
2 the legal discovery requests that have been made have been complied with, and will continue to be
3 complied with as it becomes available, according to the requirements of 46-15-322, M.C.A. The
4 State would request this honorable Court DENY the Defendant's Motion For Order To Reset
5 Omnibus Hearing; And Grant Relief For Any Defense Motion Waiver as untimely. No hearing on
6 this matter is necessary.

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8 Respectfully submitted this 7 day of May, 2014.

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10 OFFICE OF THE COUNTY ATTORNEY
Flathead County, Montana

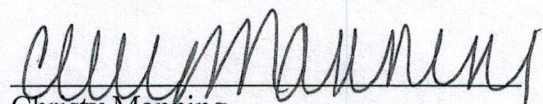
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12 By 
13 Kenneth R. Park, Deputy

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15 **CERTIFICATE OF SERVICE**

16 The undersigned, Christy Manning, Assistant to the Office of the Flathead County Attorney, does
17 hereby certify that on the 7 day of May, 2014, a copy of the foregoing document was provided to the
following named individual(s) in the manner indicated below:

18 Timothy Baldwin
19 210 2nd Street West
Suite 200
20 PO Box 1520
21 Kalispell, MT 59903

xx U.S. mail, first class postage prepaid.
Public Defender folder, Flathead County Attorneys
Office.
Hand delivery.
Personal service.
By fax, to fax #

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24 Christy Manning

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