

STATE OF LOUISIANA

DOCKET NUMBERS: [REDACTED]

VERSUS

26<sup>TH</sup> JUDICIAL DISTRICT COURT

[REDACTED]

BOSSIER PARISH, LOUISIANA

REPLY TO DEFENSE MOTION FOR CHANGE OF VENUE

NOW INTO COURT, through the undersigned assistant district attorney, comes and appears the STATE OF LOUISIANA, who respectfully submits that the defendants request for a change of venue is without grounds and should be denied.

Louisiana Law provides that a change of venue shall only be granted when the state or the defendant proves that by reason of prejudice existing in the public mind or because of undue influence or reason, a fair and impartial trial cannot be obtained in the parish where the prosecution is pending.<sup>1</sup> In *State v. Bell*, 315 So.2d 307 (La. 1975), the state supreme court set out factors for the court to consider in weighing the impact of *pretrial publicity*. This author is unaware of any jurisprudential guidance or test to employ to determine if there exists prejudice in the public mind or undue influence upon the jurors due to a courthouse monument such that a fair and impartial jury cannot be empaneled. The *voir dire* process can adequately cover any such concerns held by defendant. If such concerns are validated in jury selection, this issue can be addressed at that time (Trial courts, as a matter of caution, may properly defer ruling on a motion to change venue until after voir dire- *State v. Lee*, 688 So.2d 240 (La. App. 4 Cir. 1/19/96), *writ denied* 672 So.2d 919 (La. 5/10/96).

Furthermore, the defendant must demonstrate that actual prejudice, influence or other reasons exist which will affect the answers of the jurors on *voir dire*. *St. v. Bennett*, 454 So.2d 1165 (La. App. 1 Cir. 1984), *writ denied* 460 So.2d 604. The defendant has not shown that such prejudice and influence exists due to the complained of circumstances. Arguments like the present one were raised and discussed in two other cases, *State v. Dorsey*, 745 So.3d 603 (La. 9/7/11), and *State v. Tucker*, 181 So.3d 590 (La. 9/1/15), where the subject was the impact of a confederate flag and memorial outside of the courthouse.

<sup>1</sup> LA C.Cr.P. Art. 622.

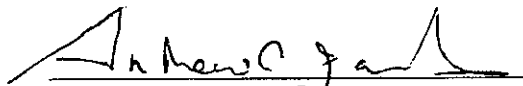
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BOSSIER PARISH, LOUISIANA

The *Dorsey* Court, noted in dicta, that under the correct test the defendant failed to show that the monument was maintained because of the adverse effect it would have on the administration of criminal justice; and, failed to show that the monument creates an environment giving rise to a significant risk that jurors acted with discriminatory intent. *Dorsey* at 638. As stated above, the *voir dire* process is adequate to determine if such an environment exists for any specific juror.

The *Tucker* Court dealt with a similar claim that the confederate flag outside the courthouse led to less African-Americans serving on the jury. Revisiting *Dorsey*, the Court stated that it was unnecessary to determine the original purpose or meaning for the monument/flag as there was no showing that the government had a present day discriminatory purpose. *Tucker*, at 624-625.

The defense must prove that a fair and impartial trial cannot be obtained in Bossier Parish. No evidence has been presented to show that reason of prejudice existing in the public mind, undue influence, or other reason excludes this parish.

RESPECTFULLY SUBMITTED:



Andrew C. Jacobs, #26347  
ASSISTANT DISTRICT ATTORNEY  
26<sup>TH</sup> Judicial District, Bossier Parish  
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**CERTIFICATE**

I, the undersigned do hereby certify that a copy of the foregoing has been sent to the following in the following manner on the 3 day of February, 2017:

Via U.S. Mail and Fax: 225-338-1948

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