

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss

SUPERIOR COURT SESSION  
Docket No. 2006-00722

-----X  
COMMONWEALTH

v.

PATRICK POWELL  
Defendant

-----X

MOTION TO CONTINUE TRIAL DATE

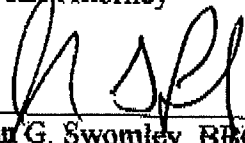
Defendant, Patrick Powell, hereby moves this court to continue his trial which is currently scheduled for December 1, 2008. Co-counsel for Mr. Powell, Kenneth King, has just been appointed as a Judge in the Juvenile Court. He has been advised to withdraw from all pending matters including this one. Attorney King has done all of the preparation for the mental health aspect of this case. The mental health aspect is a major part of the case and not allowing this continuance will severely prejudice Defendant.

Also, on November 24<sup>th</sup>, Defendant received a package of new discovery from the Commonwealth. Counsel has never before received these materials and has not had time to review and process these materials.

Mr. Powell therefore respectfully requests that the current trial date be continued.

Dated: 11.26.08

Respectfully Submitted  
By His Attorney



John G. Swomley BBO#551450  
Swomley & Associates  
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Cont. to  
3-16-09

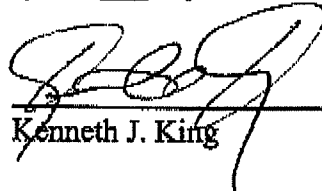
## AFFIDAVIT

SUFFOLK, SS

I, Kenneth J. King, being duly sworn hereby depose and say that:

1. I am an attorney in good standing in the Commonwealth of Massachusetts.
2. I have been cooperating with attorney John Swomley in the defense of Patrick Powell. Powell is charged with murder based on an incident that occurred when he was a sixteen year old juvenile. Worcester County Superior Court Indictment No. 2006-00722.
3. I have focused on preparing the aspects of the defense in this case related to adolescent development, adolescent cognitive development and Powell's mental status. This aspect of the defense is focused on complex neuroscientific understandings of adolescent cognitive development, current understandings of adolescent psycho-social development and the impact of PTSD on adolescent cognition. Presentation of this scientific information is critical to defending the allegation that Powell acted with malice as that term is understood in the context of first or second degree murder. I have selected, met with and worked with the defense experts in adolescent neuro-development, adolescent psycho-social development and PTSD and studied the related literature to the exclusion of co-counsel.
4. I have also focused on other aspects of the defense related to the proof of Powell's state of mind or more precisely, casting doubt upon the Commonwealth's evidence that Powell acted with a deliberately premeditated intent to kill the victim.
5. On Tuesday, November 25, I was informed that I have been nominated to be a judge of the Middlesex County Juvenile Court and was advised to withdraw from all pending matters, including specifically this case, as quickly as possible.
6. My work on behalf of Patrick Powell is critical to his defense. The defense of this matter will be seriously prejudiced if I am allowed to withdraw and if this trial is not continued.

Signed under the pains and penalties of perjury this 26<sup>th</sup> day of November 2008.

  
Kenneth J. King