

IN THE CIRCUIT COURT OF COLE COUNTY  
STATE OF MISSOURI

STATE OF MISSOURI,  
Plaintiff

v.

ALYSSA D BUSTAMANTE,  
Defendant

Cause No. 09AC-CR03516-01F

Division No.

**FILED**

**APR 13 2011**

BRENDA A. UMSTATTD  
CLERK CIRCUIT COURT  
COLE COUNTY, MISSOURI

**MOTION TO CONTINUE TRIAL**

Comes Now the ACCUSED, Alyssa Bustamante, by and through counsel undersigned, pursuant to Section 545.710 R.S.Mo, and Rule 24.09 of the Missouri Rules of Court and respectfully requests that this Court continue the trial in the above-entitled case currently set to begin on June 1, 2011. In support of this motion, counsel states as follows:

1. Alyssa Bustamante is charged Murder in the First Degree.
2. The case is scheduled for jury trial commencing on June 1, 2011.
3. In February of 2011 the defense notified the court that Charlie Moreland, one of the assigned attorneys to this case, was set for trial in Joplin, Mo. (St. v Winans) in March of 2011 on a client charged with Murder in the First Degree with the State seeking death and was set for trial in Rolla, Mo. (St. v Collings) on April 13, 2011 for a client charged with Murder in the First Degree with the State seeking death. The Collings trial is expected to last three weeks. In response to these settings the court moved Ms.

Bustamante's trial date from May 16, 2011 to June 1, 2011.

4. Mr. Moreland appeared in Rolla, Mo. on April 13, 2011 prepared to begin jury selection. On April 8, 2011 the Assistant Attorney General, Elizabeth Bock announced that the state was changing it's position on the introduction of a key piece of evidence and no longer objected to the entire statement of the Defendant being placed in evidence during the guilt portion of the trial. The defense had been trying to get the contested portions of the tape into the guilt phase for several months. Based on the late change of heart by the state and the necessity for the defense to change trial strategy for the guilt phase Judge Sheffield has continued the Collings trial till April 20, 2011, further encroaching on the preparation time for the Bustamante trial.

5. Further complicating the preparation for the Bustamante trial is the fact that our office's only guilt phase investigator has resigned to take a position with the United States Marshall's office as effective April 15, 2011. As the supervisor of the Central Capital Office is counsel in the Collings case it is not anticipated that a new investigator will be hired and on the job before the June 1, 2011 Bustamante trial date.

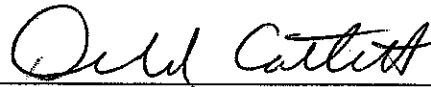
6. The defense received on March 24, 2011 a Supplemental Answer to the Defense's request for Discovery that includes several references to DNA findings not previously disclosed. At least two of these findings warrant further investigation by the defense that may include independent testing by the defense. The defense has not been provided the lab records, notes, protocols, etc. concerning the recent DNA disclosures.

7. The defense has hired and provided documents of background, law

enforcement reports, testing etc. to relevant experts. This process is progressing but counsel does not believe that the expert portion of the preparation will be completed by June 1, 2011 under the current circumstances listed above.

WHEREFORE it is respectfully requested that the Court continue this cause.

Respectfully submitted,



Donald Catlett, Mo Bar No. 29556

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#### **Certificate of Service**

I certify that a true copy of the above and foregoing was personally served on all parties this 13th day of April, 2011.



Donald Catlett