

**SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO**

**CR No. CR 2017-01237
DA # 2017-01574-1**

**STATE OF NEW MEXICO,
Plaintiff**

vs.

**AMEER MUHAMMAD, AKA: MUHAMMAD AMEER;
Defendant.**

NOTICE OF COMPLIANCE AND MOTION FOR SANCTIONS

COMES NOW pursuant to Rule 5-503 NMRA and the Scheduling Order entered by the Court on April 20, 2017 and filed April 21, 2017; the State of New Mexico, by and through its Assistant District Attorney, Les Romaine, and hereby gives notice of compliance to the Court and motion for sanctions against the Defense for the following:

1. On April 20, 2017, the Court entered a scheduling order that included a deadline for pretrial interviews of January 22, 2018.

2. Defense counsel did not request pretrial interviews on this matter. The state contacted the defendant's attorney of record, Robert Martin on August 4, 2017 requesting dates and times of availability to schedule the pretrial interviews in August and September of 2017. Robert Martin, replied by directing me to Matthias Swonger for pretrial interviews, despite there being no indication of him being attorney of record. (SEE EXHIBIT #1)

3. On August 7, 2017, Matthias Swonger responded and stated that he had availability only in the afternoons on September 8, 11, 13 and 14, 2017 and that he would interview the civilian witnesses and that Robert Martin would interview the officers in November. (SEE EXHIBIT #1)

4. Despite the state requesting additional dates and times for the interviews and inquiries as to why there was no movement on this homicide case along with defense counsel unwilling to

provide additional availability, the state scheduled the interviews based on the dates and times that were provided by Matthias Swonger. (SEE EXHIBIT #1). On August 11, 2017, confirmation of the interviews that were scheduled based on the dates and times Matthias Swonger provided were sent to both him and Robert Martin. (SEE EXHIBITS #2 AND #3).

5. After confirmation of the interviews were sent on August 11, 2017 at 11:23 AM, Matthias Swonger sent message on August 15, 2017 at 5:00 PM in which he stated that he and his office would subpoena the witnesses to his office on the exact date and some instances, the exact time that the state indicated that they would subpoena the witnesses to their office because the state did not schedule enough time for the witnesses. It was made clear to Matthias Swonger that the times allotted were not set in stone which meant that the interviews would be completed as necessary. (SEE EXHIBIT #4).

6. Now several witnesses are being served with two subpoenas to two separate places on the same date. The state complied with its obligation to work with defense, who did not see a sense of urgency to request interviews by not requesting them, nor did they seem motivated to move forward in the adjudication of this matter.

7. The state is seeking a sanction against defense counsel to deter this sort of behavior. In never contacting the state regarding interviews and then obstinately refusing to cooperate with the state in good faith to completed interviews it appear defense counsel is deliberately attempting to create prejudice in this case. In refusing to complete interviews of officers until a date much closer to the deadline and subpoenaing witnesses for the exact date the state did only because those dates were given by defense counsel. It appears that defense counsel is engaging in gamesmanship to try and obtain suppression of witnesses in this matter.

8. The State is in compliance with Rule 5-503 NMRA and the Scheduling Order filed by this Court on April 21, 2017.

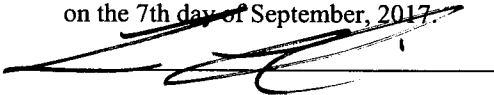
WHEREFORE, the State has scheduled pretrial interviews based on information of defense counsel and the States seeks a sanction against the Defense to discourage the practice of issuing subpoenas to witnesses after confirmation of dates and times have already been provided to them.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Les Romaine', written over a horizontal line.

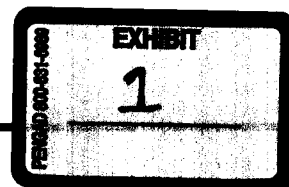
Les Romaine
Assistant District Attorney

This will certify that a copy
of the foregoing was sent to
counsel for the Defendant,
Law Office of the Public Defender (LOPD),
on the 7th day of September, 2017.

A handwritten signature in black ink, appearing to be 'Les Romaine', written over a horizontal line.

Les Romaine
Assistant District Attorney

Romaine, Les



From: Romaine, Les
Sent: Friday, August 11, 2017 4:34 PM
To: 'Martin, Robert'
Cc: Swonger, Matthias
Subject: RE: Muhammed Ameer, CR 2017-01237

Mr. Martin,

Hopefully these antics will stop at some point because this is a homicide case with the liberty of the defendant at stake, which I take very seriously. I hope that the seriousness of this case is not minimal to you, as you are one of the individuals that is tasked with defending this individual. If anything is unclear about any of the communications I have had with you, simply ask for clarification because the vagueness is a bit concerning, such as the "I already did" response is a little troubling. In any event, I'm sure you will do what's best for your client as both sides prepare for trial in the matter.

Les Romaine
Assistant District Attorney
Major Crimes Division
2nd Judicial District Attorney's Office
520 Lomas Blvd. NW
Albuquerque, NM 87102
(505) 222-1005 office
(505) 241-1005 fax

From: Martin, Robert [mailto:robert.martin@lopdm.us]
Sent: Friday, August 11, 2017 4:08 PM
To: Romaine, Les <LRomaine@da2nd.state.nm.us>
Cc: Swonger, Matthias <matthias.swonger@lopdm.us>
Subject: RE: Muhammed Ameer, CR 2017-01237

Les,

I just did.

Regards,

Robert C. Martin
LOPD Felony Division
505 Marquette NW, Suite 120
Albuquerque, NM 87102
Tel: (505) 219-2833
Fax: (505) 841-5006
Email: robert.martin@lopdm.us

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From: Romaine, Les [mailto:LRomaine@da2nd.state.nm.us]
Sent: Friday, August 11, 2017 4:02 PM

To: Martin, Robert
Cc: Swonger, Matthias
Subject: RE: Muhammed Ameer, CR 2017-01237

Mr. Martin,

As stated multiple times, please send confirmation in advance so that the appropriate action can be taken.

Les Romaine
Assistant District Attorney
Major Crimes Division
2nd Judicial District Attorney's Office
520 Lomas Blvd. NW
Albuquerque, NM 87102
(505) 222-1005 office
(505) 241-1005 fax

From: Martin, Robert [<mailto:robert.martin@lopdnm.us>]
Sent: Friday, August 11, 2017 3:36 PM
To: Romaine, Les <LRomaine@da2nd.state.nm.us>
Cc: Swonger, Matthias <matthias.swonger@lopdnm.us>
Subject: Muhammed Ameer, CR 2017-01237

Les,

You have failed to provide dates in November of your availability for the PTIs of the officers. Therefore, I assume that the PTIs can be set anytime during the first full week of November. I'll record them if you are not wanting to attend.

Regards,

Robert C. Martin
LOPD Felony Division
505 Marquette NW, Suite 120
Albuquerque, NM 87102
Tel: (505) 219-2833
Fax: (505) 841-5006
Email: robert.martin@lopdnm.us

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From: Martin, Robert
Sent: Wednesday, August 9, 2017 12:57 PM
To: 'Romaine, Les'
Cc: Holt, Melissa; Swonger, Matthias
Subject: RE: St .v. Muhammed Ameer, CR 2017-01237, 2nd PTI Request

Les,

Are you busy in November? Please provide by this Friday at least 4 dates in November that you are available so we can subpoena the officers to the LOPD office for those dates and also, specify morning or afternoon.

Regards,

Robert C. Martin
LOPD Felony Division
505 Marquette NW, Suite 120
Albuquerque, NM 87102
Tel: (505) 219-2833
Fax: (505) 841-5006
Email: robert.martin@lopdm.us

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From: Romaine, Les [<mailto:LRomaine@da2nd.state.nm.us>]
Sent: Wednesday, August 9, 2017 9:15 AM
To: Martin, Robert
Cc: Holt, Melissa; Swonger, Matthias
Subject: RE: St .v. Muhammed Ameer, CR 2017-01237, 2nd PTI Request

Mr. Martin,

As mentioned to Mr. Swonger, I cannot put off these interviews into November. However, we will schedule interviews based on the dates provided and as a courtesy we will send you confirmation of when those interviews will be set. If neither of you or an investigator are present for those interviews we will send you a recording of those interviews. In the event that you decide to wait until November to complete officer interviews, as a courtesy please provide me with a copy of the recording if we are unable to attend your interviews at LOPD as you schedule them.

Les Romaine
Assistant District Attorney
Major Crimes Division
2nd Judicial District Attorney's Office
520 Lomas Blvd. NW
Albuquerque, NM 87102
(505) 222-1005 office
(505) 241-1005 fax

From: Martin, Robert [<mailto:robert.martin@lopdm.us>]
Sent: Wednesday, August 09, 2017 8:27 AM
To: Romaine, Les <LRomaine@da2nd.state.nm.us>
Cc: Holt, Melissa <MHolt@da2nd.state.nm.us>; Swonger, Matthias <matthias.swonger@lopdm.us>
Subject: RE: St .v. Muhammed Ameer, CR 2017-01237, 2nd PTI Request
Importance: High

Les,

Please provide 4 dates in November that you are available to be present when I interview the officers, which will be conducted at LOPD. You have the dates for the civilians, which Matthias has already provided.

Regards,

Robert C. Martin
LOPD Felony Division
505 Marquette NW, Suite 120
Albuquerque, NM 87102
Tel: (505) 219-2833
Fax: (505) 841-5006
Email: robert.martin@lopdm.us

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From: Romaine, Les [<mailto:LRomaine@da2nd.state.nm.us>]
Sent: Wednesday, August 9, 2017 8:20 AM
To: Swonger, Matthias; Martin, Robert
Cc: Holt, Melissa
Subject: FW: St .v. Muhammed Ameer, CR 2017-01237, 2nd PTI Request

Gentlemen,

This message is a second request for dates and times in late August and early September for pretrial interviews in the above referenced matter. The 4 dates you provided in which you are only available in the afternoon will not be enough time to schedule all of the interviews, not unless 10 minutes per witness is adequate time for you.

If I do not hear from you by close of business on August 11, 2017, the interviews will be scheduled and confirmation will be sent.

Thanks in advance for your responses.

Les Romaine
Assistant District Attorney
Major Crimes Division
2nd Judicial District Attorney's Office
520 Lomas Blvd. NW
Albuquerque, NM 87102
(505) 222-1005 office
(505) 241-1005 fax

From: Romaine, Les
Sent: Monday, August 07, 2017 10:17 AM
To: 'Swonger, Matthias' <matthias.swonger@lopdm.us>
Cc: 'Martin, Robert' <robert.martin@lopdm.us>
Subject: RE: St.v. Muhammed Ameer, CR 2017-01237, PTI Request

Mr. Swonger/Mr. Martin,

I do not mind scheduling the interviews on the dates you have provided but I am a bit concerned that there is no availability until late November for additional interviews. Also, it is concerning that no previous requests for pretrial interviews have been made in this homicide case in which a scheduling order was issued on April 20, 2017.

The interviews in this case cannot be put off any longer. So far you guys have only provided 4 days of availability, despite me asking for dates in late August 2017 and early September 2017 to schedule these interviews.

Please provide additional dates, and we will send confirmation of the interviews to both of you in advance of the interviews so that you two can coordinate between each other to attend the interviews.

Les Romaine
Assistant District Attorney
Major Crimes Division
2nd Judicial District Attorney's Office
520 Lomas Blvd. NW
Albuquerque, NM 87102
(505) 222-1005 office
(505) 241-1005 fax

From: Swonger, Matthias [<mailto:matthias.swonger@lopdnm.us>]
Sent: Monday, August 07, 2017 10:01 AM
To: Romaine, Les <LRomaine@da2nd.state.nm.us>
Subject: RE: St.v. Muhammed Ameer, CR 2017-01237, PTI Request

Hi Les,

I am going to be doing the PTIs of the civilian witnesses. There are 17 on the latest State's Witness List, and I am available during the afternoon on Friday 9/8, Monday 9/11, Wednesday 9/13, and Thursday 9/14.

If you are going to subpoena the witnesses, I am happy to do the PTIs at the DA's office, otherwise, I can subpoena them to my office.

Robert is going to do the PTIs for the rest of the witnesses, but he will not be available until November, so I thought we should do the civilians first. The PTI deadline isn't until 1/22/18, so we still have plenty of time.

Thanks,

Matthias

From: Romaine, Les [<mailto:LRomaine@da2nd.state.nm.us>]
Sent: Friday, August 4, 2017 4:32 PM
To: Swonger, Matthias; Martin, Robert
Cc: Holt, Melissa
Subject: FW: St.v. Muhammed Ameer, CR 2017-01237, PTI Request

Mr. Swonger,

Please review the correspondence below. Mr. Martin indicated that you are the point of contact for pretrial interviews in this matter.

Les Romaine
Assistant District Attorney
Major Crimes Division
2nd Judicial District Attorney's Office
520 Lomas Blvd. NW
Albuquerque, NM 87102
(505) 222-1005 office
(505) 241-1005 fax

From: Martin, Robert [<mailto:robert.martin@lopdnm.us>]
Sent: Friday, August 04, 2017 4:30 PM
To: Romaine, Les <LRomaine@da2nd.state.nm.us>
Cc: Holt, Melissa <MHolt@da2nd.state.nm.us>; Swonger, Matthias <matthias.swonger@lopdnm.us>
Subject: RE: St.v. Muhammed Ameer, CR 2017-01237, PTI Request

Les,

Please check with Matthias Swonger for PTI dates.

Thanks,

Robert C. Martin
LOPD Felony Division
505 Marquette NW, Suite 120
Albuquerque, NM 87102
Tel: (505) 219-2833
Fax: (505) 841-5006
Email: robert.martin@lopdnm.us

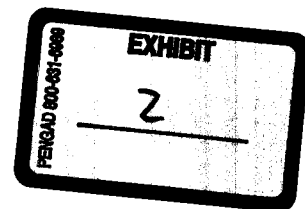
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From: Romaine, Les [<mailto:LRomaine@da2nd.state.nm.us>]
Sent: Friday, August 4, 2017 3:29 PM
To: Martin, Robert
Cc: Holt, Melissa
Subject: St.v. Muhammed Ameer, CR 2017-01237, PTI Request

Mr. Martin,

Please provide me with dates and times of availability in late August 2017 and early September 2017 to schedule the pretrial interviews in this matter? Thanks in advance for your response.

Les Romaine
Assistant District Attorney
Major Crimes Division
2nd Judicial District Attorney's Office
520 Lomas Blvd. NW
Albuquerque, NM 87102
(505) 222-1005 office
(505) 241-1005 fax



**OFFICE OF THE DISTRICT ATTORNEY
SECOND JUDICIAL DISTRICT
STATE OF NEW MEXICO
RAÚL TORREZ
DISTRICT ATTORNEY**

Matthias Swonger for Muhammad Ameer, matthias.swonger@lopnm.us

**RE: State of New Mexico vs. Muhammad Ameer CR# D-202-CR-2017-01237,
DA# 2017-01574-1**

Counsel(s):

The following interview(s) have been scheduled for the following date(s) at the District Attorney's Office with the Major Crimes Division and OMI, with ADA Les Romaine:

September 8, 2017

George Brigham	at 1:30 pm
Lindsy Brigham	at 1:45 pm
Jessica Stephens	at 2:00 pm
Gina Phillips	at 2:15 pm
Ruthy Intoga	at 2:30 pm
Alejandro Cruces-Carbal	at 2:45 pm
Sergio Alcala	at 3:00 pm
Rebecca Delmedico	at 3:15 pm
Tyler Conklin	at 3:30 pm
Grace Fonseca	at 3:45 pm
Richard Fonseca	at 4:00 pm

September 11, 2017

Gary Farmer	at 1:30 pm
Lenora Bird	at 1:45 pm
Eric Recio	at 2:00 pm
Carlos Martinez	at 2:15 pm (<i>telephonic</i>)
APD M. Sullivan # 5392	at 2:30 pm
APD A. Ortiz #3039	at 2:45 pm
APD C. Adams #5363	at 3:00 pm
APD A. Theroux #5658	at 3:15 pm
APD W. Young #3112	at 3:30 pm
APD C. Huston #5348	at 3:45 pm
APD B. Knipprath #5294	at 4:00 pm

Juvenile Division 5100 Second St. NW
(505) 222-1160 Albuquerque, NM 87107
FAX: (505) 241-1160

Main Office 520 Lomas Blvd. NW
(505) 222-1099 Albuquerque, NM 87102
FAX: (505) 241-1100 1st Floor
FAX: (505) 241-1200 2nd Floor
FAX: (505) 241-1299 3rd Floor

Metro Division 520 Lomas Blvd. NW
(505) 222-1079 4th Floor
FAX: (505) 241-1000 Albuquerque, NM 87102

September 13, 2017

APD J. Mares #5409	at 1:30 pm
APD I. Ross #5689	at 1:45 pm
APD K. Brooks #5536	at 2:00 pm
APD N. Halsey #5709	at 2:15 pm
APD G. Carter #5762	at 2:30 pm
APD T. Fox #4698	at 2:45 pm
APD R. Lunsford #2923	at 3:00 pm

September 14, 2017

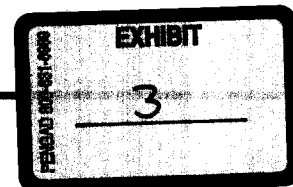
APD R. Sterba #3279	at 1:30 pm
APD A. Hsu #5210	at 1:45 pm
Dr. Lori Poe	at 3:00 pm (<i>Will be conducted at OMI Office at 1101 Camino de Salud NE, Albuquerque, NM 87102</i>)

Sincerely,

Melissa Holt

Melissa Holt
Assistant to Les Romaine
Major Crimes Division
mholt@da2nd.state.nm.us
Ph: 505-222-1391
Fax: 505-241-1391

Romaine, Les



From: Romaine, Les
Sent: Friday, August 11, 2017 11:23 AM
To: 'Swonger, Matthias'; Martin, Robert
Cc: Holt, Melissa
Subject: RE: St .v. Muhammed Ameer, CR 2017-01237, 2nd PTI Request
Attachments: PTI Interview Letter-Muhammad.pdf

Tracking:	Recipient	Delivery
	'Swonger, Matthias'	
	Martin, Robert	
	Holt, Melissa	Delivered: 8/11/2017 11:23 AM

Mr. Martin/Mr. Swonger,

Attached is the confirmation for the pretrial interviews in this case. The dates of September 9, 11, 13, and 14 2017 which were provided by Mr. Swonger as dates of availability. As I mentioned several times before, I am not in a position to wait until November 2017 to complete interviews on a case in which a scheduling order was issued on April 20, 2017.

We have scheduled civilian witnesses, law enforcement and experts on those dates. I cannot prevent you from scheduling interviews at a late date but I am sending this message to you two with the belief that you guys will be able to coordinate between each other and/or send an investigator to participate in these interviews. If you both decide not to participate in these interviews they will be conducted and a recording of those interviews will be made available for you to pick up in your office.

In the event you schedule additional interviews at a later date, please send me the confirmation in advance so that the appropriate action can be taken in response to your confirmation.

Les Romaine
Assistant District Attorney
Major Crimes Division
2nd Judicial District Attorney's Office
520 Lomas Blvd. NW
Albuquerque, NM 87102
(505) 222-1005 office
(505) 241-1005 fax

Les,

Are you busy in November? Please provide by this Friday at least 4 dates in November that you are available so we can subpoena the officers to the LOPD office for those dates and also, specify morning or afternoon.

Regards,

Robert C. Martin
LOPD Felony Division
505 Marquette NW, Suite 120
Albuquerque, NM 87102
Tel: (505) 219-2833

Fax: (505) 841-5006

Email: robert.martin@lopdm.us

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From: Swonger, Matthias [<mailto:matthias.swonger@lopdm.us>]

Sent: Wednesday, August 09, 2017 4:38 PM

To: Romaine, Les <LRomaine@da2nd.state.nm.us>; Martin, Robert <robert.martin@lopdm.us>

Cc: Holt, Melissa <MHolt@da2nd.state.nm.us>

Subject: RE: St .v. Muhammed Ameer, CR 2017-01237, 2nd PTI Request

Hi Les,

In order to expedite completion of the PTIs in this case, in addition to the 17 civilian witnesses listed on the State's witness list, I can complete the PTIs for the 2 APD Police Service Aids, OMI Doctor Lori Poe, and the Animal Welfare Officer.

I would like the civilians to be set for 30 minutes each, with the exception of Carlos Martinez (from the Panda Express Corporate Office) who can be a 10 minute telephonic interview. The APD PSAs and the Animal Welfare Officer can also be 10 minutes each. If I am calculating correctly, we should be able to complete all these interviews in 3 afternoons, if we schedule them back to back with the first PTI starting at 1:30 and the last ending no later than 4:30. I am available between 1pm-5pm if you want to schedule them a little sooner or later in the day.

Since my understanding is that the OMI interview will need to be conducted at the Office of the Medical Examiner I would want that PTI scheduled on a separate day from the rest, and for it to be scheduled for one hour.

Thanks,

Matthias

From: Romaine, Les [<mailto:LRomaine@da2nd.state.nm.us>]

Sent: Wednesday, August 9, 2017 9:15 AM

To: Martin, Robert

Cc: Holt, Melissa; Swonger, Matthias

Subject: RE: St .v. Muhammed Ameer, CR 2017-01237, 2nd PTI Request

Mr. Martin,

As mentioned to Mr. Swonger, I cannot put off these interviews into November. However, we will schedule interviews based on the dates provided and as a courtesy we will send you confirmation of when those interviews will be set. If neither of you or an investigator are present for those interviews we will send you a recording of those interviews. In the event that you decide to wait until November to complete officer interviews, as a courtesy please provide me with a copy of the recording if we are unable to attend your interviews at LOPD as you schedule them.

Les Romaine
Assistant District Attorney
Major Crimes Division
2nd Judicial District Attorney's Office
520 Lomas Blvd. NW
Albuquerque, NM 87102
(505) 222-1005 office
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From: Martin, Robert [<mailto:robert.martin@lopdnm.us>]
Sent: Wednesday, August 09, 2017 8:27 AM
To: Romaine, Les <LRomaine@da2nd.state.nm.us>
Cc: Holt, Melissa <MHolt@da2nd.state.nm.us>; Swonger, Matthias <matthias.swonger@lopdnm.us>
Subject: RE: St .v. Muhammed Ameer, CR 2017-01237, 2nd PTI Request
Importance: High

Les,

Please provide 4 dates in November that you are available to be present when I interview the officers, which will be conducted at LOPD. You have the dates for the civilians, which Matthias has already provided.

Regards,

Robert C. Martin
LOPD Felony Division
505 Marquette NW, Suite 120
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Tel: (505) 219-2833
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From: Romaine, Les [<mailto:LRomaine@da2nd.state.nm.us>]
Sent: Wednesday, August 9, 2017 8:20 AM
To: Swonger, Matthias; Martin, Robert
Cc: Holt, Melissa
Subject: FW: St .v. Muhammed Ameer, CR 2017-01237, 2nd PTI Request

Gentlemen,

This message is a second request for dates and times in late August and early September for pretrial interviews in the above referenced matter. The 4 dates you provided in which you are only available in the afternoon will not be enough time to schedule all of the interviews, not unless 10 minutes per witness is adequate time for you.

If I do not hear from you by close of business on August 11, 2017, the interviews will be scheduled and confirmation will be sent.

Thanks in advance for your responses.

Les Romaine
Assistant District Attorney
Major Crimes Division
2nd Judicial District Attorney's Office
520 Lomas Blvd. NW
Albuquerque, NM 87102
(505) 222-1005 office
(505) 241-1005 fax

From: Romaine, Les
Sent: Monday, August 07, 2017 10:17 AM
To: 'Swonger, Matthias' <matthias.swonger@lopdnm.us>
Cc: 'Martin, Robert' <robert.martin@lopdnm.us>
Subject: RE: St.v. Muhammed Ameer, CR 2017-01237, PTI Request

Mr. Swonger/Mr. Martin,

I do not mind scheduling the interviews on the dates you have provided but I am a bit concerned that there is no availability until late November for additional interviews. Also, it is concerning that no previous requests for pretrial interviews have been made in this homicide case in which a scheduling order was issued on April 20, 2017.

The interviews in this case cannot be put off any longer. So far you guys have only provided 4 days of availability, despite me asking for dates in late August 2017 and early September 2017 to schedule these interviews.

Please provide additional dates, and we will send confirmation of the interviews to both of you in advance of the interviews so that you two can coordinate between each other to attend the interviews.

Les Romaine
Assistant District Attorney
Major Crimes Division
2nd Judicial District Attorney's Office
520 Lomas Blvd. NW
Albuquerque, NM 87102
(505) 222-1005 office
(505) 241-1005 fax

From: Swonger, Matthias [<mailto:matthias.swonger@lopdnm.us>]
Sent: Monday, August 07, 2017 10:01 AM
To: Romaine, Les <L.Romaine@da2nd.state.nm.us>
Subject: RE: St.v. Muhammed Ameer, CR 2017-01237, PTI Request

Hi Les,

I am going to be doing the PTIs of the civilian witnesses. There are 17 on the latest State's Witness List, and I am available during the afternoon on Friday 9/8, Monday 9/11, Wednesday 9/13, and Thursday 9/14.

If you are going to subpoena the witnesses, I am happy to do the PTIs at the DA's office, otherwise, I can subpoena them to my office.

Robert is going to do the PTIs for the rest of the witnesses, but he will not be available until November, so I thought we should do the civilians first. The PTI deadline isn't until 1/22/18, so we still have plenty of time.

Thanks,

Matthias

From: Romaine, Les [<mailto:LRomaine@da2nd.state.nm.us>]
Sent: Friday, August 4, 2017 4:32 PM
To: Swonger, Matthias; Martin, Robert
Cc: Holt, Melissa
Subject: FW: St.v. Muhammed Ameer, CR 2017-01237, PTI Request

Mr. Swonger,

Please review the correspondence below. Mr. Martin indicated that you are the point of contact for pretrial interviews in this matter.

Les Romaine
Assistant District Attorney
Major Crimes Division
2nd Judicial District Attorney's Office
520 Lomas Blvd. NW
Albuquerque, NM 87102
(505) 222-1005 office
(505) 241-1005 fax

From: Martin, Robert [<mailto:robert.martin@lopdnm.us>]
Sent: Friday, August 04, 2017 4:30 PM
To: Romaine, Les <LRomaine@da2nd.state.nm.us>
Cc: Holt, Melissa <MHolt@da2nd.state.nm.us>; Swonger, Matthias <matthias.swonger@lopdnm.us>
Subject: RE: St.v. Muhammed Ameer, CR 2017-01237, PTI Request

Les,

Please check with Matthias Swonger for PTI dates.

Thanks,

Robert C. Martin
LOPD Felony Division
505 Marquette NW, Suite 120
Albuquerque, NM 87102
Tel: (505) 219-2833
Fax: (505) 841-5006
Email: robert.martin@lopdnm.us

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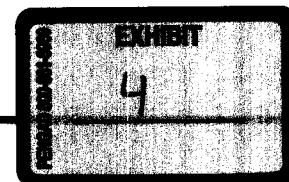
From: Romaine, Les [<mailto:LRomaine@da2nd.state.nm.us>]
Sent: Friday, August 4, 2017 3:29 PM
To: Martin, Robert
Cc: Holt, Melissa
Subject: St.v. Muhammed Ameer, CR 2017-01237, PTI Request

Mr. Martin,

Please provide me with dates and times of availability in late August 2017 and early September 2017 to schedule the pretrial interviews in this matter? Thanks in advance for your response.

Les Romaine
Assistant District Attorney
Major Crimes Division
2nd Judicial District Attorney's Office
520 Lomas Blvd. NW
Albuquerque, NM 87102
(505) 222-1005 office
(505) 241-1005 fax

Romaine, Les



From: Romaine, Les
Sent: Wednesday, August 16, 2017 10:22 AM
To: 'Swonger, Matthias'
Cc: Martin, Robert
Subject: RE: Muhammed Ameer, CR 2017-01237 PTIs

Mr. Swonger,

As a courtesy I am responding to your messages and you are correct that the tactics you are employing leads to a back and forth. And so that everything is clear, there was no indication sent from anyone in our office that the times are set in stone meaning that a common professional courtesy would be extended in the form of extending the pretrial interviews times if needed. For example, if an interview went over the allotted time we would continue the interview until it was over or if an interview took less time than scheduled we would not make you continued until the time was up.

But it seems that you have your strategy moving forward, but at the very least it is clear that AFTER you were sent confirmation of pretrial interviews and AFTER you were made aware that the interviews would not be cancelled at your request, you decided to take the calculated effort to schedule the witnesses that you already knew were scheduled for interviews and schedule them for those same dates and times then send your own confirmation in an attempt to create a conflict for those witnesses which does not appear to be a good faith effort.

Les Romaine
Assistant District Attorney
Major Crimes Division
2nd Judicial District Attorney's Office
520 Lomas Blvd. NW
Albuquerque, NM 87102
(505) 222-1005 office
(505) 241-1005 fax

From: Swonger, Matthias [mailto:matthias.swonger@lopdm.us]
Sent: Wednesday, August 16, 2017 9:39 AM
To: Romaine, Les <LRomaine@da2nd.state.nm.us>
Cc: Martin, Robert <robert.martin@lopdm.us>
Subject: RE: Muhammed Ameer, CR 2017-01237 PTIs

Hi Les,

This back and forth does not appear to be productive, so I am not going to belabor the point, but I did want to make a few things clear:

We are subpoenaing the witnesses because you refused to allot the time we need for these interviews.

I subpoenaed the witnesses for the times that I did because that is when I am available. I intentionally scheduled them so as not to conflict with the 15 minute interviews you scheduled, since you indicated that you would not be canceling those interviews.

The PTI deadline for this case is not until January 22, 2018, and we fully intend to complete the PTIs well before that deadline.

Mr. Martin and I have attempted to work with you in good faith despite your baseless and inflammatory accusations that we are engaging in "antics." We will continue to act in good faith and hope that you intend to do the same.

Sincerely,

Matthias

From: Romaine, Les [<mailto:LRomaine@da2nd.state.nm.us>]
Sent: Tuesday, August 15, 2017 5:20 PM
To: Swonger, Matthias
Cc: Martin, Robert; Holt, Melissa
Subject: RE: Muhammed Ameer, CR 2017-01237 PTIs

Mr. Swonger,

I appreciate your email that you sent today. As stated before, this case did not seem to be a priority for either one of, and as an act of good faith, I requested dates and times from the both of you for late August or Early September, but instead you decided to take that opportunity to send me conflicting emails and information, then decided to start making demands despite the fact that the scheduling conference occurred on April 20, 2017 and you made no requests for interviews.

As previously stated, you did not provide me with an entry of appearance on this case and I have no knowledge of your involvement until Mr. Martin indicated this to me after I requested dates and times for interviews. Then rather than take the steps to work towards providing additional availability to conduct these interviews, you chose to simply say that you wanted to ONLY interview civilian witnesses while having Mr. Martin wait until November to interview officers.

I'm not sure what you are attempting to achieve through these antics, but again my guess that the two of you are taking this case seriously due to the magnitude of the charges because not requesting PTI's, and not being flexible in providing something as simple as dates and times for pretrial interviews is an indicate that this case was low on your priority list.

In any event, I cannot stop you from scheduling interviews and what is more troubling is the fact that confirmation was sent of when these interviews would be scheduled based on the dates you provided but yet you are attempting to schedule the same witnesses on the same dates which seems to be indicative of the lack of good faith you have exercised through this process. Are able to display any good faith, or are you going to continue to act in bad faith?

Les Romaine
Assistant District Attorney
Major Crimes Division
2nd Judicial District Attorney's Office
520 Lomas Blvd. NW
Albuquerque, NM 87102
(505) 222-1005 office
(505) 241-1005 fax

From: Swonger, Matthias [<mailto:matthias.swonger@lopdnm.us>]
Sent: Tuesday, August 15, 2017 5:00 PM
To: Romaine, Les <LRomaine@da2nd.state.nm.us>
Cc: Martin, Robert <robert.martin@lopdnm.us>
Subject: Muhammed Ameer, CR 2017-01237 PTIs

Hi Les,

As I had previously stated in my email to you on August 11, we are subpoenaing interviews with the civilian witnesses as well as the OMI doctor, the Police Service Aids, and the Animal Welfare Officer. I am fine with doing the PTI with the

doctor at OMI. The rest of the witnesses named above are being subpoenaed to the LOPD office. The schedule for the interviews will be as follows:

Friday 9/8/17:

Dr. Lori Poe 2pm

Monday 9/11/17:

George Brigham at 1:30 pm

Lindsay Brigham at 2:00 pm

Jessica Stephens at 2:30 pm

Kristina Apollonio c/o Tyler Conklin 3pm

Gina Phillips at 3:30 pm

Ruthy Intoga at 4:00 pm

Wednesday 9/13/17:

Alejandro Cruces-Carbal at 1:30 pm

Alonso Alcala 2pm

Sergio Alcala at 2:30 pm

Rebecca Delmedico at 3:00 pm

Grace Fonseca 3:30

Gary Farmer 4:00

Thursday 9/14/17:

Lenora Bird 1:30

Richard Fonseca 2pm

Eric Recio 2:30

Carlos Martinez telephonic 3pm

K. Vernon #5867 APD Police Service Aid 3:15pm

D. Arruti #5764 APD Police Service Aid 3:30pm

B. King #19 (Animal Welfare) 3:45pm

Please note that the State's Witness List does not provide an address or phone number for Patrick Layton, so we are unable to schedule an interview with him at this time. Please provide contact information for this witness if the State has it. The State's witness list also does not contain contact information for Alonso Alcala.

As you noted in your email, this is a homicide case with the liberty of the defendant at stake. As such, I am sure that you recognize the importance of setting sufficient time for meaningful witness interviews to take place. Mr. Martin and myself have frankly been confused by your actions and tone during the process of scheduling PTIs. We can assure you that our only concern is in scheduling sufficient time for witness interviews, and we simply cannot agree to limit interviews with eye-witnesses to 15 minutes.

Sincerely,

Matthias Swonger

Assistant Public Defender

505 Marquette Ave. NW

87102

Matthias.Swonger@lopdnm.us

505-369-3581