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**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASHINGTON**

STATE OF OREGON,

Plaintiff,

vs.

OSCAR PASCUAL-CRUZ,

Defendant.

No. 18CR33397 (DA 361659)

**STATE’S MOTION FOR EMERGENCY
STATUS HEARING TO ISSUE
PROTECTIVE ORDER AND SCHEDULE
TRIAL DATE**

Introduction

The Defendant is charged with multiple counts of Criminal Mistreatment in the First Degree and Assault in the Third Degree for physically abusing his 4-month old daughter. The Defendant was arraigned on the Grand Jury Indictment was issued on May 22, 2018 and since that time has had seven trial settings.¹ Five of the trial resets was requested by the Defendant and the last was due to COVID.

Based on the concerns outlined below, the State requests that the Court set a status hearing to issue a protective order prohibiting the disclosure of child abuse reports and records per ORS 419B.035, and issue an order scheduling a trial date.

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¹ Previous trial dates are November 27, 2018, February 27, 2019, June 4, 2019, September 10, 2019, December 3, 2019, January 28, 2020, and May 5, 2020.

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2 **Protective Order Prohibiting Disclosure of Child Abuse Reports and Records**

3 Reports and records compiled as part of a child abuse investigation are confidential and may not
4 be disclosed to third parties unless otherwise authorized by law. ORS 419B.035(1). A breach of this
5 statute constitutes a Class A violation. ORS 419B.035(9).

6 In this case, multiple child abuse reports and records have been disclosed to third parties,
7 disseminated via the internet and posted on social media. These materials include police reports, DHS
8 reports and medical records. (See Exhibit A) Persons associated with the defense team have created
9 forums for these materials to be disseminated publicly. This includes a Facebook page (“Help Reunite
10 Cruz Family”), the Defendant’s wife’s (Adriana Cruz) personal Facebook page, YouTube videos, and a
11 for-hire “investigative reporter” website called USObserver.com. (See Exhibit B) This “investigative
12 reporter” publications included a video of Adriana Cruz and the Defendant discussing the case.

13 In addition to the public dissemination of child abuse records, there have been multiple attempts
14 to pressure and intimidate attorneys and witnesses associated with the case. These efforts began with
15 aggressive emails and letters and have escalated to personal attacks on members of the DA’s office and
16 state’s witnesses. On February 5, 2020, after a hearing on this case, an individual associated with the
17 defense followed, videotaped and harassed a Deputy District Attorney while walking outside the
18 courthouse. This incident required law enforcement response. On Sunday, July 12, 2020, the
19 defendant’s wife and the victim child participated in an active protest outside the home of two
20 prosecutors in the office. (See Exhibit C) The protest included 10-15 individuals, including individuals
21 who are known felons and a sex offender. The protest was livestreamed on social media and details of
22 the case were repeatedly discussed. This incident also required law enforcement response and criminal
23 laws were violated. On or about July 15, 2020, an individual associated with the defense team, visited

1 the home of Dr. Grigsby (a state's witness and OHSU child abuse physician) and posted inflammatory
2 statements about her online. On July 20, 2020, a knife was plunged into the tire of DDA Brown's
3 vehicle in an apparent effort to engage in intimidation. (See Exhibit D).

4 Finally, the defendant's wife has made public requests for individuals to contact the DA's office
5 via phone and email in efforts to dismiss the charges. These efforts have resulted in multiple phone
6 calls and emails from random members of the public not in any way associated with the case. (See
7 Exhibit E) As recently as August 5, 2020, DDA Brown received a voicemail from a woman out of state
8 who indicated she has read the case reports and believes the case should be dismissed. According to
9 Google, she is the executive director of a group that "helps parents wrongfully accused of child abuse."

10 This material was not released to the public by the District Attorney's Office or police agencies,
11 which leads to the only reasonable conclusion that responsibility for these violations lies with the defense
12 team. Finally, on August 7, Adriana Cruz posted to social media an email that the defense attorney sent
13 DDA Brown about the case.

14 Not only do these efforts violate ORS 419B.035 by publicizing confidential child abuse records,
15 but they also implicate the prohibitions of Rule 3.6 "Trial Publicity" of the Oregon Rules of Professional
16 Conduct. That Rule states in relevant part:

17 (a) *A lawyer* who is participating or has participated in the investigation or litigation of a matter
18 *shall not make an extrajudicial statement* that the lawyer knows or reasonably should know
19 will be *disseminated by means of public communication* and will have a *substantial likelihood*
20 *of materially prejudicing an adjudicative proceeding in the matter.*

21 (e) *A lawyer shall exercise reasonable care to prevent the lawyer's employees from making an*
22 *extrajudicial statement* that the lawyer would be prohibited from making under this rule.

23 (emphasis added).

1 In this case, the defense is engaged in a concerted effort to try its case publicly by selectively
2 releasing portions of discovery and engaging in personal attacks and a smear campaign against
3 individuals associated with the state's case.

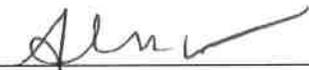
4 The State therefore requests this Court issue a protective order directing the following:

- 5 (a) No discovery (including medical records, police reports, DHS reports, expert reports) shall be
6 disclosed to third parties or disseminated to the public by any means. This includes
7 dissemination via social media, the internet or hard copy.
- 8 (b) Each party is responsible for ensuring any person, agent or other individual working with the
9 party's case is complies with any applicable Oregon law and this protective order.
- 10 (c) No party or agent thereof shall make public comments regarding the contents of any of the
11 discovery materials.

12
13 **Order Scheduling Trial Date**

14 In light of the unique circumstances described above and the lengthy delays in this case, the
15 State requests the Court schedule a trial date at the next available opportunity.

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17 DATED: August 10, 2020

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Allison Brown
Oregon State Bar #052092
Senior Deputy District Attorney