

NO. 20CR0767

JEFFERSON CRICUIT COURT
DIVISION SIX (6)
JUDGE OLU STEVENS

Electronically Filed

COMMONWEALTH OF KENTUCKY

PLAINTIFF

VS.

NOTICE-MOTION-ORDER

KENNETH WALKER III

DEFENDANT

* * * * *

TO:

Hon. Rob Eggert
600 West Main Street, Suite 200
Louisville, Kentucky 40202
Counsel for Defendant
reggert@600mainlaw.com

NOTICE

Please take notice that the undersigned will on March 8, 2021, at 11:00 a.m.,
tender the following Motion and Order.

**COMMONWEALTH'S MOTION TO SET ASIDE ORDER DISMISSING
WITHOUT PREJUDICE PURSUANT TO CR 60.02**

Comes the Commonwealth of Kentucky, by counsel, Ebert Haegele, Assistant
Commonwealth's Attorney for the 30th Judicial District of Kentucky, and moves the
Court, pursuant to CR 60.02(b) and (f) to set aside its prior order dismissing this
matter without prejudice and enter an order dismissing with prejudice. In support
of its motion, the Commonwealth states as follows:

1) Defendant was indicted on March 19, 2020 and charged with criminal attempt to commit murder of a police officer and first-degree assault. The charges arose from the March 13, 2020, shooting of Louisville Metro Police Sergeant Jon Mattingly while LMPD narcotic detectives attempted to serve a search warrant at Breonna Taylor's residence located at 3003 Springfield Drive, Apartment No. 4, in Jefferson County, Kentucky. As detectives entered the residence to execute the warrant, Defendant fired a shot striking Sergeant Mattingly. Multiple detectives returned fire striking Ms. Taylor who died from her injuries. On May 22, 2020, the Commonwealth moved to dismiss the indictment without prejudice. Defendant raised no objection to the Commonwealth's motion, and the Court entered an order on May 26, 2020, granting the motion.

2) The Commonwealth moved to dismiss the case without prejudice because there were multiple, on-going, investigations into the events surrounding the execution of the warrant, Defendant's firing of the initial shot, and the detectives' response fire. Investigations were being conducted by the Louisville Metro Police Public Integrity Unit, the Federal Bureau of Investigations, the US Department of Justice, and the Kentucky Attorney General's Office. The dismissal was without prejudice to allow for the development of any additional information relevant to the charges against Defendant.

3) To the best of the Commonwealth's knowledge, but for the investigation by the US Department of Justice, the investigations into this matter have concluded and no new information relevant to the charges against Defendant in this matter has

been brought to the Commonwealth's attention. As such, the Commonwealth moves the Court to amend its prior dismissal of this matter without prejudice to a dismissal with prejudice under CR 60.02(b) and (f).

WHEREFORE, based on the foregoing, the Commonwealth respectfully requests that the Court enter an order dismissing this matter with prejudice.

Respectfully submitted,

s/ Thomas B. Wine
THOMAS B. WINE
Commonwealth's Attorney

s/ Ebert Haegele
EBERT HAEGELE
Assistant Commonwealth's Attorney
514 West Liberty Street
Louisville, Kentucky 40202
(502) 595-2300

CERTIFICATION

This is to certify that a copy of the foregoing was on this 4th day of March 2021, eFiled with the Court and served via the filing system to Hon. Rob Eggert, counsel for Walker.

s/Ebert Haegele
Assistant Commonwealth's Attorney

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* * * * *

This matter having come before the Court on the Commonwealth’s motion to amend the Court’s May 26, 2020 Order dismissing without prejudice to a dismissal with prejudice, the parties having been heard, and the Court being otherwise sufficiently advised,

IT IS HEREBY ORDERED that the motion is **GRANTED**. The May 26, 2020 Order is vacated and the indictment against Defendant is **DISMISSED WITH PREJUDICE**.

OLU STEVENS, JUDGE

DATED: _____