

January 23, 2023

VIA eFILE

The Honorable Donald Zuidmulder
Brown County Courthouse
100 S Jefferson Street
Green Bay, 54301

**Re: State of Wisconsin v. David Villareal
Brown County Case No. 21CF618 & 22CF330**

Dear Judge Zuidmulder:

I am respectfully requesting an adjournment of the jury trial. When I appeared on January 6, 2023, with Mr. Villareal, the Court asked if I would be ready to proceed. My answer was “no.” After further discussion, it appeared to me that the Court had the opinion that Mr. Villareal had to choose between representing himself or having me do my best to be prepared to proceed. Knowing that Mr. Villareal very much wants me to help him, I indicated that I would attempt to be ready for trial. In spite of my earnest attempts to spend nearly every hour of every day since then, I have come to the realization that I will not be effective if I must proceed to trial on Monday. There are several reasons for this:

1. At the last hearing, I had just started reviewing the discovery that had been received so far. I had been in possession of much of that discovery for less than one day at that point. I know that the Court is familiar with the nature of the discovery in this case, but I wish to point out that involves a large volume of documents, recorded interviews, and cell phone records. I have had hearings in other matters nearly every day and I have spent the evenings and weekends doing everything I can to review the information. However, I am still not finished.
2. The Court indicated that there had been prior rulings on Shiffra / Green issues. I cannot tell from the docket what those rulings were, and I am in need of clarification regarding how those issues stand. I would also like the opportunity to revisit the issue if I have more research that I can provide. Again, in the very short period of time that I have had to prepare for this case, I have not been able to fully ascertain what has happened so far, and whether it should be re-addressed.
3. Upon reviewing the information received from the State, it appears that there are at least two items of significance that we have not received. There was a request by prior counsel for evidence of a complaint made to the Green Bay School District by a specific individual, and there was also a request for any Title XI documents referencing any complaint that was made. Based upon my review of what I have, I do not see that we have received that information from the State.
4. I note that there was a Daubert challenge to the State calling Susan Lockwood as an expert. I cannot tell if the Court ruled on this issue, and if so, what ruling was made. It would be helpful if I could obtain transcripts from the prior hearings, but I do not have them as of this date.

5. I have been informed that one of the witnesses that the defense would intend to call is not available for the trial dates.
6. There are several other witnesses that I anticipate that the defense would want to call, but I have not had time to coordinate my own investigation or interview any such witnesses.
7. From what I can tell, the Court granted Mr. Villareal's request to not have anyone from the public defender's office represent him. I did not see that the Court informed him that his only option would be to represent himself. I did not see any prohibition regarding Mr. Villareal making arrangements for private counsel. Again, I was not present for that hearing, and I am basing my understanding of the situation from the court minutes.
8. Although this case has been pending for a very long time, I have had an extremely limited opportunity to get up to speed. I sincerely believe that going forward on January 30, either with Mr. Villareal representing himself, or with counsel which will be ineffective, will only create an appellate issue that I am sure that all parties would rather avoid.
9. I am merely asking for the opportunity to do my job properly and provide the assistance of counsel that Mr. Villareal desires.

I apologize for having to make this request, and I have the utmost respect for your Honor and the efficiency that we all desire to see in the justice system. However, as an Officer of the Court, I must make the difficult and awkward request for more time. I also apologize to the State for having to make this request.

Sincerely,

KIRK BOWDEN OBEAR
BIRDSALL OBEAR & ASSOCIATES

A handwritten signature in black ink, appearing to read 'K. B. Obear', with a stylized flourish at the end.

Kirk B. Obear

KBO:mmmp