

**VIRGINIA:**

**IN THE CIRCUIT COURT OF FAIRFAX COUNTY**

<b>COMMONWEALTH OF VIRGINIA</b>	)	<b>CRIMINAL NUMBER FE-2017-1245</b>
<b>VERSUS</b>	)	
<b>DARWIN MARTINEZ TORRES</b>	)	<b>INDICTMENT - CAPITAL MURDER</b>

**ORDER FROM OCTOBER 25, 2018 HEARING**

On October 25, 2018, Casey Ligan and Robert McClain, the Assistant Commonwealth's Attorney, DARWIN MARTINEZ TORRES, the Defendant, Joseph Flood, Daniel Goldman, and Joni Robin, Counsel for the Defendant, and Lindsay Wilhelm and Jaime de Castellvi, Interpreters fluent in the Spanish language, appeared before this Court. The Defendant is indicted for the felonies of CAPITAL MURDER IN THE COMMISSION OF ABDUCTION (COUNT I), ABDUCTION (COUNT II), CAPITAL MURDER IN THE COMMISSION OF RAPE (COUNT III), RAPE (COUNT IV), CAPITAL MURDER IN THE COMMISSION OF OBJECT SEXUAL PENETRATION (COUNT V and COUNT VII) and OBJECT SEXUAL PENETRATION (COUNT VI and COUNT VIII) and he appeared while in custody.

This case came before the Court this date for argument on the Defense motions #98, 100, 101, 103, 105, 106, and 107; for a status hearing regarding Juan Antonio Torres Martinez, a material witness in this case; and to address jury selection protocol.

A status hearing regarding material witness Juan Antonio Torres Martinez was held. The witness was represented by Counsel, Alex Gordon.

The Court confirmed with Counsel that Defense #102, Motion to Suppress Statements, and #104, Motion to Suppress Fruits of Illegal Arrest, had been continued for a hearing on November 29, 2018.

The Court advised that Defense #106, Motion for Order Allowing Defense Witnesses to Appear in Civilian Clothing and Without Restraints, would be **granted**. The Defense shall provide civilian clothing for the witnesses. The Court stated its understanding that the Sheriff's Department would not normally have restraints on a witness in this situation, rendering the issue moot. If that position changes, the matter will be addressed by the Court. It was explained that the witnesses would be placed in the witness box prior to the jury entering the courtroom and that the witness will step down once the jury leaves the courtroom.

Defense #103, Motion to Require the Commonwealth to Identify all Postmortem Photographs of the Decedent It Intends to Introduce at Trial, was withdrawn by separate order.

The Court, after hearing argument, **denied** Defense #100, Motion to Authorize Funding for Sampling, Transport, and Testing of Environmental Neurotoxins, for the reasons stated in a separate order.

After hearing argument and receiving a letter submitted by Counsel for the Defendant, the Court granted Defense #107, Motion for Continuance. The Court **ORDERED** that the letter dated October 24, 2018 from Katherine Snably, Psy.D., be placed **UNDER SEAL**.

After discussion with Counsel, the Court **ORDERED** that the trial set to begin on January 7, 2019 be continued to **September 9, 2019 at 10:00 a.m.** The Defendant, by Counsel, waived the Speedy Trial Act for the time period between January 7, 2019 and September 9, 2019.

The Court **ORDERED** that the time frame for the Commonwealth's submission of photographs be amended, to-wit: the Commonwealth's Attorney shall file with the Court on or before August 7, 2019, the universe of photographs that may be introduced at trial in the Commonwealth's case-in-chief in which the victim's body appears. The photographs shall be filed **UNDER SEAL**. The Defense shall file its position with regard to the admissibility of particular photographs by August 14, 2019. Any photographs filed by the Defense shall also be filed **UNDER SEAL**. The Court will then rule on the photographs at the next motions hearing.

After hearing argument on Defense #101, Motion to Authorize Funds for Experts to Remain in Court During Presentation of Penalty Phase Evidence, the Court **denied** the motion, for the reasons stated on the record.

The Court heard argument on Defense #105, Motion to Suppress Loudoun County School Records of Darwin Martinez Torres, which motion the Court **denied**, for the reasons stated on the record.

In light of the continuance of the trial date, the review of the jury selection protocol and Defense #103, Proposed Standard Juror Questionnaire, were deferred to a later hearing.

The Court **ORDERED** that the motions hearing dates of December 13, 2018 and January 3, 2019 be **vacated**. The court clerk will provide Counsel with proposed motions hearing dates for January through September 2019.

After hearing argument on Defense #98, Renewed Motion to Strike the Commonwealth's Notice of Intent to Introduce Evidence of Unadjudicated Conduct, the Court **ORDERED** that the matter be reserved for the December 20, 2018 motions hearing.

The Defendant was remanded to the custody of the Sheriff.

Entered on October 30, 2018.



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JUDGE RANDY I. BELLOWS