

IN THE CIRCUIT COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT, CRIMINAL DIVISION
IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE NO. 2010CF009526AMB DIVISION "X"

STATE OF FLORIDA

vs.

MARY GAYLE TOMASHESKI,

Defendant.

AMENDED MOTION TO PERPETUATE TESTIMONY

COMES NOW the State of Florida by and through the undersigned Assistant State Attorney in and for Palm Beach County, Florida Rules of Criminal Procedure 3.190 (i) (2) and respectfully moves this Honorable Court for an Order to Perpetuate the Testimony of Barbara Bermanski. As grounds in support of this Motion the State would show:

1. That the defendant, Mary Gayle Tomasheski, is charged in this case with Grand Theft from a Person 65 Years of Age or Older and Organized Scheme to Defraud as first degree felonies.

2. That Barbara Bermanski is a material witness in this case as the victim and she is unable to attend the trial in this case. Ms. Bermanski is 75 years of age, currently resides in Baltimore, Maryland, and is under the care of Todd L. Burstyn, M.D. Dr. Burstyn's sworn statement of October 4, 2011 is attached hereto as Exhibit "A".

4. It is the request of the State that due to Barbara Bermanski's multiple health problems that the State be granted permission by this Court to schedule the videotaped deposition of Barbara Bermanski to perpetuate her testimony for presentation at trial. Ms. Bermanski's initial deposition was taken on July 11, 2011.

WHEREFORE, the State of Florida through its undersigned Assistant State Attorney respectfully requests that his Honorable Court grant this Motion and issue an Order allowing the perpetuation of the testimony of Barbara Bermanski, a witness for the State of Florida.

Respectfully submitted,

MICHAEL F. McAULIFFE
STATE ATTORNEY

By: _____
PRESTON MIGHDOLL
Assistant State Attorney
Florida Bar No. 0220124

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY THAT a true and correct copy of the foregoing Amended Motion has been furnished by fax to Scott Skier, Esquire, 105 S. Narcissus Avenue, Suite 410, West Palm Beach, FL 33401, this the 8th day of December, 2011.

PRESTON MIGHDOLL
Assistant State Attorney