

IN THE IOWA DISTRICT COURT FOR LEE COUNTY (SOUTH)

STATE OF IOWA, Plaintiff, vs. BENJAMIN G. TRANE, Defendant.	No. FECR 009152 ORDER DENYING THE STATE'S MOTION FOR CHANGE OF VENUE
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The State's "Motion for Change of Venue" came on for hearing during the pretrial conference November 27, 2017. The motion, which is not verified as required by Iowa R. Crim. P. 2.11(10)(a), was filed November 17, 2017. On the record, during the hearing, defendant resisted the motion.

The State's motion alleges a substantial unlikelihood that a fair and impartial jury can be picked in Lee County because of the cumulative effect of pretrial publicity, significant community ties and involvement [by the community] with Midwest Academy, prior to its closure, and the polarization to one side or the other within the community. In support of the motion, the State has appended over 100 pages of attachments, mostly consisting of newspaper articles and other information appearing in the media concerning Midwest Academy, the defendant, and past investigations of the Academy and defendant.

Iowa Code Section 803.2(2) reads as follows:

The court may, on its own motion or on the motion of any of the parties to the proceeding, reconsider and grant a pretrial motion for change of venue whenever it appears during jury selection that sufficient grounds would exist for granting the motion under the

provisions of Rule of Criminal Procedure 2.11.

Subsection 3 of the Code Section goes on to state that all objections to venue are waived by a defendant unless the defendant objects thereto and secures a ruling by the trial court on a pretrial motion for change of venue. In the present case, defendant has not filed a motion for change of venue; therefore, he has waived any objection to venue of the trial of this case being held in South Lee County, Iowa. Moreover, on the record, defendant's attorney stated defendant objected to the State's Motion for change of Venue.

Iowa R. Crim. P. 2.11(10)(b) states as follows:

Change of venue ordered. If the court is satisfied from a motion for a change of venue and the evidence introduced in support of the motion that such degree of prejudice exists in the county in which the trial is to be held that there is a substantial likelihood a fair and impartial trial cannot be preserved with a jury selected from that county, the court either shall order that the action be transferred to another county in which the offensive condition does not exist, as provided in Rule 2.11(10)(c), or shall order that the trial jury be impaneled in and transferred from a county in which the offensive condition does not exist, as provided in Rule 2.11(10)(d).

Based on the Court's review of the State's unverified motion and the 100-plus pages of media information, the Court is unable to conclude that such degree of prejudice exists in South Lee County, Iowa, that there is a substantial likelihood a fair and impartial trial cannot be preserved to the State of Iowa with a jury selected in South Lee County.

Therefore, the State's motion shall be denied.

IT IS THEREFORE ORDERED the State's "Motion for Change of Venue" shall be denied.

The clerk shall provide copies of this Order to counsel of record.



State of Iowa Courts

Type: OTHER ORDER

Case Number **Case Title**
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So Ordered

A handwritten signature in cursive script that reads "John G. Linn".

John G. Linn, District Court Judge,
Eighth Judicial District of Iowa