

**IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA**

**STATE OF FLORIDA**

**23-02935-CF**

**v.**

**CAPITAL MURDER**

**TOMASZ ROMAN KOSOWSKI /**

**MOTION TO CONTINUE TRIAL**

Defendant, TOMASZ ROMAN KOSOWSKI, by and through his undersigned counsel, hereby files this Motion to Continue Trial and Incorporated Memorandum of Law and moves this Honorable Court to enter an order continuing the trial herein, and as grounds therefore, states as follows:

1. Defendant was indicted for First Degree Capital Murder, on or about April 27, 2023.

2. On or about April 28, 2023, the Office of the State Attorney filed the notice of intent to seek the death penalty.

3. Discovery is very voluminous and not complete.

4. Counsel has been informed by the State that further forensic testing is underway, and the results may necessitate additional expert consultation.

5. Counsel has diligently conducted depositions and investigated potential evidence; however, counsel does not believe that this case can be ready and prepared for the current trial date of May 19, 2025.

6. On April 13, 2025, the State of Florida filed expert notices for the

following witnesses:

- a) Kevin Corrigan with the Federal Bureau of Investigations;
- b) Bobby Lance Moore with the Largo Police Department;
- c) Hector Vila, M.D., of the Florida Board of Medicine;
- d) Anna Cox of Forensic Consulting and Training, LLC; and
- e) John Thogmartin with the Medical Examiner's Office.

7. Counsel anticipates that at least one additional expert witness will be listed by the State of Florida.

8. Kevin Corrigan was listed as a witness of April 8, 2025. Additional discovery associated with him was provided on or about April 7, 2025. His deposition has been scheduled for May 9, 2025.

9. On or about March 27, 2025, a significant amount of additional discovery related in part to fingerprint analysis and financial records was provided to defendant.

10. On or about March 18, 2025, Dr. Hector Vila, M.D. was listed as a witness. His deposition has been scheduled for April 29, 2025.

11. On or about March 12, 2025, Dr. Jon Thogmartin, M.D. was listed as a witness. His deposition has already been conducted.

12. The defense team has reached out to potential confidential experts to assist as it relates to the anticipated testimony of the recently listed witnesses and is

still evaluating said potential experts.

13. While the defense team has been extremely diligent in conducting discovery depositions, reviewing the voluminous discovery, and consulting confidential experts based on new experts listed by the state, additional time is required to fully evaluate the same. We cannot be ready to proceed to trial as scheduled on May 19, 2025.

14. Given the time remaining prior to trial, counsel cannot be prepared for trial by the time of the current trial date. Counsel, therefore, cannot provide Mr. Kosowski with effective assistance of counsel or the fair trial to which he is entitled unless this motion to continue is granted. In addition, counsel respectfully submits that the denial of this motion would violate Mr. Kosowski's state and federal constitutional rights to due process, to assistance of counsel, to compulsory process, to a fair trial, and to be free from cruel and unusual punishment.

15. Further, the defense team has diligently prepared for the potential penalty phase, but there is still a significant amount of work to be completed that cannot be completed by the commencement of the upcoming trial date.

16. Counsel is under a duty to thoroughly investigate all aspects of a case as it relates to penalty phase. ABA Guidelines 10.7 Commentary. Counsel must investigate anything that potentially may be used as mitigating evidence during penalty phase. *See Eddings v. Oklahoma*, 455 U.S. 104 (1982); *Lockett v. Ohio*, 438

U.S. 586 (1978). Failure to investigate and present substantial mitigating evidence during penalty phase may itself be grounds an ineffective assistance of counsel claim. See *Williams v Taylor*, 529 U.S. 362 (2000).

17. “The major requirement of the penalty phase of a trial is that the sentence be individualized by focusing on the particularized characteristics of the individual.” *Armstrong v. Dugger*, 833 F.2d 1430, 1433 (11<sup>th</sup> Cir.1987). For that reason, “[i]t is unreasonable to discount to irrelevance the evidence of [a defendant’s] abusive childhood.” *Porter v. McCollum*, 130 S.Ct. 447, 455 (2009). “[E]vidence about the defendant’s background and character is relevant because of the belief, long held by this society, that defendants who commit acts that are attributable to a disadvantaged background ... may be less culpable than defendants who have no such excuse.” *Penry v. Lynaugh*, 492 U.S. 302, 319, 109 S.Ct. 2934, 2947 (1989) (citation omitted), abrogated on other grounds by *Atkins v. Virginia*, 536 U.S. 304; see also *Porter*, *supra* at 454 (quoting parenthetically *Penry* for that proposition); *Wiggins*, 539 U.S. at 535, 123 S.Ct. at 2542 (same). The Supreme Court has instructed us that a troubled history that includes “severe privation,” “abuse,” “physical torment,” an “alcoholic, absentee mother,” and “diminished mental capacities”, is the kind of troubled history that the Court has “declared relevant to assessing a defendant’s moral culpability.” *Wiggins*, 539 U.S. at 535, 123 S. Ct. at 2542.

18. The denial of this Motion would violate the Defendant's statutory right to effective assistance of counsel and his rights to due process, equal protection, presentation of mitigating evidence, protection from cruel and unusual punishment, and a fair and impartial jury, under the State and Federal Constitutions. U.S. CONST. amend. V, VI, VIII, & XIV; FLA. CONST. Art. 2, 9, 16 and 17.

19. For the reasons set forth above, undersigned counsel is requesting to continue the trial.

WHEREFORE, Defendant asks the Court to enter an Order continuing the trial to a more realistic trial date to insure effective representation.

**CERTIFICATE OF GOOD FAITH**

Counsel hereby certifies that this motion is made in good faith and not for purposes of unnecessary delay.

Respectfully submitted,

s/ J. Jervis Wise  
J. JERVIS WISE  
BRUNVAND & WISE  
LAW GROUP  
Florida Bar No. 0019181

s/ Bjorn E. Brunvand  
BJORN E. BRUNVAND  
BRUNVAND & WISE  
LAW GROUP  
Florida Bar No. 0831077

s/ Debra B. Tuomey  
DEBRA B. TUOMEY  
Debra B. Tuomey, LLC.  
Florida Bar No. 497681

s/ Amanda Powers Sellers  
AMANDA POWERS SELLERS  
Amanda Powers Sellers, PA  
Florida Bar No. 11643

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was furnished electronically to the Office of the State Attorney, this 28<sup>th</sup> day of April 2025.

*s/Bjorn E. Brunvand*  
BJORN E. BRUNVAND, ESQ.  
BRUNVAND & WISE  
LAW GROUP  
615 Turner Street  
Clearwater, Florida 33756  
Telephone No. (727) 446-7505  
Facsimile No. (727) 446-8147  
Email: [bjorn@acquitter.com](mailto:bjorn@acquitter.com)  
Florida Bar No. 831077  
Counsel for the Defendant