

**BEFORE THE ALABAMA COURT OF THE JUDICIARY**

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**IN THE MATTER OF:**

**STATE OF ALABAMA JUDICIAL INQUIRY  
COMMISSION**

**V.**

**THE HONORABLE TRACIE A. TODD  
CIRCUIT JUDGE, BIRMINGHAM DIVISION,  
CRIMINAL DIVISION, JEFFERSON COUNTY, ALABAMA**

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**FILED**

**AUG 31 2021**

**COURT OF THE JUDICIARY  
Rebecca C. Oates  
Secretary**

**Case # 58**

**MOTION TO RECONSIDER**

Comes now, Tracie A. Todd (Defendant), and requests this Honorable Court to reconsider its denial of Defendant's Motion to Continue with support for said motion as set out below:

**I. Alabama Rule of Criminal Proceedings establishes priority for Criminal Cases**

The Complaint filed by T. Michael Anderton, in his official capacity as interim district attorney, was filed on December 17, 2017. The Commission has delayed the prosecution of this matter for nearly four years. The Defendant cooperated during the Commission's investigation and sought resolution of this matter years ago. On several occasions, the Commission failed to adhere to its representations, causing unnecessary delays to the proceedings. Since the Defendant exercised her right to a fair trial, the Commission now seeks to expedite these proceedings. However, Alabama Rules of Criminal Procedure (ARCrP) Rule 8.1 provides, "Insofar as is practicable, trials of criminal cases shall have priority over trials of civil cases." ARCrP Rule 8.1. Lead counsel for the Defendant is scheduled to appear at trial in four felony criminal cases as set out in the Motion to Continue. Additionally, co-counsel is scheduled to attend two pre-planned conferences arranged last year the week of the current trial setting. For reasons as discussed below,

the Defendant may be materially affected by the Court's disposition of this case. Therefore, the Defendant must be represented by counsel to receive a fair trial.

## **II. The Current Scheduling Order will deny the Defendant a fair trial**

The Commission's complaint details allegations that span nearly a seven-year period, and was investigated by two State agencies: 1. The Jefferson County District Attorney's Office, the largest prosecuting agency in the State of Alabama; and 2. The Judicial Inquiry Commission. The Court granted the parties a scheduling conference on May 4, 2021. At the time of the Scheduling Conference, the Court had not ruled on the Defendant's Petition for Relief and Motion to Dismiss. On August 25, 2021, the Court entered the current Scheduling Order.

In bringing this prosecution, the Commission had nearly four years to investigate the issues presented. During the course of the four years, the specific allegations against the Defendant remained unclear until the Commission filed this Complaint before the Court. During its investigation, the Commission deposed several witnesses nearly three years ago. The Defendant was not granted a reasonable opportunity to participate in these depositions. To date, the Defendant has only received a summary of these depositions.

In order to prepare an adequate defense, several substantive witnesses must be deposed, documents and other communications must be obtained from various state agencies, and other critical tasks. The current Scheduling Order does not provide ample time to depose necessary witnesses that may include judges, attorneys, jurors, and other private citizens. Additionally, the Defendant would need the aid of expert consultation. The current Scheduling Order does not provide adequate time to identify and engage necessary expert witnesses. Lastly, the

Defendant has sought production of voluminous records from state and county agencies. Review of these documents, if provided as requested, would require additional time.

Because this prosecution is brought to the Court by two state agencies, there are a number of legal issues of first impression. Critical to fair proceedings is allotment of necessary funding for the Defendant to prepare adequately. In addition to conducting a seven-year combined investigation, both State agencies have access to the necessary state funding to vigorously prosecute the Defendant. As a public servant and mother of two small children, ages four and six, the Defendant is unable to personally fund an adequate defense against two state funded agencies without financial ruin. The possibility of suspension without pay for a prolonged period coupled with personally funding an adequate defense against two government funded agencies, would materially affect the Defendant. Because the Defendant may be materially affected by the disposition of this matter, the Defendant should be represented by counsel, and granted the necessary resources to receive a fair trial.

Respectfully submitted by Counsel for Judge Todd:

/s/ William Pompey  
Pompey & Pompey, P.C.  
P.O. Box 189  
Camden, Alabama 36726  
(334) 682-9032

We hereby certify that we have on this 31<sup>st</sup> day of August, 2021electronically filed the foregoing with the Court of the Judiciary, and that we have further served a copy by placing the same in the U.S. mail postage pre-paid, and properly addressed as follows:

Rosa H. Davis  
Attorney for the Commission  
Alabama Judicial Inquiry Commission  
P. O. Box 303400  
Montgomery, Alabama 36130-3400

Respectfully Submitted,

/s/ William Pompey  
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