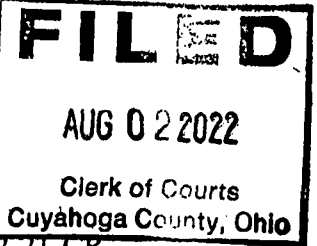




IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO
CRIMINAL DIVISION



STATE OF OHIO
Plaintiff

vs.

Ryan Stills,
Defendant

) CASE NO. 649111-20-CR; 563062-21-CR

)

) JUDGE John P. O'Donnell

)

) RESPONSE MOTION

)

)

Now comes Cuyahoga County Prosecuting Attorney Michael C. O'Malley on behalf of the State of Ohio, by and through his undersigned assistant, Thomas Rovito and respectfully requests that the pro se motions filed by the Defendant on 6/27/2022, 7/25/2022, and 7/29/2022 be struck, or in the alternative, denied.

Respectfully submitted,
MICHAEL C. O'MALLEY (#0059592)
CUYAHOGA COUNTY PROSECUTOR

BY: Thomas Rovito # 0097770
Assistant Prosecuting Attorney
Justice Center, 9th Floor
1200 Ontario Street
Cleveland, Ohio 44113
trovito@prosecutor.cuyahogacounty.us
(216) 348-3896

BRIEF IN SUPPORT

In CR 20-649111, the Defendant was indicted on 10/6/2020. The Public Defender's withdrew representation on 12/4/2020, and the current Defense Counsel was assigned. The case was delayed because of COVID-19. On 9/16/2021, the Defendant failed to appear, and a *capias* was issued. The Defendant requested a hearing on his oral motion to reinstate bond on 10/12/2021, but failed to appear on 11/1/2021, so another *capias* was issued. After fleeing to California, the defendant was returned on 6/11/2022. On 6/27/2022, the defendant filed a barely legible *pro se* motion regarding the Americans with Disabilities Act (ADA), in which he asked for personal bonds or house arrest. On 7/25/2022, the Defendant filed a *pro se* motion to dismiss counsel and represent himself on the basis that Defense Counsel did not bring his ADA motion forward. On 7/29/2022, the Defendant filed a *pro se* motion to dismiss his case on speedy trial grounds.

First, the State believes that the Defendant is attempting hybrid representation by filing *pro se* motions while he is being represented by counsel. The State moves to strike these motions as Ohio is has clearly established that "the right to counsel and the right to act *pro se* are independent of each other and may not be asserted simultaneously." *State v. Martin*, 103 Ohio St.3d 385 ¶1 syllabus, *see also, Turner v. McGinty*, (8th Dist.) 2015-Ohio-529; *State v. Thompson*, 33 Ohio St.3d 1, 6-7. "When a criminal defendant is represented by counsel, a trial court may not entertain a defendant's *pro se* motion." *State v. Gibson*, 8th Dist. 2014-Ohio-3421, *State v. Washington*, 8th Dist. 2012-Ohio-1531 ¶11. Entertaining a *pro se* criminal defendant's motion while the defendant is simultaneously being represent by appointed counsel would effectively constitute hybrid representation in violation of the established law. *State v. Pizzarro*, 8th Dist. 2011-Ohio-611 ¶9.

Second, even if the Court entertained the motion of 6/27/2022, the bond conditions should remain as-is, as the Defendant fled out of state, absconding justice with serious charges, including F1 Aggravated Robbery pending in CR 20-649111.

Later on 7/25/2022, the Defendant filed a *pro se* motion to dismiss counsel, which has not been

heard yet. As such, the Defendant is still represented by the current Defense Counsel.

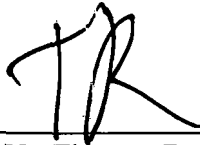
Finally the Defendant filed a pro se motion to dismiss the case on speedy trial grounds on 7/29/2022; however, the case has had several tolling delays, including COVID, switching counsel, continuances at defense counsel's request, the defendant having multiple cases open at once, and the Defendant going capias numerous times.

For all of the above reasons, the State asks the Court to strike the pro se motions filed by the Defendant. If the Court permits further hearing on the motions, the State asks the Court to deny the motions.

CERTIFICATE OF SERVICE

A copy of the foregoing Motion for Continuance has been filed this day of 8/2/2022 and served electronically to the following:

Kevin Cafferkey
Attorney for Defendant
kmcafferkey@hotmail.com

A handwritten signature in black ink, appearing to be 'TR' or 'T.R.', is positioned above a horizontal line.

BY: Thomas Rovito # 0097770
Assistant Prosecuting Attorney