

IN THE CRIMINAL COURT OF HAMILTON COUNTY, TENNESSEE

STATE OF TENNESSEE,

Plaintiff,

vs.

ARTERRIUS ALLEN, ET AL.

Defendants.

SECOND DIVISION

NO(s).

304486 / 305650 (Carter, Corey)

304493 / 305657 (Estes, Marquita)

304525 / 305659 (Grier, Andre)

304511 / 305677 (Murphy, Montez)

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VINCE DEAN, CLERK

BY: [Signature]

ORDER ADDRESSING REMAINING MOTIONS FILED WITH RESPECT TO ORIGINAL PRESENTMENT

This cause came before the Court upon motions filed by various parties in the above cases. For clarification of the issues and procedures before the Court, the Court files this notice for the benefit of all the parties in the case.

As the parties are aware, on August 14, 2018, the Hamilton County Grand Jury issued a superseding presentment related to the issues in this case. To the Court's knowledge, all parties in this action are also parties in the superseding presentment, although one additional party has since been added to the superseding presentment. Many of the previously-filed motions in the original case relate only to the allegations of the original presentment, and the Court believes that those motions may be affected by the superseding presentment.

Adding to the procedural posture in which several motions are pending before the Court, the State has also filed motions to dismiss the original presentment in several cases on August 21 and 23, 2018. As such, the question arises as to how the Court should treat the motions filed in the original set of cases.

In general, the Court believes that requests made for discovery or preservation of evidence filed in the original presentment should still be effective as far as the superseding presentment is concerned, though supplemental requests may also be necessary. The Court also believes that some motions remain ripe even following the filing of the superseding presentment. These types of motions may address purely legal issues, such as those that challenge the constitutionality of the RICO statutes or those that seek to give effect to juvenile status, for example.

However, other motions may be affected by the filing of the superseding presentment. For example, challenges to the original presentment that rely upon the presence or absence of *factual allegations* made in that original case appear clearly to be affected by the superseding presentment. The superseding presentment contains additional facts, charges, and information that may substantially affect whether, and how, these types of fact-dependent motions are

litigated. Thus, the Court believes that several pending motions may be moot, including those that seek a bill of particulars and those that seek dismissal of charges based upon the absence of particular factual allegations.

The Court has previously addressed motions that were docketed for hearing on August 27, 2018. However, that previous order did not address motions that have been filed by parties on or after August 1, 2018.

Accordingly, in the interest of judicial economy, and in concluding proceedings related to the original presentment, the Court, on its own motion, hereby addresses the remaining motions filed as part of the original presentment as follows:

1. **Carter, Corey, Case No. 304486 (Stanfield, Wendy)**

a. Motion No. 1: Motion for Discovery and Inspection (filed 08/17/2018)

COURT'S ORDER: The Court orders that Carter Motion No. 1 be treated as a request for discovery pursuant to Tenn. R. Crim. P. 16, with notice given to the State of such requests. Although this request is made in the context of the original presentment, Case No. 304486, the request shall be applicable to the case brought by way of the superseding presentment, Case No. 305650, without need for duplicated requests.

b. Motion No. 2: Motion for List of Witnesses (filed 08/17/2018)

COURT'S ORDER: The Court orders that Carter Motion No. 2 be **GRANTED** consistent with the Case Management Order. Although this request is made in the context of the original presentment, Case No. 304486, the request shall be applicable to the case brought by way of the superseding presentment, Case No. 305650, without need for duplicated requests.

c. Motion No. 3: Motion to Produce All Exculpatory Material and Information (filed 08/17/2018)

COURT'S ORDER: The Court orders that Carter Motion No. 3 be **GRANTED** to the extent that production of such information and evidence would be compelled by *State v. Jackson*, 444 S.W.3d 554, 593 (Tenn. 2014) and *Johnson v. State*, 38 S.W.3d 52, 55 (Tenn. 2001). The Court's intention is to grant the motion as requested, even though the motion is broadly worded, with the State given leave to request reconsideration should particular issues arise. In addition, although this request is made in the context of the original presentment, Case No. 304486, the request shall be applicable to the case brought by way of the superseding presentment, Case No. 305650, without need for duplicated requests.

- d. Motion No. 4: Motion for Bill of Particulars (filed 08/17/2018)

COURT'S ORDER: The Court finds that Carter Motion No. 4 has been rendered moot by the Grand Jury's return of the superseding presentment in Case No. 305650 and by the dismissal of Case No. 304486. Accordingly, the motion in Case No. 304486 is respectfully denied without prejudice to refile, if appropriate, in the superseding case.

2. **Estes, Marquita Marie, Case No. 304493 (Burnette, H. Eric)**

- a. Motion No. 1: Motion for Discovery and Inspection – Rule 16 Tennessee Rules of Criminal Procedure (filed 08/15/2018)

COURT'S ORDER: The Court orders that Estes Motion No. 1 be treated as a request for discovery pursuant to Tenn. R. Crim. P. 16, with notice given to the State of such requests. Although this request is made in the context of the original presentment, Case No. 304493, the request shall be applicable to the case brought by way of the superseding presentment, Case No. 305657, without need for duplicated requests.

- b. Motion No. 2: Motion for Disclosure of Favorable and Impeaching Evidence (filed 08/15/2018)

COURT'S ORDER: The Court orders that Estes Motion No. 2 be **GRANTED** to the extent that production of such information and evidence would be compelled by *State v. Jackson*, 444 S.W.3d 554, 593 (Tenn. 2014) and *Johnson v. State*, 38 S.W.3d 52, 55 (Tenn. 2001). The Court's intention is to grant the motion as requested, even though the motion is broadly worded, with the State given leave to request reconsideration should particular issues arise. In addition, although this request is made in the context of the original presentment, Case No. 304493, the request shall be applicable to the case brought by way of the superseding presentment, Case No. 305657, without need for duplicated requests.

- c. Motion No. 3: Motion for Disclosure of Evidence – Rule 12(d)(2) Tennessee Rules of Criminal Procedure (filed 08/15/2018)

COURT'S ORDER: The Court orders that Estes Motion No. 3 be treated as a request for discovery pursuant to Tenn. R. Crim. P. 16 or a request for notice of the State's evidence pursuant to Tenn. R. Crim. P. 12(d)(2), with notice given to the State of such requests. In addition, although this request is made in the context of the original presentment, Case No. 304486, the request shall be applicable to the case brought by way of the superseding presentment, Case No. 305657, without need for duplicated requests.

3. **Grier, Andre, Case No. 304525 (Slaughter, Thomas)**

- a. Motion No. 1: Motion for Discovery and Inspection (filed 08/20/2018)

COURT'S ORDER: The Court orders that Grier Motion No. 1 be treated as a request for discovery pursuant to Tenn. R. Crim. P. 16, with notice given to the State of such requests. Although this request is made in the context of the original presentment, Case No. 304525, the request shall be applicable to the case brought by way of the superseding presentment, Case No. 305659, without need for duplicated requests.

4. **Murphy, Montez, Case No. 304511 (Shiles, Gene)**

- a. Motion No. 2: Motion to Extend Time and for a Revised Case Management Order (filed 08/01/2018)


COURT'S ORDER: The Court orders that Murphy Motion No. 2 be **GRANTED** consistent with this Court's order in open Court on July 30, 2018, and confirmed by written order, extending the filing deadline for pretrial motions governed by Tenn. Crim. P. 12(b)(2)(A) or 12(b)(2)(B) to October 1, 2018. At present, the Court respectfully denies, without prejudice, the motion to extend the filing deadline for motions required to be filed prior to trial pursuant to Tenn. R. Crim. P. 12(b)(2)(E).

The Court has previously ordered that the currently-established Case Management Order shall govern proceedings relating to the superseding presentment. However, given the nature of the issues raised by the superseding presentment, the Court anticipates that a revised Case Management Order will be entered.

Given the summary nature of the dispositions herein, any party suffering prejudice by this Order may seek rehearing at the *Allen* docket call scheduled for September 24, 2018.

It is so ordered.

Enter, this the 24th day of August, 2018.



TOM GREENHOLTZ, Judge