

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

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| COMMONWEALTH OF VIRGINIA |) | CRIMINAL NUMBER FE-2015-430 |
| VERSUS |) | |
| CHARLES STANARD SEVERANCE |) | INDICTMENT – CAPITAL MURDER (Counts 1 & 5), USING A FIREARM IN THE COMMISSION OF A FELONY (Counts 2, 4, 6, and 8), MALICIOUS WOUNDING (Count 3), FIRST DEGREE MURDER (Count 7), POSSESSION OF A FIREARM BY A CONVICTED FELON (Counts 9 and 10) |

ORDER

On August 13, 2015, Bryan Porter, Commonwealth's Attorney, David Lord, Senior Assistant Commonwealth's Attorney, James Entas, Assistant Attorney General, CHARLES STANARD SEVERANCE, the Defendant, and Megan Thomas, Christopher Leibig, and Joseph King, Counsel for the Defendant, appeared before this Court. The Defendant is indicted for the felonies of CAPITAL MURDER (Counts 1 & 5), USING A FIREARM IN THE COMMISSION OF A FELONY (Counts 2, 4, 6, and 8), MALICIOUS WOUNDING (Count 3), FIRST DEGREE MURDER (Count 7), POSSESSION OF A FIREARM BY A CONVICTED FELON (Counts 9 and 10) and he appeared while in custody.

This matter came before the Court on August 13, 2015 for pre-trial motions and for further argument with respect to a proposed plan for jury selection. Upon consideration of the briefs and oral argument, the Court ruled as follows:

1. **Defendant's Motion to Suppress Identification of Car Photo:** For the reasons stated on the record, the Court ruled that the Defendant is not entitled to a pre-trial suppression hearing.
2. **Defendant's Motion in Limine for Admission of Mental Health Evidence in Guilt/Innocence Phase of Trial:** For the reasons stated on the record, the Court ruled that

the Defendant's motion is GRANTED. This ruling permits the Defense to place in evidence admissible mental health testimony to provide an alternative explanation for: (1) the Defendant's writings; and (2) the Defendant's effort to gain asylum at the Russian Embassy. This ruling does not address or resolve the related question as to whether the Defendant's forensic psychologist, Dr. William Stejskal, will be allowed to testify at trial, which will depend on whether Dr. Stejskal's testimony conforms to the rules of evidence for the admission of testimony applicable to a criminal trial in the Commonwealth. The Court rules that this issue must be resolved prior to trial and the parties are ORDERED to file their briefs with respect to this matter by August 27, 2015. The Court now authorizes each party to file an additional responsive brief on this matter by September 3, 2015.

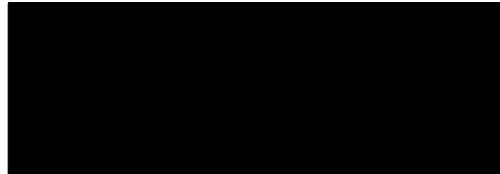
3. **Commonwealth's Motion to Regulate Alleged Evidence of Third Party Guilt:** The Commonwealth's motion is GRANTED. Based on the evidence presented by the Defense to date, there is insufficient basis to permit the Defendant to allege the guilt of third parties. This includes defense allegations that James Dunning is responsible for the murder of Nancy Dunning and that Ronald Kirby's son is responsible for his murder. The Court finds that the Defense has failed to proffer sufficient evidence as required by case law, see, e.g., *Weller v. Commonwealth*, 16 Va. App. 886 (1993) and *Ramsey v. Commonwealth*, 63 Va. App. 341 (2014), to permit the admissibility of the proposed evidence. This ruling is without prejudice to the Defense at any point prior to, or during, the trial of this matter making a new proffer based on additional evidence.
4. **Jury Selection Plan:** The Court has circulated to the parties a proposed jury selection plan. At the August 13, 2015 hearing, the Commonwealth indicated its concurrence with the plan. The Defense raised two objections to the plan. First, the Defense objects to the Court advising the jury venire as follows: "I advise you that the Commonwealth is not seeking the death penalty in this case." The Commonwealth asserts that this language is appropriate. The Court invited counsel for both parties to attempt to work out acceptable language and to notify the Court by September 3, 2015 whether it had done so and, if not, the language proposed by each party. Second, the Defense seeks voir dire in groups smaller than the 14 jurors proposed by the Court for the final phase of voir dire, although the Defense acknowledges that individual voir dire with respect to pre-trial publicity does address some of its concerns. The defense also proposed individual voir dire with respect to the mental

health testimony which may be offered in this trial in the event that the Court rules that Dr. Stejskal may testify at trial. The Commonwealth is authorized to file its position with respect to this matter in its August 27, 2015 filing.

5. **Still Camera/Television Camera Coverage of the Trial:** This matter was previously taken under advisement by Judge Roush. This matter will be resolved by the Court at the September 17, 2015 hearing and interested parties, including the "Local News Media" that previously filed a Motion for Leave to Permit Electronic Coverage of Proceedings, may submit a pleading on this issue by September 3, 2015.

The Court **ORDERED** that a copy of this Order be provided to Laurin Mills and David Warrington, Counsel for "Local News Media".

SO **ORDERED**, this 13 day of August, 2015.



JUDGE RANDY I. BELLOWS