CAUSE NO. 61164

THE STATE OF TEXAS IN THE COUNTY COURT

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BRADLEY GRAY LAMAR COUNTY, TEXAS

DEFENDANT'S MOTION to STRIKE TESTIMONY or IN THE ALTERNATIVE FOR CONTINUANCE TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW the Defendant in the above styled and numbered cause, by and through his attorney of record. G. Don Haslam, Jr., and files this Motion to Strike Testimony or In The Alternative for Continuance; and in support thereof would show the Court as follows:

I.

The above matter is presently set for trial today, at 9:00 A.M. The jury has been released and instructed to return at 1:00 P.M. today to commence trial. The Court so ordered because it is evident the State has failed to timely produce evidence that it admits exists. The Defendant's counsel has made a record of this matter.

The State produced some of this evidence on Friday, April 11, 2014 after 4:00 P.M. Further, the State failed to produce at all a video of a child witness and the alleged victim until the undersigned raised the question of its existence before trial today. The prosecutor herein. Denise Hairston, immediately acknowledged it exists yet advised she was not in possession of it.

The Court instructed the State to find the video and produce it by 10:10 A.M. and adjourned the jury until 1:00 P.M. The State produced the video in DVD format at exactly 10:10 A.M. The Court granted defense counsel leave to view the video and to return by 1:00 P.M.

11.

The Court must strike the testimony of Stacy Whitworth, the subject of one of the police reports delivered Friday, April 11, 2014, after 4:00 P.M., and any evidence relating to the police report authored by PPD Officer Milton, also produced at that time. Counsel has not had an opportunity to investigate the claims therein, did not know who Whitworth is and cannot prepare to examine her at trial in light of the late notice. This kind of indifference to the Due Process detriment conferred on a defendant and his ability to know the evidence against and prepare to defend it is by now well-beyond chronic in Lamar County, vet the Lamar County District Attorney's office suffers no sanction - ever - for continuing to conduct the business of the Court this way. Yet, the Lamar

County Courts routinely reject defendants' right to utilize the subpoena duces tecum to achieve discovery directly

from third parties. The result is an abject affront to the administration of justice: defendants are forced to rely on the

honesty and competence of a prosecutor to produce evidence that is material when - as many, many other cases

illustrate in this county - that office is demonstrably ...unreliable... in this regard. It reduces the administration of

criminal justice to an artifice, an illusion, and is a deprivation of numerable fundamental rights such as the right to

confront witnesses, the right to compulsory process, the right to know the evidence he is to defend, and the right to

due process.

Finally, the Defendant prays for wide latitude is cross-examining State's witnesses regarding the late

production of this evidence. In particular, because it would appear that Paris Police Department Investigator

Ronnica Blake is vested with the responsibility to deliver case materials to the prosecutor herein, such latitude is

appropriate to determine her bias and motive to lie as an explanation for the failure to produce. Alternatively, Blake

may testify that she did timely produce the evidence, in which event the Court will have meaningful information

about the State's adherence to the Court's discovery rules, and about the State's candor with respect to this issue to

date.

In the absence of a striking of this testimony and wide latitude on cross, the Defendant moves to continue

trial. This cause should be continued from this date because the undersigned counsel cannot provide Defendant's

VI Amendment right to effective counsel at a trial commencing today at 1:00 P.M. if this evidence is received by the

Court, after the Defendant receiving the foregoing evidence less than three business hours before trial.

111.

This motion is made in the interest of justice and not for any reason of delay.

WHEREFORE PREMISES CONSIDERED. the Defendant respectfully prays the Court grant this Motion

for Continuance.

Respectfully submitte

Bv:

G. Donald Haslam, Jr., Counsel for Defendant, TBA # 24071792, OBA #17873

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County of L	amar
	<u>AFFIDAVIT</u>
ВЕ	FORE ME. the undersigned authority, on this day personally appeared G. Don Haslam, Jr., who being
by me duly:	sworn, upon oath deposes and says:
"I a	im the attorney for the Defendant in this cause. I have read the above Motion and it is all true and correct
to the best o	f my knowledge."
	G. Donald Haslam. Jr.
SU	BSCRIBED AND SWORN BEFORE ME on this 14 th day of April, 2014, to certify which witness my
hand and sea	Hotary Public State of Texas Departy Count & Check
My commis	sion expires:
	CERTIFICATE OF SERVICE
	ty District Attorney's Office on

State of Texas