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IN THE SUPERIOR COURT OF WALKER COUNTY

STATE OF GEORGIA

STATE OF GEORGIA,

-VS-

TOMMY RAY-BRENT MARSH,

DEFENDANT.

FILED IN OFFICE *

NOV 06 2003

Eric Markham
Clerk *

CASE NOS. 03-CR-20884; 03-CR-20885;
03-CR-20886; 03-CR-20887

**STATE'S RESPONSE TO DEFENDANT'S
'MOTION FOR A CHANGE OF VENUE'**

Now Comes the State of Georgia, by and through the District Attorney, and responds to said motion as follows:

1.

The State agrees that a change of venue would be appropriate but not for the reasons nor in the fashion contemplated by the defendant.

2.

The State does believe it would be difficult to secure a jury from Walker County that would have no connection with the case.

3.


The State does not agree that local public officials have in any way attempted to influence the Court's decision in this matter but they have frankly expressed legitimate concerns about the expense of moving the trial entirely to another venue. These are factors the Court must address in making its decision. O.C.G.A. 17-7-150. The defendant has no basis in fact for his claims that local officials are lobbying the Court nor that the Court has any feeling of indebtedness or gratitude that would sway the Court in reaching a decision.

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The State contends that a total change of venue is not necessary to secure a fair trial for the defendant. There are no safety concerns sufficient to warrant the actual conduct of the entire trial in another county. While the State feels that the defendant's safety is always a legitimate concern of the State, there has been nothing to indicate any present or future threat to the defendant's security which cannot be adequately addressed.

Wherefore, pursuant to O.C.G.A. § 17-7-150, the State asks this Court to provide for the selection of a jury from another county in the State of Georgia which will be brought to this county for the actual trial of the case.

This 6th day of November, 2003.


Herbert E. Franklin
District Attorney
State Bar No. 273325

District Attorney's Office
P.O. Box 1025
LaFayette, GA 30728
706-638-2121

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing State's Response to Defendant's Motion for a Change of Venue upon the lead attorney for the Defendant by mailing a true and correct copy of same with sufficient postage thereon to ensure delivery of same to its destination:

McCracken Poston
Attorney At Law
P.O. Box 1130
Ringgold, GA 30736

A copy of this pleading is also being directed to Leann Dolen, law clerk for the Honorable James G. Bodiford at Superior Court Building, 30 Waddell Street, Marietta, Georgia 30090-1822.

This 6th day of November, 2003.


District Attorney
Lookout Mountain Judicial Circuit

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