

STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY

STATE OF WISCONSIN,

v.

Case No. 2005 CF 381

STEVEN A. AVERY,

Defendant.

MEMORANDUM DECISION AND ORDER

The defendant, Steven A. Avery, has submitted a motion to this court, requesting a substitution of judge in this matter. The state has objected to this request. The court has reviewed the record in this matter and comes to the following conclusion.

ANALYSIS

It is important to note the current status of this case. The Court of Appeals sent this matter back to this court on remand to consider the evidence submitted to the defense in April, 2018. It has not sent this case back on remittitur. The Court of Appeals has retained jurisdiction of this matter. This court has limited jurisdiction to consider new evidence, in the form of the CD, to provide an accurate record for the appellate court to consider. The order indicates that the court may hold any proceedings necessary for it to issue the appropriate findings and conclusions; it has not, as the defendant asserts, been ordered to hold an evidentiary hearing in this matter.

At this time, the court finds the defendant's motion for substitution of judge to be premature. The Court of Appeals has ruled that this court should make supplemental

findings regarding the evidence submitted to the defense in April, 2018, while it retains jurisdiction of the case. Should the Court of Appeals rule in the defendant's favor in his appeal, he may renew his motion for substitution of judge when the court sends the matter back on remittitur.

The Court of Appeals ordered that the defendant's brief be submitted within 30 days of its decision of June 7th, 2018. The court will rule on that brief within the 60 days required by the order of the Court of Appeals.

Dated this ___ date of _____, 2018.

BY THE COURT:

Electronically signed by Angela W Sutkiewicz

Hon. Angela W. Sutkiewicz
Circuit Court Judge
Shelby County Circuit Court
Branch 3

07/02/2018