

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

v.

Case No. 26-F-317
Judge David J. Hardy

ALYSSA BROOKE MIDDLETON

MOTION FOR CHANGE OF VENUE
AND MOTION TO SEAL NEW VENUE

Now comes the defendant, Alyssa Brooke Middleton, by her counsel, Robby N. Long and Tim C. Carrico, pursuant to Rule 21 of the *West Virginia Rules of Criminal Procedure* and *W. Va. Code* § 62-3-13 and moves the Court to find good cause to change the venue of the trial in this case and to seal the location of the new venue.

In support of the motion, counsel for defendant states upon information and belief that:

1. Venue changes protect two separate rights: the Sixth Amendment right to an impartial jury and the Fourteenth Amendment's due process right to a fair trial. *See Irvin v. Dowd* 366 U.S. 717, 722 (1961); *see also* U.S. Const. Amend. VI and XIV.
2. These rights are also protected by the West Virginia Constitution. *See* W. Va. Const. Art. III §14.
3. If the county as a whole cannot provide a fair trial, then due process compels trial courts to change venue. *See id. at* 721.
4. Pursuant to *W. Va. Code* § 62-3-13, "A court, may, on the petition of the accused and for good cause shown, order the venue of the trial of a criminal case in such court to be removed to some other county."
5. If there was ever a criminal trial in the history of Kanawha County that necessitated a change of venue, this is it.

Good cause justifying – and in some cases requiring – a venue change entails a more searching inquiry than whether twelve jurors say they can be fair.

6. Courts should not consider the ability to seat a fair jury as the exclusive or determinative factor for moving venue.
7. Notwithstanding the issue of an impartial jury, due process requires venue change if the defendant cannot receive a fair trial from the county alleging criminal conduct. *See State v. Sette*, 161 W. Va. 384, 392, 242 S.E.2d 464, 470 (1978) (citing *Sheppard v. Maxwell*, 384 U.S. 333 (1966) and other cases).
8. A fair trial includes the venue's partiality, not merely jurors'. "A present hostile sentiment against an accused, extending throughout the entire county in which he is brought to trial is good cause to for removing the case to another county." *Sette*, 161 W.Va. 384 at Syl. Pt. 2.
9. The *Sette* decision recognizing the express standard for when good cause entitles a defendant to a change of venue makes no mention of the *jury's* partiality, only the *community's*. *See id.*
10. The issue of change of venue is not about whether jurors *say* they can be fair and impartial. It is about whether anyone possibly *could* be under these extreme circumstances. *See Irvin v. Dowd*, 366 U.S. 717, 724-725 (1961); *see also* W. Va. Const. Art. III §14.
11. Community sentiment can affect a trial in ways unrelated to jury's fairness. And even if jurors begin a case unaware of the case, and even if they sincerely believe they are unbiased, there is no guarantee they will stay that way.
12. Given the widespread hostility towards the accused in Kanawha County, community members may refuse to be witnesses for the defendant for fear of retribution; lawyers may become fearful of retribution for representing the accused; and a myriad of other circumstances can make it impossible for a

defendant to receive a fair trial, regardless of what jurors pledge in voir dire. *See Irvin*, 366 U.S. at 728.

13. Members of the Kanawha County community are likely to hound potential jurors like local celebrities during the trial of this case.
14. Sincere and well intentioned-jurors may not yet realize the pressure they will face. “[I]nfluences, even though silent, may so permeate a community as to make their impressions upon the jury, and thus endanger the chances of a fair and impartial trial. Few juries can be found who are willing to defy public sentiment by rendering an unpopular verdict[.]” *State v. Weisengoff*, 85 W. Va. 271, 101 S.E. 450 (1919).
15. A Kanawha County courtroom is not an environment where one could fairly expect jurors to maintain their impartiality. These jurors will know they are being watched. They will know their community cares. And they will know their verdict will be questioned.
16. Kanawha County jurors, who will be returning to their families, friends, and neighbors after the trial, will know it is only a matter of time before their community judges them as well.
17. It is clear that the defendant cannot receive a fair trial in a community that feels so strongly about the outcome of this case.
18. This trial cannot unfold in Kanawha County with the “calmness and solemnity” that a fair trial requires. *See Sheppard v. Maxwell*, 384 U.S. 333, 348 (1966).

**The unprecedented media coverage and social media engagement for a Kanawha County crime makes it clear that the community is deeply interested in the outcome of this case –
and is watching.**

19. The defendant is unaware of any Kanawha County criminal case that has garnered

as much media attention and social media engagement as hers. *See* Defendant's Exhibit #1.¹

20. Numerous local media outlets, YouTube and other platforms, social media influencers, and others have published numerous stories about this case. *See id.*
21. Major local media outlet(s) have even obtained video surveillance from a local business of the events in this case. On April 21, 2026, just five (5) days after the incident, the video was televised and published it online. *See id.*
22. At least one local media outlet (WCHS-TV) live-streamed the entire Arraignment Hearing on its YouTube channel. It has been viewed over 6,800 times. *See id.*
23. If permitted by the Court, it is expected that future hearings, including the upcoming pre-trial hearing and the entire trial in this case, will be live-streamed by local media.
24. The amount of engagement to these media stories and social media engagement has been extreme both in quantity and in nature. *See id.*
25. It is likely that numerous cameras will be focused on this trial, and the jurors will be well aware of their presence and coverage of this case.
26. Social media in particular, which most of the community has seen, tends to polarize and galvanize deeply visceral opinions even in strangers to the events. *See generally* Douglas Preston, *Trial by Fury: Internet Savagery and the Amanda Knox Case* (Kindle ed. 2013).
27. The internet portrayals of the defendant are devastatingly bad and a review of posts, engagements, and comments undoubtedly show a polarizing effect resulting in visceral opinions. *See* Defendant's Exhibit #1.
28. One well-known social media brand, *Creepalachia*, based in Beckley, West

¹ This exhibit is merely a microscopic cross-section of the mountain of media, social media, and other evidence representative of the community sentiment in this case.

Virginia with nearly 300,000 followers on Facebook alone, has created and published extensive biased content about this case.²

29. Once the trial starts, social media algorithms will likely target jurors with the biggest news story in their community. *See Ziena Hatem, Double Tap on a Modernized Process of Voir Dire: Have We Lost the Impartial Juror in the Era of Social Medial Algorithms?*, 54 U Tol. L. Rev. 421, 421-22 (2023). Exposure may be entirely unintentional.

A significant local community movement demands answers and accountability in this case.

30. #JusticeForJohn is a grassroots community movement demanding answers and accountability for the death of the alleged victim in this case. It currently has over 3,000 members on Facebook and averages six (6) new posts per day³. *See* Defendant's Exhibit #1.
31. Members of this group and others continue to paint, hide, and share rocks throughout the Kanawha Valley. These rocks are often painted with the same message: "Justice for John." The rocks have become treasures to be found and cherished in the Kanawha County community. *See id.*
32. There are numerous vehicles being driven on the roads of the Kanawha Valley with a memorial tribute painted or written on their windows that reads, "Justice for John." *See id.*
33. Numerous community members in Kanawha County are often seen wearing t-shirts that advance the same message, "Justice for John." *See id.*
34. No matter what admonishments the Court may give potential jurors during the

² This suggests that the pervasive negative sentiment toward the defendant extends not only throughout Kanawha County, but also likely extends beyond the Kanawha Valley throughout Southern West Virginia.

³ In addition to the over 3,000 members of this group, its content is viewed by a significantly higher number of the population as guided by social media algorithms and other factors that control content sharing on users' feeds throughout a particular community.

trial of this case, some of the outside influences that pervade Kanawha County are not manageable by the Court.

35. These outside influences are much less likely to exist in another community in the state than in Kanawha County.

Jury sequestration is not a sufficient alternative to change of venue to protect the defendant's right to a fair trial.

36. The Court may be inclined to consider sequestration of Kanawha County jurors as an alternative to a change of venue, but not only would sequestration be insufficient to ensure a fair trial, but jury sequestration also poses its own set of challenges and considerations.
37. Given the level and breadth of community sentiment in this case, it is unlikely that potential sequestered jurors would remain free from outside influences during the trial despite being sequestered in Kanawha County.
38. Sequestered jurors must be away from their families, friends, jobs, pets, and daily activities. This inconvenience creates a stress in their lives that may likely cause jurors to begin to weigh things other than the evidence in the case when considering their verdict.
39. The defendant's fate should not be determined by a sequestered jury that is unnecessarily stressed and inconvenienced from being away from their family and friends.
40. The isolation and loneliness that comes with being sequestered may cause jurors to be tempted to look to television, the internet, social media, radio, or other outlets as a source of entertainment and communication with the outside world despite court admonishments not to do so.
41. Jury sequestration presents logistical challenges for court personnel and jurors in

terms of lodging, supervision, privacy, health, and comfort.

42. Jury sequestration comes with added financial costs such as hotel accommodations, meals, and other miscellaneous expenses – none of which is in the interests of judicial economy.

The venue of the trial should be sealed to preserve its integrity.

43. The Court should seal the location of the new venue until further Order of the Court.
44. Any new venue selected by the Court will be subject to continuing media coverage and social media onslaught such that its integrity may be compromised.
45. It is reasonably foreseeable that the media will publish numerous stories about the trial being moved to a new venue. These stories will likely be published in print, online, on television, and on the radio in the community in which the case will be tried.
46. Upon release of the new location, social media algorithms will likely target jurors in the community of the new venue with this big news story in the community.
47. It is also likely that social media influencers will begin to infiltrate the online community of the new venue polarizing and galvanizing opinions in that community.
48. Failure to seal the new venue creates a substantial risk that the defendant may not be able to receive a fair trial in the new community.
49. Sealing the new venue is in the interests of justice as well as judicial economy.

WHEREFORE, for the reasons set forth herein, the defendant moves the Court to:

50. Find good cause to change the venue of the trial in this case;
51. Seal the location of the new trial; and,

52. Grant the defendant any and all other relief the court deems just and reasonable.

Respectfully Submitted,
ALYSSA BROOKE MIDDLETON
By Counsel

PREPARED AND PRESENTED BY:

Robby N. Long

Robby N. Long (WV State Bar #9352)
Law Office of Robby N. Long, LC
12074 Winfield Road, Suite D
Winfield, WV 25213
(304) 416-5664 – (ph)
(304) 562-0570 – (fax)
rlong@robbylonglaw.com
Counsel for Defendant

REVIEWED AND APPROVED BY:

Timothy C. Carrico (by Robby N. Long with permission)

Tim C. Carrico (WV State Bar #6771)
1554 Kanawha Boulevard East, Suite 100
Charleston, WV 25311
(304) 881-0632 – (ph)
(304) 347-3688 – (fax)
tcarrico@carricolaw.com
Counsel for Defendant