

HILDER & ASSOCIATES, P.C.

ATTORNEYS AT LAW
819 Lovett Boulevard
Houston, Texas 77006-3905

Telephone (713) 655-9111
Facsimile (713) 655-9112
www.hilderlaw.com

April 21, 2017

FILED
17 APR 24 PM 1:40
LYNN M. GALEY
DISTRICT CLERK
COLLIN COUNTY, TX
BY *Lynn M. Gale* DEPUTY

Hand Delivery

Chris Daniel, Harris County District Clerk
Harris Co. Civil Courthouse
201 Caroline St., 4th Floor
Houston, Texas 77002

RE: *State v. Warren Kenneth Paxton, Jr.*; Nos. 416-81913-2015, 416-82148-2015, and
416-82149-2015, Collin County District Court

Dear Mr. Daniel:

The undersigned counsel represents Warren Kenneth Paxton, Jr., in the above captioned criminal cases. These cases were originally filed in Collin County, but venue was ordered transferred to Harris County by the Honorable Judge George Gallagher on April 11, 2017 (Attachment "A"). We request to be notified as soon as the case files are transmitted from the Collin County District Clerk's Office to your Office as required by Texas Code of Criminal Procedure Article 31.05. We also request to be notified of the new case numbers assigned to the cases as well as the Harris County district court to which the cases are assigned, all in keeping with Chapter 31 of the Texas Code of Criminal Procedure and Articles 31.05 and 31.09 in particular.

On April 11, 2017, Judge Gallagher issued a written order transferring venue in the referenced cases to Harris County, Texas, under Chapter 31 of the Texas Code of Criminal Procedure.¹ When such an order is filed, it becomes incumbent upon the transferring clerk's office (Collin County) to prepare a certified copy of the transfer order, the defendant's bond, together with all the original papers in the case, and to send them to the district clerk in the receiving county. Specifically, Article 31.05 provides that: "Where an order for change of

¹ The order further noted that "The parties have agreed to allow the Court to transfer venue of these cases to a county that does not adjoin Collin County, Texas." For the record, this is not completely accurate. While the defense *did not object* to venue being transferred to a non-contiguous county, the defense certainly did not *agree* to the transfer. The defense stated on the record that "[t]he defense objects, continues to object, and has preserved for appeal its objection to change of venue. But venue change having been ordered by the Court, the Defense does not object to venue being transferred to non-contiguous Harris County. Defendant's non-objection to Harris County is limited only to his willingness to have the case tried in a non-contiguous county, is based solely on the convenience of the parties, and shall not be construed as a waiver of his challenge to the Court's order to change venue or any other right that he might have under Chapter 31 of the Code of Criminal Procedure."

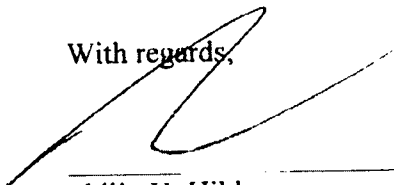
venue of any court in any criminal cause in this State has been made the clerk of the court where the prosecution is pending shall make out a certified copy of the court's order directing such change of venue, together with a certified copy of the defendant's bail bond or personal bond, together with all the original papers in said cause and also a certificate of the said clerk under his official seal that such papers are the papers and all the papers on file in said court in said cause; and he shall transmit the same to the clerk of the court to which the venue has been changed."

Further, Article 31.09 provides, in pertinent part, that "[i]f a change in venue in a criminal case is ordered under this chapter, the judge ordering the change of venue may, *with the written consent of the prosecuting attorney, the defense attorney, and the defendant*, maintain the original case number on its own docket, preside over the case, and use the services of the court reporter, the court coordinator, and the clerk of the court of original venue." The direct implication of this provision is that upon receipt of the case file, the clerk's office (Harris County) shall assign the case to a particular Harris County district court in the manner and as it would with any new criminal case filed in Harris County *unless* the parties agree to maintain the original case number and the original presiding judge.

By this letter, Paxton respectfully advises the Harris County District Clerk, as he did by court filing last week, that he has not and will not give the statutorily-required written consent under Article 31.09 to allow the Honorable George Gallagher or his court staff to continue to preside over the matter in Harris County. Further, Paxton has not and will not give his consent to allow the Collin County Clerk's Office to remain the clerk over these cases or to allow the original Collin County case number to be used. Accordingly, Paxton requests that the Harris County District Clerk assign these cases to a Harris County district court in the manner and as it would with any new criminal case filed in Harris County immediately upon receipt of the case files and those documents required to be sent to it from the Collin County District Clerk's Office pursuant to Article 31.05.²

Please let us know if you have any questions regarding the above. Likewise, please let us know if the Harris County District Clerk's Office intends to not abide those requests made herein, which requests are mandated by statute.

With regards,



Philip H. Hilder
Dan Cogdell
Bill Mateja
Heather Barbieri
Mitch Little

² Felony cases are assigned pursuant to the Automatic Random Assignment System as described in the Harris Co. Direct Filing Order.

Chris Daniel, Harris County District Clerk
April 21, 2017
Page 3

cc: Judge Olen Underwood
Presiding Judge,
Second Administrative Judicial Region
301 N. Thompson, Suite 102
Conroe, Texas 77301

Judge Susan Brown
Presiding Administrative Criminal Law Judge,
Harris County, Texas
185th District Court
1201 Franklin Ave., 17th Floor
Houston, Texas 77002

Lynne Finley
Collin County District Clerk
Collin County Courthouse
2100 Bloomdale Rd.
McKinney, Texas 12132

Mr. Kent A. Schaffer
Mr. Brian W. Wice
Ms. Nicole DeBorde

NO. 416-81913-2015
NO. 416-82148-2015
NO. 416-82149-2015

THE STATE OF TEXAS)(IN THE DISTRICT COURT
)(
VS.)(COLLIN COUNTY, TEXAS
)(
WARREN KENNETH PAXTON, JR.)(416TH JUDICIAL DISTRICT


SUPPLEMENTAL ORDER ON MOTION FOR CHANGE OF VENUE

On the 29th day of March, 2017, the Court granted the State's Motion for Change of Venue.

The Court has heard all objections presented by counsel for the Defendant and those objections are OVERRULED. The parties have agreed to allow the Court to transfer venue of these cases to a county that does not adjoin Collin County, Texas. The Court does NOT consider this agreement to constitute any waiver of the defense objections to the Court changing venue and all defense objections remain OVERRULED.

IT IS THEREBY ORDERED that venue for trial on the merits of these cases is transferred to Harris County, Texas. A scheduling order for date of trial and discovery deadlines will be issued by the Court as soon as they are established.

SIGNED THIS 11th day of April, 2017.


JUDGE PRESIDING

NO. 416-81913-2015
NO. 416-82148-2015
NO. 416-82149-2015

THE STATE OF TEXAS)
)
VS.)
)
WARREN KENNETH PAXTON, JR.)
) 416TH JUDICIAL DISTRICT

ORDER ON STATE'S MOTION FOR CHANGE OF VENUE

On the 29th day of March, 2017, the Court, concluded the hearing on State's Motion for Change of Venue.

The Court, having heard the evidence, reviewed all pleadings regarding this motion, arguments of counsel, and applicable law, finds that State's Motion should be GRANTED.

Pursuant to Article 31.02 of the Code of Criminal Procedure, the Court will transfer venue to an appropriate adjoining district to be determined at a later date. Trial on the merits which was set for May 1, 2017 is postponed. All filing deadlines imposed based upon the May 1, 2017 are postponed. The Court will reset a trial date upon determination of the county of venue.

SIGNED THIS 30th day of March, 2017.



JUDGE PRESIDING