

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

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

ORDER CONTINUING MOTION TO QUASH

On November 2, 2018, Mark Sullivan, the Assistant Commonwealth's Attorney, DARWIN MARTINEZ TORRES, the Defendant, Joseph Flood, Daniel Goldman, and Joni Robin, Counsel for the Defendant, Leslie Barnes, the Assistant County Attorney for Loudoun County Department of Family Services, 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 a hearing on the Motion to Quash the subpoena *duces tecum* to Loudoun County Department of Family Services. The Court heard all of the evidence presented by Loudoun County Department of Family Services and argument of Counsel.

In consideration, the Court **ORDERED** that this matter be continued for briefs to be filed and to allow the Loudoun County Department of Family Services to conduct a search for records.

The Court **ORDERED** that Loudoun County Department of Family Services conduct a search for such Young Parent Services (YPS) records as may exist for Jocelyn Nieto Rivera and that they make a submission to the Court regarding the results of the search. The Court further **ORDERED** that any Loudoun County Child Protectives Services records which may exist for Jocelyn Nieto Rivera, [REDACTED], and [REDACTED] be preserved as of this date.

The Court **ORDERED** that this case be set on **January 25, 2019 at 1:00 p.m.**, for further argument on the Motion to Quash.

The following briefing schedule was set: Counsel for the Defendant shall file a brief on or before December 6, 2018. Counsel for the Loudoun County Department of Family Services is not obligated to respond, but if she chooses to do so, her reply is to be filed on or before January 10, 2019. The Commonwealth's Attorneys may also file a brief or before January 10, 2019 if they wish.

The Court **ORDERED** that the Loudoun County Department of Family Services file a status report with the Court, as to the results of their search for the YPS records, by December 6, 2018. In the event that the Department of Family Services has not located the records, the submission shall state which DFS divisions were searched.

The Court also addressed Loudoun County's assertion that the subpoena was overbroad. The Court narrowed the subpoena to apply only to CPS and YPS records, without prejudice to the Defendant submitting additional subpoenas for records associated with other DFS Divisions. Counsel for Loudoun County agreed to provide the Defense Counsel a list of DFS Divisions within one (1) week.

At the hearing on January 25, 2019, the Defense may present testimony from Jocelyn Nieto Rivera, if they wish.

The Defendant was remanded to the custody of the Sheriff.

Entered on November 5, 2018.



JUDGE RANDY I. BELLOWES