

**IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY,
PENNSYLVANIA—CRIMINAL DIVISION**

COMMONWEALTH OF PENNSYLVANIA : CP-46-CR-0003932-2016
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: :

v.

WILLIAM H. COSBY, JR.

**COMMONWEALTH'S RESPONSE TO DEFENDANT'S MOTION FOR CHANGE
OF VENUE AND/OR VENIRE**

TO THE HONORABLE STEVEN T. O'NEILL, J.:

I. INTRODUCTION

Defendant William H. Cosby seeks a change of venue or venire.¹ As we have previously indicated, the Commonwealth does not object to a change in venire. But defendant suggests more. He wants hearings to present a case for the specific venire of his choice. That is contrary to the law. It is the Pennsylvania Supreme Court that designates the venire. His concerns about a campaign ad and local publicity may be satisfied by an order from this Court granting a change in venire. To the extent he complains about the worldwide attention this case has gotten, that is just another red herring. He's not entitled to a jury that is ignorant of the facts surrounding his case. The publicity that necessarily follows the rich and famous cannot insulate them from prosecution. Finally, a series of hearings on an issue that is not properly before

¹ The defendant has not developed any independent argument for the supposed need for a change in venue. As discussed below, a change in venire will address his concerns—at least those that do not crossover into rank venire-shopping.

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this Court—that is, the specific venire—would only fuel defendant’s strategy of delay and distraction.

II. DISCUSSION

In his latest motion, defendant seeks a change of venue or venire. As the Commonwealth has repeatedly made clear, even though it believes a fair and impartial jury can be impanelled in Montgomery County, it does not oppose a request for a change of venire and will proceed by partial agreement of counsel.² We want to streamline the issues in this case, where practicable, and we are continuing to work to bring this defendant to trial as soon as possible. The sooner the pre-trial issues are resolved, the sooner that occurs.

Yet the defendant seemingly wants the opposite: he wants delay and distraction. He has filed a lengthy motion asking this Court to schedule evidentiary hearings. At the hearings, he wants to use his seemingly endless resources to manufacture a case for the venire of his personal preference.

That is not permitted by law. Once this Court orders a change in venire, it is the Pennsylvania Supreme Court that selects the locale. *See Pa.R.Crim.P.* 584(B) (“The Supreme Court shall designate and notify the county of transfer or the county from which the jury is to be impanelled”). If the defendant’s concern is a campaign ad and local publicity, that is easily resolved by impanelling a venire from different county. He also expresses concern about the nationwide attention to his case. Because he is a celebrity who is alleged to have committed nearly fifty sexual assaults, he cannot expect to find a jury venire—

² The Commonwealth has attached a proposed order as “Exhibit A.”

anywhere—that is completely oblivious to the facts surrounding the case. But he is not entitled to such juror ignorance. *See Commonwealth v. Counterman*, 719 A.2d 284, 293 (Pa. 1998) (explaining that “jurors are not required to be totally ignorant of the facts,” because due to modern methods of communication, it would be otherwise impossible to impanel a jury). If that were the law, the rich and famous would be immune to prosecution for their crimes. While that may be appealing to the defendant, it would not be beneficial to the rest of society.

The defendant’s request for a venire from a county with a population “in excess of 1.2 million people” is nothing but a poorly concealed attempt to shop for what he seemingly views is a more favorable jury pool. *Defendant’s Motion for a Change of Venue and/or Venire* at ¶ 9. Only two counties in this Commonwealth satisfy his curiously specific demand: Allegheny and Philadelphia.³ Because of his complaints about Philadelphia-area media attention, he is obviously and specifically requesting a Pittsburgh venire. While the Commonwealth remains confident that we can prove our case to any impartial jury, the defendant is not entitled to a specific venire that he perceives as more favorable. As discussed above, the selection of the venire is the prerogative of the Pennsylvania Supreme Court.

³ Per the 2010 Census, Allegheny County has an approximate population of 1.2 million, and Philadelphia County has an approximate population of 1.5 million. U.S. Dept. of Commerce, U.S. Census Bureau, Pennsylvania: 2010, Table 4 (2012; accessed 1/5/17), <http://www.census.gov/prod/cen2010/cph-2-40.pdf>.

Further, holding hearings on an issue that is not properly before this Court—the specific venire—would only fuel the defendant’s continued strategy of delay and distraction. It would most likely significantly delay trial; no doubt a benefit to the defendant. It would also give him another opportunity to launch tiresome, meritless tirades on everyone from the victim in this case to the prosecutors and prior victims; and even—at least here for the first time—the Montgomery County Court Administration and President Obama, *see Defendant’s Motion for a Change of Venue and/or Venire* at ¶¶ 1-3; *id.* at ¶ 7(e). It seems nobody is beyond his excuse-making. This is true to form; he has insistently blamed everyone and everything—except himself, of course—for the situation he now finds himself in.

III. CONCLUSION

The Commonwealth respectfully requests that the Court grant his motion for change of venire by agreement of counsel and certify the order for the Pennsylvania Supreme Court, pursuant to Pa.R.Crim.P. 584(B). Once that is accomplished and a jury is selected, the Commonwealth requests that it be brought back to Montgomery County pursuant to Pa.R.Crim.P. 584(D).⁴

RESPECTFULLY SUBMITTED:



KEVIN R. STEELE
DISTRICT ATTORNEY

⁴ The Comment to Rule 584 suggests that a change of venire also dictates the trial court's consideration of the need to sequester the jury. The Commonwealth does not oppose sequestration.

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CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing documents upon the persons and in the manner indicated below which service satisfies the requirements of Pa.R.Crim.P. 576(B)(4):

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DATE: JANUARY 5, 2017