

COMMONWEALTH OF KENTUCKY  
NELSON CIRCUIT COURT  
DIVISION ONE  
CASE NO. 23-CR-00309

*ELECTRONICALLY FILED*

COMMONWEALTH OF KENTUCKY

PLAINTIFF

v.

BROOKS WILLIAM HOUCK

DEFENDANT

**NOTICE**

Please take notice that this motion will be heard on Thursday, March 21, 2024 at 1:00 p.m., in the courtroom of the above-referenced Court.

**MOTION FOR CHANGE OF VENUE**

The Defendant, Brooks Houck (“Brooks”), by counsel, moves this Court pursuant to KRS 452.210 to transfer the venue of this case to a neutral county, as Brooks cannot obtain a fair and impartial trial in Nelson County, or any county in Central Kentucky, including Fayette and Jefferson Counties, due to the significant prejudicial pretrial publicity this case has received. The undersigned submits this memorandum in support of this motion.

**RELEVANT BACKGROUND**

Brooks has been charged with murder and tampering with evidence stemming from the disappearance of his then-girlfriend, Crystal Rogers, in July of 2015. Shortly after Ms. Rogers’s disappearance, law enforcement myopically named Brooks as the sole person of interest in her disappearance. Nonetheless, Brooks cooperated fully with law enforcement, submitting to

multiple interviews with the Nelson County Sheriff's Office in which he denied any involvement in Ms. Rogers's disappearance.

Inexplicably, local law enforcement made the decision to release portions of the police investigation into Ms. Rogers's disappearance to the media. Brook's police interview has been played on national television because someone in local law enforcement made the unorthodox decision to release portions of an ongoing criminal investigation.<sup>1</sup> The Nelson County Gazette posted the entirety of Brooks' police interviews on its YouTube page. His July 8, 2015 interview with Detective Snow at the Nelson County Sheriff's Office has been viewed 164,000 times:



Brooks Houck July 8, 2015  
interview with Jon Snow,...

Nelson County Gazette  
164K views · 8 years ago

The decision to release information in an open case such as this one resulted in over eight years of unabated media sensationalism that has increased exponentially with the passage of time. The Kentucky Standard, Bardstown's local newspaper, has published 237 articles about Brooks Houck.<sup>2</sup> Brooks has become a pariah in Nelson County and the surrounding counties as a result of this constant media coverage.

<sup>1</sup> Brooks's police interview has been played on "The Disappearance of Crystal Rogers" on the Oxygen network and an episode of "On the Case with Paula Zahn" entitled "Where's Crystal," which aired on the Investigation Discovery network, for example. This case has also been the subject of at least five true crime podcast episodes, as well as the subject of a 8-episode podcast called "Bardstown."

<sup>2</sup> See [Search results for 'Brooks Houck' | pmg-ky2.com](#)

Moreover, residents in Nelson County, and indeed throughout Central Kentucky, are very likely to be aware of the tragic death of Tommy Ballard. In fact, the Commonwealth argued in Brooks's bond hearing that his brother, Nick Houck, was the primary suspect in the alleged murder of Mr. Ballard. The Commonwealth's assertion captured additional headlines in Nelson County and throughout Central Kentucky. The spillover impact of this media coverage regarding the death of Tommy Ballard is unduly and unfairly prejudicial to Brooks and subjected him and his family to further intense public scorn.

As another division of the Nelson Circuit Court found back in 2019, Brooks simply cannot not get a fair trial in Nelson County or any of the surrounding counties. Since 2019, media coverage of this case has only intensified, leading to the inevitable conclusion that such pretrial publicity is presumptively prejudicial, and has tainted potential jury pools not only in Nelson County, but also any Kentucky county within the reach of the Louisville or Lexington media markets. As a result, for the reasons set forth below, Brooks moves the Court to transfer this case to Boyd County or Daviess County.

### **ARGUMENT**

Brooks Houck cannot obtain a fair trial in Nelson County or any county in Central Kentucky because of the presumptive prejudice arising out of the publicity this case has generated. KRS 452.210 states that "the judge...shall...order the trial to be held in some adjacent county to which there is no valid objection, if it appears that the defendant or the state cannot have a fair trial in the county where the prosecution is pending." Further, Section 11 of the Kentucky Constitution provides that a defendant shall have a speedy public trial by an impartial jury, and the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution give a defendant the absolute right to due process and trial by a fair and impartial

jury. Here, Brooks' state and federal constitutional rights to due process, a fair trial, and impartial jury would be nullified should this case be tried in Nelson County or any county in Central Kentucky due to the nature and content of news coverage which has contaminated the potential jury pools in those areas.

**A. The pretrial publicity surrounding Brooks Houck and this case is so great that prejudice must be presumed.**

Kentucky's test to determine whether a fair trial is possible in cases with substantial pretrial publicity is derived from the United States Supreme Court decision in *Sheppard v. Maxwell*, 384 U.S. 333 (1966), as adopted in *Brewster v. Commonwealth*, 568 S.W. 2d 232 (1978), and has been applied in nearly every Kentucky case analyzing pretrial publicity. The Court should change venue if the defendant shows that:

- (1) there has been prejudicial news coverage,
- (2) it occurred prior to trial, and
- (3) the effect of such news coverage is reasonably likely to prevent a fair trial.

*Brewster*, 568 S.W. 2d at 235.

The court may find that pretrial publicity establishes the requisite level of prejudice reasonably likely to prevent a fair trial if there is evidence of either presumptive prejudice or actual prejudice. See *Foley v. Parker*, 488 F.3d 377, 387 (6th Cir. 2007); *Gill v. Commonwealth*, 7 S.W.3d 365, 369–70 (Ky. 1999). Presumptive prejudice is inherently found where pretrial publicity creates “an inflammatory, circus-like atmosphere [which] pervades both the courthouse and the surrounding community.” *Id.* If presumptive prejudice is established, a change in venue is warranted prior to voir dire examinations. See *Rideau v. Louisiana*, 373 U.S. 723, 727 (1963).

The United States Supreme Court has emphasized several factors to be considered in the analysis of presumptive prejudice including, in relevant part: (1) “the size and characteristics of the community in which the crime occurred,” (2) the nature of the news stories and whether they



contained “blatantly prejudicial information of the type readers or viewers could not reasonably be expected to shut from sight,” and (3) whether the level of media attention diminishes in the time between the alleged crime and the trial. *Skilling v. United States*, 561 U.S. 358, 382–83.

In *Jacobs v. Commonwealth*, 870 S.W.2d 412 (Ky. 1994), *overruled on other grounds by St. Clair v. Commonwealth*, 451 S.W.3d 597 (Ky. 2014), the defendant, Clawvern Jacobs, was charged with the capital murder, kidnapping, and first-degree rape of an Alice Lloyd College student in Knott County. The trial court denied Jacobs’s motion to transfer venue, despite the pervasive and prejudicial media coverage of the crime and Jacobs’s prior conviction of a similar crime. *Id.* at 416. On appeal, the Kentucky Supreme Court ruled that the trial court erred in denying a change of venue because, in looking at the totality of the circumstances, the pretrial publicity had been so inflammatory that it had created a “pattern of deep and bitter prejudice shown to be present throughout the community.” *Id.* at 415. During voir dire, the jurors displayed “almost alarming” knowledge of the crime. *Id.* at 417. When such bias is found within a community, a change in venue is “constitutionally required” because prejudice is presumed. *Id.* at 415. *See also Irvin v. Dowd*, 366 U.S. 717, 725–28 (1961) (holding that the defendant’s right to an impartial jury was denied by a presumption of prejudice arising from extensive pretrial publicity consistently unleashed against the defendant in the year leading up to his trial, which led to the “community pattern of thought” that the defendant was guilty).

In a recent distinguishable case, *Hubers v. Commonwealth*, the Kentucky Supreme Court analyzed the impact of pretrial publicity. 617 S.W.3d 750 (Ky. 2020). In that case, Shayna Hubers was charged with the murder of her boyfriend and convicted by a Campbell County jury. *Id.* at 757. After discovering that a convicted felon served on the jury, Hubers was granted a new trial, which also resulted in a conviction. *Id.* Hubers appealed her conviction, arguing in part

that the trial court abused its discretion by denying her motion for a change of venue. *Id.* at 773. In her motion, Hubers requested a change of venue from Campbell County and the surrounding areas in the Cincinnati media market. *Id.* Her case had been covered by local news stations, as well as several national news organizations, prior to the first trial. *Id.*

The trial court concluded that this was not a “truly exceptional case” in which the pretrial publicity was so great that prejudice could be presumed. *Id.* at 774. The trial court found that Campbell County (population 92,211) was of “such size” that they should be able to seat twelve jurors and two alternates, and that most of the media coverage regarding the case occurred several years earlier, between 2012 and 2015. *Id.* In addition, the trial court found that a significant period of time had elapsed between the height of the media coverage and Hubers’s second trial, which occurred in 2018. *Id.*

Given the size of Campbell County and the significant period of time that elapsed between the height of the media coverage and the second trial, the Kentucky Supreme Court held that the trial court did not abuse its discretion in denying the venue transfer motion. The Court noted, “[i]t is not the amount of publicity which determines that venue should be changed; it is whether public opinion is so aroused as to preclude a fair trial.” *Id.* (Quoting *Kordenbrock v. Commonwealth*, 700 S.W.2d 384, 387 (Ky. 1985)).

Unlike *Hubers*, Brooks’s case is the rare and “truly exceptional case” in which Kentucky law mandates a change in venue before attempting to seat a jury due to presumptive prejudicial pretrial publicity. Nelson County is not of “such size” to be able to seat twelve jurors and an alternate. Nelson County’s population is approximately half of Campbell County’s population and, unlike Campbell County, Nelson County is not part of a large metropolitan area. In addition, a quick Google search shows that the media coverage has only grown more intense

with each passing year. The Kentucky State Police, the Federal Bureau of Investigation, and other federal agencies have executed multiple search warrants at Brooks’s personal residence, properties owned by Brooks or his family, and various other areas across Nelson County as recently as December of 2023. Each of these searches garnered nearly nonstop coverage by local news outlets in Central Kentucky.

Many Nelson County residents display yard signs related to Ms. Rogers’s disappearance, some of which explicitly named Brooks long before he was ever charged in relation to this case. A billboard next to the Nelson County Judicial Center within the clear line of sight of potential jurors on this case prominently displays Ms. Rogers’s photograph and references that she was last seen with Brooks Houck who is the “main suspect” in her disappearance:



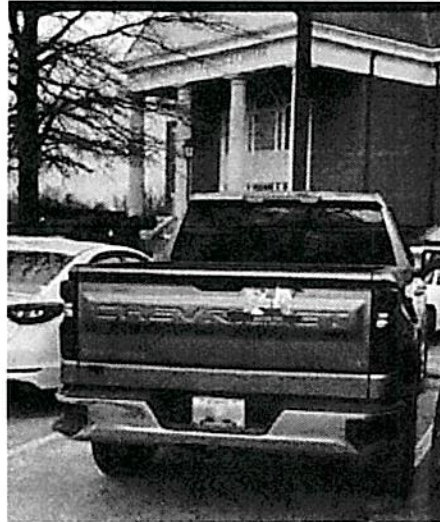
*Billboard for Crystal Rogers (Spectrum News 1/Mason Brighton)*

A similar sign is posted at mile marker 14 on the Bluegrass Parkway, which is where Ms. Rogers’s abandoned car was found on July 5, 2015. Countless cars bearing similar messages can

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be seen in the parking lot of the Nelson County Judicial Center every time this case appears on this Court’s docket.



Presumably, these vehicles represent only a small fraction of cars with similar bumper stickers that drive around Nelson County and the surrounding areas every day to be viewed by potential jurors.

In addition, in 2018 – three years after Ms. Rogers disappeared – Brooks was indicted by a Nelson County Grand Jury, which charged him with four theft related Class D felonies and one count of misdemeanor theft relating to alleged thefts from Lowe’s.<sup>3</sup> Brooks filed a motion to transfer the venue of that case away from Nelson County and its adjoining counties based upon the negative publicity he received in connection with Ms. Rogers’s disappearance, which, importantly, is the basis of the charges he faces in this case. Notably, back in 2019 when venue was up for debate, the Commonwealth **conceded** and the Court agreed the trial must be held

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<sup>3</sup> A Warren County jury subsequently acquitted Mr. Houck of all charges.



elsewhere.<sup>4</sup> The Court granted Brooks' motion and transferred it to Warren County, noting as follows:

Local news media and Louisville TV stations report events in these matters continuously and extensively. Local media and Louisville TV stations appear in force almost every time this case appears on docket. The case is the subject of intense social media scrutiny and other online chatter, especially locally. Crystal and Tommy's family members and supporters have placed yard signs and billboards throughout Nelson County. Some are also scattered around in adjacent counties. Family and supporters have also conducted well-publicized searches on foot and on horseback in Nelson and adjacent counties.

Exhibit 1 at 3.

The sheer amount of publicity this case has received in Nelson County and the surrounding counties is prejudicial in and of itself, but has also generated so much animus against Brooks that, if venue were not transferred, members of a Nelson County jury would fear backlash if they voted to acquit Mr. Houck. As indicated in the attached affidavits and letters, which have been filed under seal as Exhibit 2, a number of Nelson County residents not only believe that Mr. Houck could not get a fair trial in the venue, but would also be afraid of retribution if they were to vote to acquit him.<sup>5</sup>

This is likely because anyone who speaks out in Mr. Houck's defense is publicly shamed by members of the community on social media. For example, a Nelson County resident and friend of the Houck family gave a brief and relatively benign statement to the media after the

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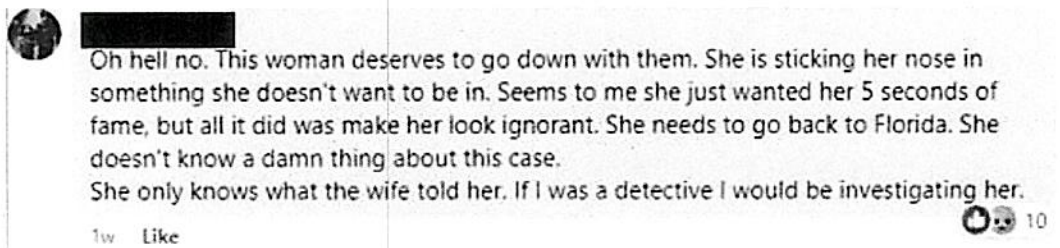
<sup>4</sup> See 2/14/2019 Order, *Commonwealth v. Houck*, 18-CR-252, attached as Exhibit 1.

<sup>5</sup> Tellingly, it was difficult to obtain affidavits in support of this motion without promising to seek to file the affidavits under seal in order to keep the identities of the individuals who submitted them confidential.

February 8 status conference in this case. Later that evening, an interested Nelson County resident posted a photo of the woman on Facebook in an attempt to identify her:



Individuals commenting on the post used facial recognition technology to ascertain the woman’s identity within one day of this post. The post was shared nearly ninety times, and almost 150 comments appeared spewing messages of hate and vitriol toward the woman, with one commenter even going so far as to say she should be investigated by law enforcement for merely *associating* with the Houck family:



Because of the vast amount of media attention this case has gotten, the presumption of innocence no longer applies to Brooks in Nelson County. The below comments appear on a 2016 Kentucky Standard article about Brooks' grandmother exercising her Fifth Amendment privilege against self-incrimination:



[Redacted Name]

**BOTH BROTHER'S NEED 2 BE SHOT & KILLED THEY BETTER WATCH THEIR BACKS!!!**

5y Like Reply 10



[Redacted Name]

**5th amendment just shows guilt to me**

7y Like Reply 20

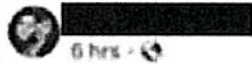


[Redacted Name]

**They all should rot in hell for what has happened to Crystal**

7y Like Reply 50

Nelson County residents have not been shy to express their opinions of Brooks since Ms. Rogers disappeared over eight years ago. Although it would be impossible at this juncture to scour the internet for each and every comment threatening Brooks or stating that he should be killed or seriously injured, a sample of such comments are included below for purposes of illustration:



6 hrs · 🌐

I would NEVER wish death on anyone no matter the circumstances so don't try to twist my words around. But it's crazy how brooks has gotten away with murder and fucked over everyone he's come in contact with and hasn't gotten murdered yet. He's always out and about so he's not hard to find. Just blows my mind.

👁️ 22

51 Comments



**Wld somebody just do the town, society and the world a favor and blow his fn brains out. I doubt he wld b missed!!**

13w Like Reply

👁️ 1



**It would be a damn shame if he disappeared like Crystal did... Wouldn't it?**

1h Like Reply

👁️ 1



**If it was my daughter, Nick and brooks would only have headstones for addresses.**

6h Like Reply

👁️ 1

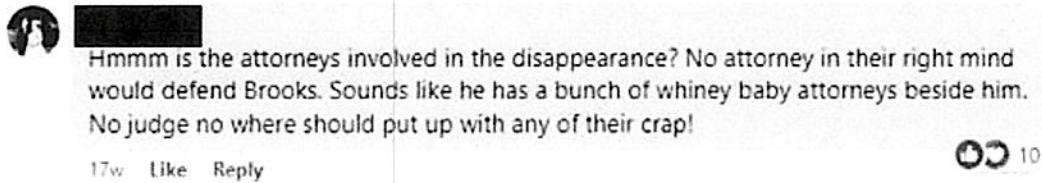


**And it still seems like someone should make that happen. These are sociopaths with no concious. They will NEVER tell where Crystal us.**

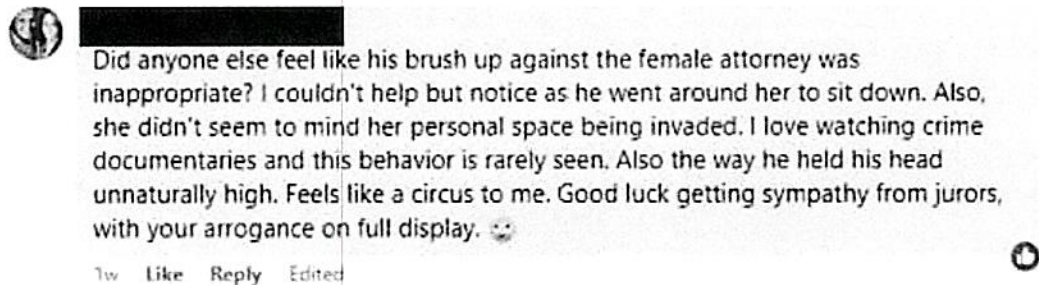
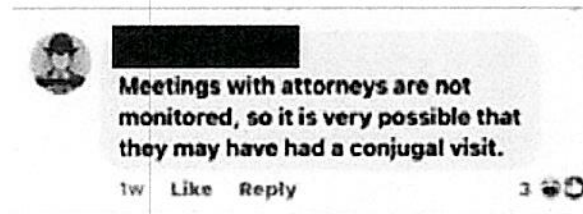
6h Like Reply



Although a criminal defendant’s right to the assistance of counsel is enshrined in the Sixth Amendment to the United States Constitution and Section 11 of the Kentucky Constitution, the public’s outrage at Mr. Houck has even turned toward his defense counsel. Facebook users have gone so far as to accuse defense counsel of being involved in Ms. Rogers’s disappearance, as illustrated in the below post:



Unbelievably, some commenters have even accused the only female member of Mr. Houck’s defense team of engaging in an inappropriate and unethical relationship with him after PLG TV 13 – the local news station in Bardstown – posted photos of her merely sitting at counsel table with her client during the February 8th status conference:



Furthermore, one only has to listen to the recordings of the 2023 Nelson County Grand Jury convened in relation to this case to see that the grand jurors had “almost alarming”

knowledge of the case, similar to that of the jury in *Jacobs*. See 870 S.W.2d at 417. The questions the grand jurors asked of witnesses indicated they had extensive knowledge of the case, and several even made comments in support of the victim's family. While it is unfortunate that so many residents of Nelson County have prejudged the facts of this case and disregarded the presumption of innocence, it is unsurprising given the incessant and pervasive local media coverage of the disappearance of Crystal Rogers over the course of the past eight years.

Moreover, many, if not most, of these news stories contained "blatantly prejudicial information of the type readers or viewers could not reasonably be expected to shut from sight." *Skilling*, 561 U.S. at 382–83. Law enforcement named Brooks as the primary suspect, so every single news article about Ms. Rogers' disappearance reinforced the community's belief that Brooks is guilty. Further troubling is the connection the community believes exists between the Houck family and Mr. Ballard's death. Obviously, this connection was significantly and detrimentally reinforced during Brooks's bond hearing. Mr. Ballard's death and the alleged connection to Brooks's brother is exactly the type of "blatantly prejudicial information" that Nelson County and Central Kentucky jurors "could not reasonably be expected to shut from sight." *Id.*

As noted by the Kentucky Supreme Court in *Jacobs*, the Commonwealth "has the burden of establishing guilt solely upon the evidence produced in court and under circumstances assuring any accused (however worthy or unworthy) all safeguards of a procedure that is fair." *Id.* at 416. These conditions are impossible when, as here, the minds of potential jurors are "ineradicably poisoned." *Id.* Because the facts and circumstances in this case give rise to the presumption of prejudice against Brooks, the Court must order a change of venue prior to voir dire. See *Rideau*, 373 U.S. at 727.

**B. There is no county adjacent to Nelson County or in Central Kentucky in which Brooks can receive a fair trial.**

Brooks cannot obtain a fair trial in any county adjoining Nelson County or any county within the reach of the Lexington or Louisville media markets. KRS 452.210 allows the court some leeway in making such a determination, stating, “[i]f the judge is satisfied that a fair trial cannot be had in an adjacent county, he may order the trial to be had in the most convenient county in which a fair trial can be had.”

This Court has already carefully considered all adjoining counties to Nelson County as possible jury trial locations for a case involving Brooks and found a fair trial could not be obtained in any adjoining county, reasoning:

Courthouse facilities and security are not sufficient in Anderson, Larue and Spencer. Bullitt, Hardin, Marion and Washington all have extensive family, business, social and social media contacts with Nelson. Many persons from these counties work in and frequently travel through Nelson. All adjoining counties are in the Louisville TV market, whose reporters cover these matters most intensely.

Exhibit 1 at 4.

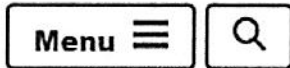
Further, as this Court has previously recognized, if the trial is held in a county within the Louisville media market, “it would be difficult for jurors to avoid news accounts of the trial during the trial itself, either from seeing television accounts on one’s own, or hearing about it from family or friends.” *Id.* at 5. The media coverage has only intensified since the time of the Court’s 2019 Order and today.

Louisville’s two largest news networks – WDRB and WHAS11 – have published countless stories about Brooks in addition to regularly running stories on the local news. Lexington media coverage is not any less exhaustive. A cursory search of “Brooks Houck” on the LEX18 website generates over one thousand results.<sup>6</sup>

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<sup>6</sup> See WLEX - Site Search (lex18.com).





SEARCH Brooks Houck

There are 1059 results that match Brooks Houck.

The media coverage has been so ubiquitous, in fact, that even those who most vehemently believe Brooks is guilty question how difficult it will be to seat a fair and impartial jury:

**The only way they would find an impartial jury is through sheer luck that some people don't know the case or if they know of it but don't know all the facts**  
19w Like Reply

**Go over seas**  
19w Like Reply

the whole state of Kentucky knows about this story. They will have to pull people from other states. I have followed this story from day one and have always believed what the truth will prevail in court. It just doesn't add up that she went missing and her boyfriend knew nothing. I have watched thousands if dateline cases. And one day this story will be on it. Praying for Sherry Ballard  
1w Like

unfortunately that's not true. I deal with lots of people in south eastern Ky and no one knows anything about Crystal or Tommy. I tell it to anyone that will listen!  
1w Like



As a result, in accordance with KRS 452.210, Brooks requests the Court order a change in venue in this matter from Nelson County to Boyd County. Boyd County and Nelson County are demographically similar,<sup>7</sup> and Boyd County is located outside of the Louisville and Lexington media markets, making it a suitable location for this trial. Boyd County's local news stations are based in Huntington and Charleston, West Virginia. In addition, Boyd County is convenient for the parties, counsel, and witnesses as it has at least eight hotels, with numerous others located a mere twenty minutes away in Huntington, West Virginia, which is a larger metropolitan area. In addition, Boyd County is less than three hours from Nelson County. In the alternative, Brooks requests the Court order a change of venue to Daviess County. Although Daviess County is a bit larger, it is otherwise demographically similar to Nelson County.<sup>8</sup> Owensboro is less than two hours from Bardstown.

Some members of the venire in Boyd or Daviess County will inevitably have knowledge of this case, but given the location of those counties outside of the Lexington and Louisville media markets, that is less likely. Moreover, it is even less likely that such knowledge would be derived from pervasive and prejudicial media coverage that would render potential jurors biased against Brooks from the outset. There is no "pattern of deep and bitter prejudice" against Brooks present in Boyd or Daviess County. *Jacobs*, 870 S.W.2d at 415.

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<sup>7</sup> In 2022, Nelson County's population was estimated at 47,392 and Boyd County's population was estimated at 48,110. Boyd County is approximately 96% white, while Nelson County is approximately 94% white. The median family income in Boyd County is \$41,125, and \$44,600 in Nelson County.

<sup>8</sup> In 2022, Owensboro's population was estimated at 60,037 per the United States Census. Daviess County itself is a bit larger, having a population of approximately 100,000 people. Daviess County is 93.69% white, which is very similar demographically to Nelson County. The median family income is \$41,333 which is also very similar to Nelson County.

**CONCLUSION**

WHEREFORE, Brooks Houck respectfully requests that the Court grant his motion for change of venue and order that the trial in this matter be held in Boyd County, or, in the alternative, in Daviess County.

/s/ Jennifer Henry Jackson

Brian Butler

Michael M. Denbow

Jennifer Henry Jackson

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*Counsel for Defendant, Brooks Houck*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 7th day of March, 2024, a copy of the foregoing was electronically filed with the CM/ECF filing system which will serve notice upon all parties of record.

/s/ Jennifer Henry Jackson

**Counsel for Defendant, Brooks Houck**

# EXHIBIT 2

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**This exhibit is being submitted to the  
Court under seal, via electronic mail and  
the United States Postal Service.**



# EXHIBIT 1

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COMMONWEALTH OF KENTUCKY  
COURT OF JUSTICE  
10<sup>th</sup> JUDICIAL CIRCUIT, DIVISION 2  
NELSON CIRCUIT COURT  
CASE NO. 18-CR-252

JHJACKSON

COMMONWEALTH OF KENTUCKY

PLAINTIFF

VS.

**ORDER FOR JURY TRIAL TO BE HELD IN  
WARREN COUNTY**

BROOKS W. HOUCK

DEFENDANT

Houck moves for an order to hold the jury trial in a county other than Nelson, because he contends extensive pretrial publicity here deprives him of his right to a fair trial. The Commonwealth concedes the court must move the trial elsewhere. After consideration, the court concludes the jury trial should be held in Warren County.

KRS 452.210 governs the procedure a trial court must follow when selecting another county for a jury trial:

When a criminal or penal action is pending in any Circuit Court, the judge thereof shall, upon the application of the defendant or of the state, order the trial to be held in some adjacent county to which there is no valid objection, if it appears that the defendant or the state cannot have a fair trial in the county where the prosecution is pending. If the judge is satisfied that a fair trial cannot be had in an adjacent county, he may order the trial to be had in the most convenient county in which a fair trial can be had.

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Also pertinent is KRS 452.220 (2):

JHJACKSON

. . . If objections to all the adjoining counties are made and sustained, the change shall be made to the nearest county to which there is no valid objection, preference being given to counties of the same judicial circuit.

The Commonwealth contends Houck can receive a fair trial in the adjoining counties of Bullitt, Hardin, Marion or Washington. The Commonwealth also argues the court could give Houck a fair trial in Hart, which is in the same judicial circuit as Nelson. Houck objects to a jury trial in any of these counties, and argues the court should move the jury trial to either Jefferson or Franklin. The Commonwealth objects to both Jefferson and Franklin.

The Nelson County Grand Jury indicted Houck on July 18, 2018, charging him with four (4) counts of KRS 514.030, Theft by Unlawful Taking (Class D Felonies) and one (1) count of misdemeanor Theft by Unlawful Taking.

While it has nothing to do with the indictment, Houck is the ex-boyfriend of Crystal Rogers, the father of one (1) of her children and the main suspect in her July 2015 disappearance. On July 31, 2015, Crystal's parents, Tommy Ballard and Sherry Ballard, filed an action against Houck seeking grandparent visitation. The action remains pending, the Court of Appeals having recently reversed the trial court's judgment granting grandparent visitation. The case is now back before this court for a new trial,

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and a *pendente lite* hearing is scheduled February 27, 2019. On November 19, 2016, an unknown assailant shot and killed Tommy Ballard. Law enforcement has made no arrests in connection with Crystal's disappearance or Tommy's death.

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Local news media and Louisville TV stations report events in these matters continuously and extensively. Local media and Louisville TV stations appear in force almost every time this case appears on docket. The case is the subject of intense social media scrutiny and other online chatter, especially locally. Crystal and Tommy's family members and supporters have placed yard signs and billboards throughout Nelson County. Some are also scattered around in adjacent counties. Family and supporters have also conducted well-publicized searches on foot and on horseback in Nelson and adjacent counties.

National media are also involved. The Investigation Discovery national cable TV channel aired a one (1) hour episode about Crystal's disappearance on the "On the Case with Paula Zahn" show on August 5, 2018. The Oxygen national cable TV channel aired a six-part series "The Disappearance of Crystal Rogers," beginning with a two-hour premiere episode, on August 11, 2018. As recently as February 6, 2019, Sherry Ballard appeared for an interview on the Dr. Phil Show. This is by no means a complete listing of the national attention given these matters.

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Having carefully considered all adjoining counties as possible jury trial locations, the court concludes Houck's objections are valid.

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Courthouse facilities and security are not sufficient in Anderson, Larue and Spencer. Bullitt, Hardin, Marion and Washington all have extensive family, business, social and social media contacts with Nelson. Many persons from these counties work in and frequently travel through Nelson. All adjoining counties are in the Louisville TV market, whose reporters cover these matters most intensely.

The court also carefully considered Hart, and concludes Houck's objection to Hart is also valid. According to social media posts, both Tommy Ballard and Sherry Ballard were anticipating searches in Hart. While the court does not consider Houck's pre-printed affidavits entirely convincing, two (2) bank presidents, a Southern States Cooperative manager and a Hart landowner all swore Houck could not get a fair trial in Hart.

While the Hart cable TV line-up includes only one (1) Louisville station, Hart is so dissimilar to Nelson the court also finds it is not a suitable location on that basis. Hart's population is considerably less. Nelson's 2017 population was 45,640. Hart's 2017 population was 18,757. Hart is more rural. While Hart has excellent schools, many in Hart have less than a high school or GED education. From the court's experience with jury trials in Hart, it finds a hardship exists for many potential jurors to serve on a jury because

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the juror is either self-employed or works for an employer who provides no compensation while the employee is absent due to jury service. Hart also has a sizeable Amish population, many of whom must be disqualified from serving due to religious belief. Hart also has more limited resources, causing the court to be reluctant to impose on Hart County the burden of a non-Hart jury trial.

JHJACKSON

The court also finds the Commonwealth's objections to Jefferson and Franklin are valid. Both counties are in the Louisville TV market. The court believes it would be difficult for jurors to avoid news accounts of the trial during the trial itself, either from seeing television accounts on one's own, or hearing about it from family or friends. This would especially be true in Jefferson.

As the Commonwealth points out in its memorandum, no county in Kentucky is immune from the Houck publicity. However, after considering excellent counsel memoranda and arguments, and the totality of the circumstances, the court concludes the South Central Kentucky county of Warren is the most convenient county to provide Houck with a fair trial. Warren County has no Louisville TV stations in its cable TV services. This reduces the chance of exposing jurors to news accounts during the trial. While Warren's population is much greater than Nelson, it has a much smaller population than Jefferson, one of the locations Houck suggests. It has

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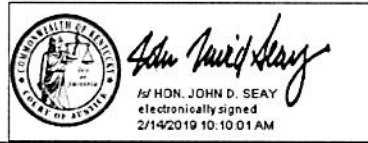
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excellent court facilities and security. The court recently contacted the circuit judges in Warren who advised their court schedules and facilities could reasonably accommodate the jury trial of this case. While Warren is more distant from Nelson than any of the specific locations proposed by the parties, it is not as distant as Western Kentucky or Northern Kentucky, which have also been mentioned by the court and counsel. Warren is easily accessible via the Bluegrass Parkway and I-65, making it reasonably convenient to the parties, witnesses and court personnel.

JHJACKSON

The court therefore **ORDERS** the jury trial shall be held in Warren County.

This is an interlocutory order.



HON. JOHN D. SEAY  
electronically signed  
2/14/2019 10:10:01 AM

**JOHN DAVID SEAY, JUDGE**

Distribution:

Commonwealth Attorney

Attorneys Butler and Dathorne

Clerk: Return Form 280 to AOC marked "Issue Decided."

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COMMONWEALTH OF KENTUCKY  
NELSON CIRCUIT COURT  
DIVISION ONE  
CASE NO. 23-CR-00309

COMMONWEALTH OF KENTUCKY

PLAINTIFF

v.

BROOKS WILLIAM HOUCK

DEFENDANT

**ORDER**

Motion having been made, and the Court being otherwise sufficiently advised;

IT IS HEREBY ORDERED that Brooks Houck's Motion for Change of Venue be, and hereby is, GRANTED.

IT IS FURTHER ORDERED that this case is hereby TRANSFERRED to

\_\_\_\_\_ County.

\_\_\_\_\_  
JUDGE, NELSON CIRCUIT COURT



Tendered by:

*/s/ Jennifer Henry Jackson*

Brian Butler

Michael M. Denbow

Jennifer Henry Jackson

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