

IN THE DISTRICT COURT OF SALINE COUNTY, NEBRASKA

STATE OF NEBRASKA,)	Case No. CR18-41
)	
Plaintiff,)	MOTION TO CHANGE
)	VENUE
vs.)	
)	
)	
BAILEY M. BOSWELL,)	
)	
Defendant.)	

Defendant moves the Court to change venue for trial from Saline County to another county pursuant to Neb. Rev. Stat. § 29-1301 (Reissue 2016). In support of this motion Defendant states the following:

1. The trial of the co-defendant, Aubrey Trail, commenced on June 17, 2019, with jury selection and ended on July 10, 2019, when a jury found him guilty of the charges against him.
2. The Trail trial was extensively covered by several newspapers and television stations before, during, and after the trial. This included expanded media coverage which broadcast recorded testimony of trial witnesses.
3. Of the newspapers that covered the Trail trial, the Lincoln Journal Star (LJS) has printed approximately 78 articles between November 28, 2018, and July 23, 2019, concerning the disappearance of Sydney Loofe which mention Defendant or Aubrey Trail in connection with the disappearance. The LJS printed 19 articles covering Trail's trial between June 17, 2019, and July 10, 2019. The articles recount detailed testimony from trial witnesses. The accounts of witness testimony included what witnesses testified Trail told them. One article included a detailed account of Trail's three and one half hour interrogation and the

admissions he made to law enforcement. Many of the articles before Trail's trial discuss the criminal history of Defendant and the Federal fraud charges she pled to prior to being charged in the current matter.

4. The Omaha World Herald (OWH) covered the Trail trial and printed articles related to the disappearance of Sydney Loofe, and Defendant and Trail's involvement. Twenty articles were printed from the start of Trail's trial on June 17, 2019, to the last article printed July 18, 2019. As with the LJS articles which were printed during Trail's trial, the OWH articles cover, in detail, testimony of witnesses, including statements made by Trail and his three and one half hour interview.
5. Other printed media in the coverage area of Saline County which covered the Trail trial include: the Beatrice Daily Sun which printed 112 articles between November 28, 2018 and July 18, 2019, concerning the disappearance of Sydney Loofe, and Defendant and Aubrey Trail in connection with the disappearance. These articles contain daily accounts of Trail's trial and the testimony of witnesses, and articles concerning Defendant's criminal history and Federal fraud case.
6. Additionally, the Seward County Independent, the Milford Times, the Friend Sentinel, and the Wilber Republican, all of which are weekly papers that print on Wednesdays, each published the same 39 articles related to the disappearance of Sydney Loofe, and Defendant and Aubrey Trail in connection with the disappearance. These articles were printed between November 29, 2018 and July 18, 2019. These articles contain daily accounts of Trail's trial and the testimony of witnesses, and articles concerning Defendant's criminal history and Federal fraud case.
7. In addition to the articles in the print media, the Trail trial was reported on by several

television stations which broadcast news stories concerning Sydney Loofe's disappearance, and Defendant and Aubrey Trail in connection with the disappearance. The broadcast news stories include video recording of witnesses and testimony of Aubrey Trail at his trial. These television stations include: KOLN, channel 10/11, which has approximately 125 news stories; KLKN, channel 8, which has approximately 55 news stories; KETV, channel 7, which has approximately 18 news stories; KMTV, channel 3, which has approximately 77 news stories; WOWT, channel 6, which has approximately 66 news stories; KHGI-NTV, which has approximately 20 news stories; News Channel Nebraska, which has approximately 80 news stories; and NET, which has approximately 10 news stories.

8. During the trial of Aubrey Trail, a citizen regularly stood across the courthouse with a memorial sign depicting Sydney Loofe, which was clearly visible for the jury to see. It is expected the same would occur during Defendant's trial.
9. There is a pattern of deep and bitter prejudice in the venire. The information revealed in the supplemental questionnaires in Aubrey Trail's case, in the news stories, and comments section of news outlet internet sites, show an atmosphere of hostility towards the Defendant.
10. To try the Defendant in Saline County, or use a jury comprised of a petit jury from Saline County will violate Defendant's right to a fair trial by an impartial jury guaranteed by the 6th and 14th Amendments to the United States Constitution, the corresponding sections of the Nebraska Constitution, and Neb. Rev. Stat. §29-1301(Reissue 2016).
11. Defendant has been advised of her right, pursuant to Neb. Const. art. I, § 11, to a trial by a jury of the county or district in which the offense is alleged to have been committed. For

the purposes of this motion to change venue, Defendant agrees to waive her right to be tried in Saline County.

WHEREFORE, Defendant requests the Court to exercise its discretion and change venue from Saline County to another county for the reasons stated above. The extraordinary amount of news coverage includes coverage from witness testimony, statements concerning Defendant's prior criminal history, other bad act and character evidence under Neb. Rev. Stat. § 27-404, and other evidence likely to be inadmissible at Defendant's trial. The saturation of this type of coverage makes it unlikely that Defendant can receive a fair and impartial trial if a jury is picked from Saline County.

Respectfully submitted,
BAILEY M. BOSWELL, Defendant

By: /s/ Todd W. Lancaster
Todd W. Lancaster, #21507
Nebraska Commission on Public Advocacy
140 N. 8th Street, Ste. 270
Lincoln, NE 68508
(402) 471-7774
Tlancaster@ncpa.ne.gov
Attorney for Defendant

NOTICE OF HEARING

To: Michael Guinan, Sandra Allen and Tad Eickman:

You are hereby notified that the motion herein shall be heard in Saline County District Courtroom on the 9th day of August, 2019, at 9:00 a.m. or as soon thereafter as counsel may be heard.

Certificate of Service

I hereby certify that on Friday, July 26, 2019 I provided a true and correct copy of the Motion-Change of Venue to the following:

State of Nebraska represented by Michael Guinan (Bar Number: 21950) service method:
Electronic Service to michael.guinan@nebraska.gov

State of Nebraska represented by Eickman,Tad,D (Bar Number: 15655) service method:
Electronic Service to eickmanlaw@hotmail.com

State of Nebraska represented by Sandra Allen (Bar Number: 22318) service method:
Electronic Service to sandra.allen@nebraska.gov

Signature: /s/ Lancaster,Todd,W (Bar Number: 21507)